Executive Order on Protecting Tenants and Stabilizing the American Economy

By the authority vested in me as President, by the Constitution, and the law of the United States of America, and in order to promote the general health and welfare by promoting housing stability for tenants and overall economic prosperity during an ongoing national emergency, it is hereby ordered as follows:

Section 1. Policy

It is the policy of this Administration that everyone should have access to safe, accessible, and truly affordable housing. 44 million American households rent their homes. Tenants are struggling to keep up with historically high rents and endure the threat of eviction and homelessness, with rippling consequences on their lives, their communities, and the economy on the whole. My Administration will make sure that tenants are protected from rent increases that threaten their ability to afford housing and threaten our nation’s ability to build a strong and equitable economy.

Americans are paying too much for rent. Housing costs are American households’ single biggest monthly expense. The majority of tenant households below the poverty line spend at least half of their income on housing, with 27 percent spending over 70 percent of their income on housing costs alone. As a result, rent increases deeply impact people’s economic security. Every rent increase is a threat to a tenant’s ability to pay for medication, feed their children, and age with dignity. When families are forced to cut back on expenses, cutting back on housing is not an option. With a shortage of truly affordable housing, moving or downsizing are often not viable options; the alternative is homelessness. This Administration will take decisive action to protect renters from unfair, unjust, and unaffordable rent hikes.

Rents are a major driver of core inflation, and unchecked rent inflation poses a long term threat to our nation’s economic stability. Nationally, median rent is over $2,000 for the first time ever. Landlords are raising rents at the highest rates in over 40 years. Rent makes up approximately one-third of the Consumer Price Index (CPI), impacting urban, suburban, and rural communities alike. In 2022, there is not a single state, metro area, or county where a worker employed full-time at the federal minimum wage can afford a modest two-bedroom apartment.

Soaring rents are a pressing racial justice issue. Nationally, 58 percent of Black households and 51 percent of Latino households rent their homes compared to just 28 percent of white households. Due to systemic racism in real estate practices, predatory lending, lower household incomes, pervasive housing discrimination, and a lack of deeply affordable housing, a majority of Black and Latino tenants were already paying rents higher than they could afford prior to the current rent crisis. 40 percent of homeless Americans are Black even though just 13 percent of the population is Black. Rapidly escalating rents and the shortage of truly affordable housing make tenants more at risk of discriminatory harassment and abuse by landlords because they lack other options, and puts them at risk of homelessness.

Institutional investors have consolidated the rental market, driving up rents to maximize record profits and hurting the American people. Beginning in earnest after the 2008 financial crisis, corporate landlords have bought up an increasing share of our nation’s housing supply, including both single-family and multi-family units.

Excessive rental market concentration threatens basic economic liberties, democratic accountability, and the welfare of tenants and their communities. Rental market consolidation has laid the groundwork for institutional investors to raise rents beyond the costs of maintenance, improvements, or the rate of inflation. This amounts to price gouging. Property management companies are using algorithms and other anti-competitive practices to artificially increase the price of rents. As tenants
struggled to keep up, the ten largest publicly traded apartment companies reported profits soaring by 57 percent from 2020 to 2021. A Congressional investigation also found that some of these landlords engage in unfair and deceptive practices, such as misleading tenants about the availability of emergency rental assistance funds that could have otherwise kept them housed during the pandemic.

Institutional investors face limited regulation, mostly under state law, but their businesses have expanded beyond state borders. As the rental marketplace has become national and even multi-national, Federal housing policy has failed to adequately track and regulate the market in order to protect tenants.

We must act now to reverse these dangerous trends, which severely impact poor and working class families in America and constrain the growth and dynamism of our economy. Historical and structural inequities will deepen unless we act. Thus, this Order calls for a whole-of-government approach to address skyrocketing rents.

Federal financing, through the government sponsored enterprises (GSEs), beneficial tax treatment for real estate investments, and incentive programs such as vouchers and tax credits, support the private rental market through public resources. It follows that the federal government has a role to play in regulating a changing market, furthering the racial equity and competitiveness goals of this Administration, stabilizing the economy, and protecting American families from this growing national crisis.

