

## Vital Briefing

# States weigh banning algorithmic pricing of residential rental properties

By Karen Servidea, J.D.

Bills that would restrict algorithmic pricing practices have been introduced in nearly half of the state legislatures in 2025. So far, Colorado is the only state in which such a bill was approved by both legislative chambers. As of this publication, the bill has yet to be transmitted to the governor for signature. Prospects of passage in other states dim as legislatures begin to

adjourn for the year. While the proposals are structured in a variety of ways, they commonly take aim at algorithms that perform calculations of data, including data concerning the local or statewide rent being charged to tenants by landlords, for the purpose of advising a landlord concerning the amount of rent to charge a tenant. In many, but not all cases, the proposed laws apply only to algorithms that use nonpublic data from a competitor. An example of the conduct targeted by such proposals is where a software company collects information from multiple landlords about the actual rent charged to tenants for residential properties, including any concessions from or additions to advertised rental rates, uses that information to train an artificial intelligence (AI) model, and then uses the AI model to recommend rental prices to each landlord.

The proposed state legislation comes as the U.S. Department of Justice and state attorneys general have filed multiple actions to combat alleged collusion among landlords in apartment pricing through the use of software programs. And, while most of the proposed laws would apply only in the residential rental property market, a few would apply more broadly to the use of algorithmic pricing for products and services generally. A similar bill has been introduced at the federal level.

In weighing the merits of the various proposals, attention should be given to

their precise terms. For example, it may be difficult to justify on competition grounds a law that restricts the use of all pricing algorithms regardless of whether they use nonpublic competitor data.

### Background: Pending Antitrust Litigation

In August 2024, the Department of Justice and several states filed an antitrust [suit](#) in federal district court against software company RealPage, Inc. An [amended complaint](#) was filed in January 2025, which, among other changes, added several landlords as defendants. The case centers on RealPage's AI Revenue Management (AIRM) and YieldStar software products, which help property owners set rental prices. The lawsuit alleges that RealPage and the named landlords violated [Sec. 1 of the Sherman Act](#) by (1) unlawfully sharing nonpublic information, such as pricing and occupancy rates, for use in competing landlords' pricing, and (2) entering into vertical agreements with landlords to align pricing to the detriment of renters. It further claims that RealPage violated [Sec. 2 of the Sherman Act](#) by monopolizing or, alternatively, attempting to monopolize, the commercial revenue management software market.

RealPage filed a [motion to dismiss](#) the lawsuit in December 2024. The motion remains pending.

The states that are plaintiffs along with the Department of Justice in the

### Key takeaways

- Legislation that would restrict the use of algorithmic pricing for residential rental properties has been proposed in many states across the country. Colorado's bill, which was passed by both legislative chambers, could be the first to become law.
- The various state proposals differ in their precise terms, and a key difference is whether their restrictions would apply to pricing algorithms that do not use nonpublic competitor data.
- Some states are considering broader laws that would apply to algorithmic pricing for products and services generally, and a similar measure has been proposed at the federal level.
- Meanwhile, federal and state enforcement actions against RealPage and landlords proceed.

foregoing suit are North Carolina, California, Colorado, Connecticut, Illinois, Massachusetts, Minnesota, Oregon, and Tennessee. Meanwhile, [Arizona](#), [the District of Columbia](#), [Maryland](#), [New Jersey](#), and [Washington](#) have each instituted separate antitrust suits against RealPage.

### State Bills Specific to Residential Rental Market

States that saw the introduction of algorithmic pricing bills specific to residential rentals in 2025 (or in 2024 as part of a session extending into 2025) include: Colorado ([H.B. 25-1004](#)), Connecticut

