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Joe Biden's proposed rent caps: Could they fly in Florida? Anywhere?



Apartments are shown for rent in Boca Raton last spring,. While analysts say that Florida rent increases have slowed, housing costs are a flashpoint issue in the presidential campaign. (John McCall/South Florida Sun Sentinel)



By [DAVID LYONS](#) | South Florida Sun Sentinel

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While Florida-based Democrats cheered this week's proposal by President Joe Biden to cap annual residential rent increases at 5%, analysts and industry groups called it a bad idea that is unlikely to work.

“It is dead on arrival,” said Ken Johnson, a real estate economist at Florida Atlantic University. “What you’re talking about is a managed market, and we don’t manage markets in the U.S.”

“The last time we tried to set prices in the U.S. was in the [Nixon administration](#) when we were in the midst of high inflation,” Johnson added. “What you get is black market activity where you see, for example, application fees start to go up.” Suddenly, he said, tenants become responsible for repairs, and landlords are less attentive to renters’ needs.

“[You can’t manage prices,](#)” he said. “It’s a very bad idea.”

Four months ahead of the November presidential election, Biden rolled out an affordable housing initiative on Tuesday with the 5% annual cap on annual increases as a headline measure. It would apply to buildings with 50 or more units.

“Families deserve housing that’s affordable — it’s part of the American Dream,” Biden said in a statement unveiling the plan. “Rent is too high and buying a home is out of reach for too many working families and young Americans, after decades of failure to build enough homes. I’m determined to turn that around.”

The president said he’s sending “a clear message to corporate landlords: If you raise rents more than 5%, you should lose valuable tax breaks.”

Biden also said he wants to “repurpose public land to build more affordable homes — including thousands of new homes in Nevada—and announcing new grants to build thousands of homes from Las Vegas to Syracuse. And I’m reiterating my call for Congress to pass my plan to build 2 million new homes.”

National industry associations quickly registered their displeasure with the price caps..

The Washington, D.C.-based National Association of Realtors called programs embodying caps and other controls “misguided.”

“Price controls may seem appealing, but they have backfired on local governments and harmed the people we need to help the most,” the organization said in a statement. “Developers are reluctant to build in areas where the government imposes rent controls on new buildings, and these policies actually decrease the supply of low- to mid-range housing units. We can protect the most vulnerable by supporting targeted assistance to renters and housing providers when there is a gap between rising wages and rising rent.”

Nagging high rents continue to plague tenants in Florida and across the country, prompting the Biden Administration to propose a 5% cap on how much more landlords can charge each year in multi-family buildings with 50 or more units.

The Mortgage Bankers Association, also headquartered in Washington, said it prefers programs that encourage more construction to grow the nation's housing inventory.

“Increasing the supply of affordable rental housing nationwide – not politically-motivated and self-defeating rent control proposals floated during election campaigns – is the best way to alleviate affordability constraints for renters,” said Bob Broeksmit, the association's CEO and president, in a statement.

“There are endless examples in localities in America and around the world that prove that rent control is a counter-productive policy idea that ultimately harms renters by distorting market pricing, discouraging new construction and degrading the quality of rental housing,” he added. “While the odds are stacked against this proposal ever passing Congress, a federal rent control law would be catastrophic to renters and our nation's rental housing market.”

Florida rent hike limits prohibited

Last year, the state Legislature passed and Gov. Ron DeSantis signed the Live Local Act, a broad package of measures designed to stimulate housing construction. It prohibits rent control initiatives across the state.

The law redirected \$711 million in tax revenue for affordable housing over the next 10 years and offers various incentives to developers to build more across the state. Among other things, the law allows developers to bypass certain local zoning rules and obtain tax breaks if their projects include enough “work force” housing, that is, for families whose incomes are within 60% to 140% of a county's area median income.

This year, state lawmakers passed an updated version of the 2023 law that expands its affordable housing framework.

By and large, South Florida policymakers and housing advocates believe the initiative is an important step in addressing an affordability crisis that has forced residents to sacrifice basic necessities in favor of spending more money to meet rising rent expenses.

Said FAU's Johnson: “The Live Local Act in Florida is good, but it's not going to end up as a panacea.”

He said that while rents in most of Florida “have settled down” and the days of rapidly rising rents are behind us, “we still have a lot of economic demons.”

A key nagging problem: While incomes are going up substantially, they're still not keeping up with household expenses.

A prime campaign issue

With the U.S. economy still under inflationary pressures generated during the height of COVID-19, the [cost of housing has emerged](#) as a major issue in the presidential campaign.

U.S. Rep. Debbie Wasserman-Schultz, D-Weston, said she intends to join the initiative.

“Republicans and their landlord donors refuse to offer our families real solutions to high housing costs,” she said in a statement to the South Florida Sun Sentinel.

“Thankfully, President Biden tackles affordability issues my constituents struggle with and I look forward to diving into the rental relief plan details and working on it with a President who focuses on kitchen table concerns, not restricting freedoms and divisive culture wars.”

On Wednesday, the Biden-Harris campaign distributed statements of supports from federal and state lawmakers from Florida.

“In a time where Floridians are facing skyrocketing housing prices and are struggling to pay rent, we need to find ways to put them in reach of the American dream to afford a home,” said U.S. Rep. Frederica Wilson, D-Miami. “We’re seeing large corporations buying up land in Florida and selling at unaffordable prices that block out local Floridians trying to find a home.”

“The rent is too damn high and this election is too damn important!” added Florida state Sen. Victor Torres, D-Kissimmee. “Floridians cannot afford another four years of Trump and extreme MAGA Republicans who will continue giving their rich real estate developers handouts while they jack up rent for hard-working Americans.”

A legal non-starter?

But Andrew Blasi, a Boca Raton attorney who represents multi-family apartment owners, questioned how the Biden administration could justify any national rent control program a century after the U.S. Supreme Court had conditioned them on the existence of an emergency.

In 1921, the court upheld a temporary rent control law in Washington, D.C., that had been created amid a post-World War I housing shortage. In a 5-4 majority opinion written by Justice Oliver Wendell Holmes, the court said the government could regulate housing to maintain or improve housing conditions, but only in an emergency.

Three years later, in 1924, the court unanimously struck down the same statute in a second review, ruling the housing emergency in Washington had ended in 1922.

He wondered what emergency exists to justify the Biden program.

“What we’re talking about is there is no emergency condition which has arisen,” he asserted.

While the president cites a need to cap rents, he said, “the same administration is telling you the economy has never been better. What’s the exigency?”

And he questioned how the administration can single out landlords who own 50 or more apartment units for penalties under its rental cap plan.

“The problem is the proposal would not apply to anybody [owning] under 50 units,” he said. “How do you justify that economic fracture? Now you’d get into Sherman Antitrust Act considerations. It’s arbitrary. If I own 40 units I can charge whatever I want. But if I own 50 units, I can’t charge more than 5%?”

Amid the heat of a national presidential campaign, it remained unclear whether Congress has the desire to take up the plan.

A White House spokesman responsible for regional media did not respond to an inquiry as to whether the administration believes it will be considered during the current Congressional session.

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