This Order affirms that it is the policy of my Administration to protect tenants, to implement and enforce policy that supports housing security, and to support tenants’ right to organize. Tenants, like workers, require the power that is found through unions to protect their position in an ever-changing market.

It is also the policy of my Administration that eviction shall always be a last resort within federal housing programs and within any housing financed by government-backed loans. Unreasonable rent hikes, even when they do not result in a formal eviction, often cause similar distress for tenants, forcing them out of their homes.

It is also the policy of my Administration to enforce antitrust laws to meet the challenges posed by market consolidation, across many sectors, including the housing sector, to combat the excessive concentration of the industry, the abuses of market power, and the harmful effects on tenants.

It is also the policy of my Administration to support aggressive legislative reforms that would regulate rents and offer more comprehensive tenant protections in all American housing units, financed or subsidized by public money or not, and through other related reforms.

This Executive Order builds upon President Biden’s Executive Order 13985 On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, President Biden’s Executive Order 14036 on Promoting Competition in the American Economy, and President Clinton’s Executive Order 12892 - Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing.

This Order supplements President Biden’s Housing Supply Action Plan. While the Plan provides necessary interventions to address the affordable housing shortage in the long term, this Order enables urgent and immediate action to protect tenants from unreasonable rent hikes, wrongful and unjustified evictions, denial of a lease renewal, and retaliation for organizing.
Section 2. The Statutory Basis of a Whole-of-Government Rental Housing Policy. This Order is issued pursuant to the authorities granted under the Fair Housing Act, the Fair Debt Collection Practices Act, the Fair Credit Reporting Act, the Housing and Economic Recovery Act of 2008, the Wall Street Reform and Consumer Protection Act of 2010, and the statutes authorizing the creation of affordable housing and community development programs across agencies, including but not limited to the U.S. Department of Housing and Urban Development, the U.S. Department of the Treasury, and the U.S. Department of Agriculture. Additionally, through this Order, the President calls upon the Federal Trade Commission to utilize the powers vested in it under the Federal Trade Commission Act.

These statutes independently charge a number of executive departments and agencies to protect conditions of fair competition in one or more ways. This Order recognizes that a whole-of-government approach is necessary to address the ongoing rent crisis, racial disparities in the impacts of that crisis, inflation, the consolidation of the rental market, and the government-sponsored dominance of institutional investors. Such an approach is supported by existing statutory mandates. Agencies can and should further the policies set forth in Section 1 of this Order by, among other things, adopting pro-tenant regulations and developing pathways to deeper engagement with tenants in policymaking.

Section 3. Agency Coordination on Oversight, Regulation, Investigation, and Remedies (a) A Federal Interagency Council on Tenants’ Rights (the “Council”) shall be established.

(b) The Secretary of the U.S. Department of Housing and Urban Development and the Director of the National Economic Council shall serve as the Co-Chairs of the Council.

(c) The members of the Council shall include the following officials or their designees:

1. The Secretary of the U.S. Department of Housing and Urban Development;
2. The Director of the Federal Housing Finance Agency;
3. The Commissioners of the Federal Trade Commission;
4. The Director of the Consumer Financial Protection Bureau;
5. The Secretary of the U.S. Department of the Treasury;
6. The Attorney General of the U.S. Department of Justice;
7. The Secretary of the U.S. Department of Labor;
8. The Secretary of the U.S. Department of Health and Human Services;
9. The Secretary of the U.S. Department of Agriculture;
10. The Secretary of the U.S. Department of Transportation;
11. The Secretary of the U.S. Department of Education;
12. The Secretary of the U.S. Department of Veterans Affairs;
13. The Director of the Office of Management and Budget;
14. The Chair of the Council of Economic Advisers;
15. The Director of the National Economic Council;
16. The Domestic Policy Advisor; and,
17. Three Tenant Representatives.
(d) The purpose of the Council shall be to coordinate, promote, and advance Federal Government efforts to protect tenants from unreasonable rent hikes and unfair and deceptive practices, including efforts to:

(1) Implement the administrative actions identified in this Order;
(2) Identify and advance any additional administrative actions necessary to further the policies set forth in Section 1 of this Order; and,
(3) Identify legislative changes necessary to further the policies set forth in Section 1 of this Order.