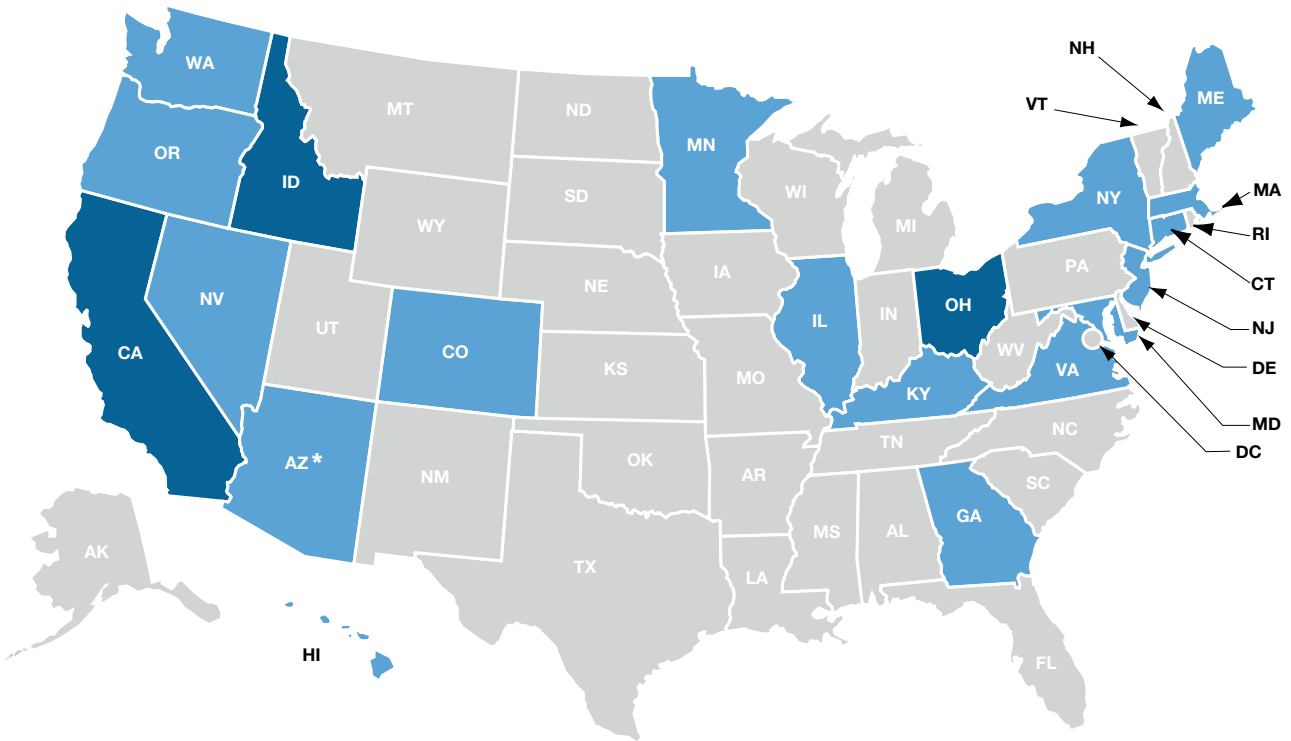
([H.B. 7209](#)), Georgia ([H.B. 679](#), [S.B. 318](#)), Hawaii ([H.B. 831](#), [S.B. 157 SD2](#)), Illinois ([H.B. 1427](#)), Kentucky ([H.B. 358](#)), Maine ([S.P. 636](#), [L.D. 1552](#)), Maryland ([H.B. 817](#), [S.B. 609](#)), Massachusetts ([H.B. 1564](#), [S.B. 1016](#)), Minnesota ([S.F. 1036](#)), Nevada ([S.B. 199](#)), New Jersey ([A.B. 4916](#), [A.B. 4872](#), [S.B. 3699](#)), New York ([A.B. 4991](#), [S.B. 2697](#), [S.B. 1573](#)), Oregon ([S.B. 722](#)), Virginia ([H.B. 2047](#)), and Washington ([S.B. 5469](#)).

The state proposals reflect a variety of approaches. Some focus on the use of algorithmic “devices” or software to set rental prices. Others are framed in terms of subscriptions to “coordinators,”

such as software service companies, and agreements facilitated by such coordinators among property owners. One notable difference among the proposals is the extent to which they apply to algorithmic pricing that does not use nonpublic competitor data.

**Bans relating to algorithmic “devices” or software.** Two different proposals are pending in New York. The first, embodied in Assembly bill [A.B. 4991](#) and Senate bill [S.B. 2697](#), would prohibit landlords from using an “algorithmic device” that “uses, incorporates, or was trained with nonpublic competitor data” in setting the

## Recent Algorithmic Pricing Bills by State



- States with proposed restrictions on algorithmic pricing for residential rental properties
- States with proposed restrictions on algorithmic pricing for products and services generally

\* The proposed law in Arizona would apply, in part, to rental properties generally.

*“One notable difference among the proposals is the extent to which they apply to algorithmic pricing that does not use nonpublic competitor data.”*

amount of rent to be charged to a tenant. In general, an “algorithmic device” is a device that uses one or more algorithms to perform calculations of data for the purpose of advising a landlord concerning the amount of rent to charge a tenant. The term “nonpublic competitor data” means information that is not widely available or easily accessible to the public (e.g., actual rent prices, occupancy rates, lease start and end dates), whether attributable to a specific competitor or anonymized, and that is derived from or otherwise provided by another person that competes in the same market as a person or a related market.

Bills introduced in Illinois ([H.B. 1427](#)) and Maryland ([H.B. 817](#), [S.B. 609](#)) are substantially similar to New York’s [A.B. 4991](#) and [S.B. 2697](#). Maryland’s legislature adjourned without passing the proposed law, however. Bills introduced in Kentucky ([H.B. 358](#)) and Maine ([S.P. 636](#), [L.D. 1552](#)) are structured similarly but without the limitation based on the use of nonpublic competitor data. Kentucky’s legislature adjourned without passing the bill before it, while the bill in Maine remains under consideration by its legislature as part of an ongoing special session.

Oregon’s [S.B. 722](#) takes a somewhat similar approach to New York’s [A.B. 4991](#) and [S.B. 2697](#). The Oregon bill bars a landlord from

establishing rents or electing to leave a unit vacant based on the use of commercial software designed to use algorithms that rely on nonpublic competitor data.