(e) Engagement with members of underserved communities: In carrying out this Order, the Council and all agencies with representatives on the Council shall consult with members of communities that have been historically underrepresented in the Federal Government and underserved by, or subject to discrimination in, Federal policies and programs. The head of each agency shall evaluate opportunities, consistent with applicable law, to increase coordination, communication, and engagement with tenant unions, community-based organizations and civil rights organizations.

Section 4. Further Agency Responsibilities

(a) The heads of all agencies shall consider using their authorities to further the policies set forth in Section 1 of this Order.

(b) The Director of the Federal Housing Finance Agency (FHFA) shall:

(1) Pursuant to FHFA's Duty to Serve and other regulatory authorities, publish one or more Notices of Proposed Rulemaking establishing tenant protections for tenants in properties financed by government-backed mortgages within 180 days of the issuance of this Order. The FHFA shall include good cause eviction protections and regulations on rent increases. Good cause is defined as serious and repeated lease violations provable in a court of law, guaranteeing tenants the right to renew their lease. Rent increase regulation should stipulate that landlords must not increase rent beyond 1.5 times the CPI or 3 percent, whichever is lower, on an annual basis.

(2) Take all steps within FHFA's authority to promote the use of real estate-owned (REO) properties for community controlled, permanently affordable housing and to prohibit owners of REO properties from engaging in rent gouging and evicting tenants without good cause.

(3) Engage in monitoring to ensure that owners of properties with federally-backed mortgages are complying with the CARES Act’s requirement of a minimum 30-day notice prior to any eviction and to work with relevant federal and state agencies on enforcement.

(4) Direct the Government Sponsored Enterprises to stop purchasing additional loans from owners with a pattern of violations of the CARES Act’s requirement of a minimum 30-day notice prior to any eviction.

(5) Create, make publicly available, and update on a regular basis a national database of owners of residential rental properties. It is the intent of this Order that the database be as comprehensive as possible. FHFA shall compile the data for the database through interagency data sharing, data provided by the government-sponsored enterprises, and through the purchase of data from proprietary vendors, consistent with existing appropriations. It is the goal of this Order that this database provides information across the federal government, and to the public, about ownership and shareholders, federal financing and subsidies, state and local financing and subsidies, market consolidation, rental prices, evictions, and building quality. Tenants, policymakers, and regulators should be able to find the identity of the natural persons holding ownership interests in the owners of their homes, unless the owner is a publicly traded corporation. Other federal agencies in possession of data relevant to the database shall
cooperate with FHFA regarding the sharing of that information.

(c) The Chair of the Federal Trade Commission (FTC) shall:

(1) Initiate a market investigation into rental price setting using its powers under the FTC Act. This market investigation would identify rent gouging practices that constitute unfair and deceptive practices as well as anticompetitive practices that inhibit market power. In conducting such an investigation, the FTC is encouraged to collaborate with state attorneys general charged with enforcing state laws against unfair and deceptive practices as well as anti-competitive practices under the FTC Act. The FTC is also encouraged to collaborate with the Consumer Financial Protection Bureau (CFPB) where their respective jurisdiction over unfair and deceptive practices overlap.

(2) Publish a Notice of Proposed Rulemaking within 180 days of the issuance of this Order to target fees and fines related to residential leases to limit unnecessary, unavoidable, or surprise charges that inflate housing costs while adding little to no value to tenants. This rulemaking shall extend to application and screening fees, security deposits, failure to disclose utility costs, and more and shall be used to trigger investigations, enforcement actions, material remedies for consumers, workshops, research, and consumer and business education outreach. (3) Issue updates to the FTC’s October 2016 guidance for landlords and debt collectors on complying with the Fair Credit Reporting Act (FCRA), elaborating on practices that constitute failure to reasonably assure accuracy under FCRA, including failure to verify the accuracy of public records matched to an applicant, reporting records such as civil court records that may not contain adequate personal information to be accurately matched reporting sealed or expunged records, and furnishing records that do not include an accurate disposition. (4) Using its current enforcement authority under the Fair Debt Collection Practices Act (FDCPA) and FCRA, initiate enforcement actions against debt collectors for practices that violate the FDCPA or FCRA and against landlords and debt collectors for unfair or deceptive acts or practices, such as issuing tenant screening reports, scores, and/or recommendations that result in discriminatory impacts on the basis of race, gender, disability, or other protected class.

(c) The Secretary of the U.S. Department of Housing and Urban Development (HUD) shall:

(1) Publish a Notice of Proposed Rulemaking that would require states and cities to regulate rent increases in order to receive Community Development Block Grants (CDBG) within 180 days of the issuance of this Order. Regulation of rent increases is a bare minimum step that is necessary for any meaningful compliance with the duty to affirmatively further fair housing (AFFH).

(2) Publish a Notice of Proposed Rulemaking that would define “good cause” for eviction purposes of the HOME Investment Partnerships Program (HOME) and CDBG within 180 days of the issuance of this Order. The Notice of Proposed Rulemaking shall specify that good cause is required for lease nonrenewal through the program.

(3) Publish a Notice of Proposed Rulemaking to prohibit the consideration of credit reports and scores for those who qualify for public housing and multifamily subsidized housing. At a minimum, HUD should prohibit public housing authorities (PHAs) and multifamily subsidized housing providers from denying applicants solely due to poor credit history or low credit scores and also strongly discourage the use of credit reports and scores by landlords reviewing applicants with Housing Choice Vouchers (HCVs).

(4) Identify targets to reduce evictions in covered programs and for HUD-supported landlords to ensure that if they must evict a household as a last resort, evictions occur in accordance with fair housing protections and other guidelines aimed at reducing housing insecurity.

(5) Investigate whether States that preempt local tenant protections, including rent control, are in compliance with the AFFH duty.
(6) Issue guidance for HUD grantees on tenant protections as best practices for complying with the duty to AFFH and for ensuring that their AFFH certifications are valid.

(7) Issue guidance or extend the 2016 Office of General Counsel Guidance on Application of Fair Housing Act Standards to prevent the use of eviction records, credit reports, and other unjustifiably discriminatory records to screen applicants for rental housing, analyzing the ways that restrictive screening policies and practices, such as rejecting applicants solely on the basis of an eviction record or adopting a minimum credit score, raise significant issues of race, gender, disability and other forms of discrimination.

(8) Issue guidance on the application of the Fair Housing Act to tenant screening companies, and analyze the discriminatory impacts of practices such as providing scores or risk assessments to landlords based on eviction records, criminal records, credit histories, and other information that has a discriminatory impact on the basis of race, gender, disability, or other protected class.

(9) Prioritize the use of its technical assistance resources, including through the Community Compass program, for assistance to state and local governments seeking to increase tenant protections, especially to help protect tenants from unreasonable rent hikes.

(d) The Director of the Consumer Financial Protection Bureau (CFPB) shall:

(1) Initiate an investigation into consumer reporting companies and their subsidiary tenant screening companies and consumer debt collection companies. Where landlords are simultaneously violating the Fair Housing Act through their tenant screening practices and are utilizing the services of companies that are violating the FCRA, the CFPB shall collaborate with HUD, FTC, and the U.S. Department of Justice (DOJ) on investigating and bringing appropriate enforcement actions.

(2) Encourage Congress to give the CFPB specific supervisory authority over tenant screening companies. The CFPB should be permitted to use this authority to examine tenant screening companies’ policies and practices, including the matching logic and verification procedures they use. The CFPB also should be required to conduct an analysis of the tenant screening scoring models used to adjudicate consumers’ eligibility for housing.

(3) Initiate an investigation in collaboration with HUD, FTC, and DOJ to undertake quantitative and qualitative research on the ongoing impact of collection and credit reporting of rental debt. This investigation should include both pandemic-era debt and other rental debt as well as debt collection companies and landlords that use them to collect rental arrears.

(4) Issue updated guidance on complying with the FCRA for consumer reporting companies, clarifying practices that constitute failure to reasonably assure accuracy under FCRA, including reporting sealed or expunged civil court records, and furnishing records that do not include an accurate disposition.

(e) The Secretary of the U.S. Department of the Treasury shall:

(1) Publish a Notice of Proposed Rulemaking that would establish a definition of “good cause” for eviction under the Low Income Housing Tax Credit program within 180 days of the issuance of this Order. The Notice of Proposed Rulemaking shall specify that good cause is required for lease nonrenewal for tenants within the program.

(2) Encourage state housing credit agencies to adopt Qualified Allocation Plans that limit excessive annual rent increases in circumstances where the area median income has increased, allowing rent increases that are likely to outpace the ability of low-income tenants to afford them.

(3) Write a report for the President on reforming existing and creating new tax structures to disincentivize private equity and large corporations from consolidating the rental housing market by purchasing swaths of housing stock.
(f) The Attorney General shall:

(1) Deploy the resources of the DOJ to increase fair housing enforcement, including by investigating options to ban source of income discrimination.

(2) Issue guidance for state and local courts on eviction diversion strategies that they can pursue to keep tenants in their homes, support state and local tenants’ right to counsel efforts, and more. (3) Investigate the legal rights of tenants to organize, publish those findings, and coordinate among relevant agencies as needed to share the findings and strategies to protect that right.

Section 5. General Provisions

(a) All agencies administering federal housing programs are directed to maintain robust data on the operation of their programs, including with respect to beneficial owners of properties and evictions within federal housing programs and within any housing financed by government-backed loans. Data collection regarding evictions shall include data concerning the race, gender, disability status of evicted households, and the evicting landlord. The Office of Policy Development and Research at HUD shall provide guidance to all federal agencies administering housing programs regarding best practices for the collection and maintenance of such data.

(c) The Office of Housing at HUD shall, with consultation with members of the Council as set forth in Section 3 of this Order, develop a model residential lease that clearly and simply articulates the rights that tenants have, pursuant to this Order.

(d) This Order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(e) Where not already specified, independent agencies are encouraged to comply with the requirements of this Order.

(f) Nothing in this Order shall be construed to impair or otherwise affect:

(1) The authority granted by law to an executive department or agency, or the head thereof; or

(2) The functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(g) This Order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Section 6. State and Local Action

This Order recognizes that state and local governments have great power and responsibility with regard to tenants’ rights. Pursuant to this Order, state and local governments are encouraged to repeal any laws preempting local adoption of tenant protections, to enact rent controls, to enact good cause eviction protections, and to enact protections against discrimination on the basis of source of income. Additionally, state courts are encouraged to adopt and implement eviction diversion programs.

JOSEPH R. BIDEN JR.

THE WHITE HOUSE,

DATE 2022
The undersigned national and local organizations have signed on in support of this Executive Order.

NATIONAL
Action Center on Race and the Economy
ADOS Advocacy Foundation
Alliance for Housing Justice
Center for Economic and Policy Research
Coalition for the Homeless
Community Change Action
Debt Collective
Demos
Homes For All
Housing is a Human Right
Housing Rights Initiative
Human Impact Partners
Jobs With Justice
JustFix
Liberation in a Generation
Local Progress
National Coalition for a Civil Right to Counsel
National Coalition for the Homeless
National Equality Action Team (NEAT)
Organized Communities Against Deportations
Parents Together Action
People's Action Institute
PolicyLink
Poverty & Race Research Action Council
Private Equity Stakeholder Project
Race Forward
RESULTS
Revolving Door Project
Right To The City Alliance
Service Employees International Union (SEIU)
Showing Up For Racial Justice
Social Security Works
Sunrise Movement
Unemployed Workers United
Western Regional Advocacy Project
Youth Alliance for Housing
Tyler For Knox
Unified Citizens, Inc.
United Church of Rogers Park
United Council For Change
United for a New Economy
United Tenants of Albany
United Vision for Idaho
Unity Fellowship of Christ Church-NYC
Universal Labor Foundation Ltd.
Urban Justice Center
Venice Community Housing
VOCAL-KY
VOCAL-NY
West Louisville Women's Collaborative
Westside Health Authority
Wethepeoplenyc
Willow Permanent Real Estate Cooperative LLC
Winners PLUS Inc
Women with Broken Heals
Youth Power Coalition