Taking a slightly different tack, Colorado bill [H.B. 25-1004](#), which has now been passed by the state’s House and Senate, prohibits the sale (or distribution for consideration) of an algorithmic device if (1) it is sold with the intent that it will be used by two or more landlords in the same or a related market to set or recommend the amount of rent, level of occupancy, or another commercial term associated with the occupancy of a residential premises, and (2) it sets or recommends such a term based on data or a formula that is similar for each landlord. It also bans the use of an algorithmic device by a person to set or recommend the amount of rent, level of occupancy, or another commercial term associated with the occupancy of a residential premises if (1) the person knew (or should have known) that another person used the device to set or recommend such a term, and (2) circumstances suggest that the person adhered to or participated in a scheme to fix such a term. The bill also forbids a person engaged in the business of providing algorithmic device services or products that are used to set or recommend commercial terms associated with the occupancy of a residential premises from using nonpublic competitor data pertaining to residential properties in the state in setting or recommending such a term.

**Bans relating to “coordinators” and “coordinating functions.”** The other proposal pending in New York, set forth in [S.B. 1573](#), would prohibit a rental property owner from subscribing to a “coordinator,” defined as a person that operates a software or data analytics service that performs a “coordinating function” for any rental property owner (including a rental property owner performing such a function for

the owner’s benefit). The bill defines the term “coordinating function” as: collecting historical or contemporaneous prices, supply levels, or lease or rental contract termination and renewal dates of residential dwelling units from two or more rental property owners; analyzing or processing that information using a system, software, or process that uses computation (including to train an algorithm); and recommending rental prices, lease renewal terms, or ideal occupancy levels to a rental property owner. Thus, the law proposed in [S.B. 1573](#), unlike that proposed in New York bills [A.B. 4991](#) and [S.B. 2697](#), is not explicitly limited to activity involving nonpublic competitor data. The proposal also prohibits a coordinator from facilitating an agreement among rental property owners not to compete with respect to residential dwelling units, including by performing a coordinating function.

Minnesota bill [S.F. 1036](#) closely resembles New York’s [S.B. 1573](#). The proposals set forth in New Jersey bills [A.B. 4872](#) and [S.B. 3699](#) and Massachusetts bills [H.B. 1564](#) and [S.B. 1016](#) are also similar.

In Washington, the Senate voted to approve bill [S.B. 5469](#) with amendments. Although the legislature adjourned without the bill’s having passed the House, the bill should carry over to 2026 when the legislature resumes its 2025-2026 session. The [substitute bill](#) is similar to New York’s [S.B. 1573](#), except its definition of “coordinating function” excludes the publication of rental price estimates that are solely based on publicly available information where certain conditions are met. In addition, it prohibits service providers from coordinating among two or more landlords.

In Hawaii, companion bills [H.B. 831](#) and [S.B. 157](#) were introduced in the House and the Senate, respectively, and the Senate passed [S.B. 157](#) with amendments. Although the legislature adjourned

without the bill's having passed the House, the bill should carry over to 2026 when the legislature resumes its 2025-2026 session. As amended, [S.B. 157](#) would make it illegal for a "coordinator" to perform a "coordinating function," with the definitions of "coordinator" and "coordinating function" mirroring those in New York's [S.B. 1573](#). Thus, the proposed law would seemingly operate regardless of whether nonpublic competitor data is used. The proposal also would prohibit (1) a coordinator from facilitating an agreement among rental property owners that restricts competition with respect to the pricing, lease terms, or ideal occupancy levels for residential dwelling units, and (2) two or more rental property owners from engaging in "consciously parallel pricing coordination" (i.e., a tacit agreement to raise, lower, change, maintain, or manipulate pricing for the purchase or sale of interchangeable products or services).

### Arizona's Proposed Ban Relating to Rental Properties and Antitrust Presumption Relating to Residential Rental Properties

Arizona bill [H.B. 2847](#) reflects a two-pronged approach, the first prong of which—a prohibition on the use of "algorithmic price fixing" to set "the rental rate"—apparently is not limited to *residential* rental properties but would extend, for example, to commercial rental properties. The bill defines the term "algorithmic price fixing" as any computational process that processes data to recommend or set a price or commercial terms that is in or affecting interstate or foreign commerce, including a computational process derived from machine learning or other AI techniques. The second prong of the bill is specific to residential rental properties. It would create a rebuttable presumption that a

person committed an antitrust violation if the state proves that: a person used algorithmic pricing that included nonpublic competitor data; a person used algorithmic pricing to set or recommend residential rental rates; and at least two competitors used the same algorithmic pricing for residential rental rates in the same or related markets. Thus, although the ban set forth in the bill's first prong would apparently extend to algorithmic pricing that uses only public information, the antitrust presumption would arise only where nonpublic competitor information is used.

### State Bills Applying to Products and Services Generally

California ([A.B. 325](#)) and Ohio ([S.B. 79](#)) are considering broader measures that would restrict algorithmic pricing for products and services generally. Idaho ([H.B. 203](#)) also saw the introduction of such a bill, but its legislature adjourned without adopting it.

**California.** California bill [A.B. 325](#) (as amended on April 24) would make it illegal for a person to use or distribute a "common pricing algorithm" if either (1) the person distributes the algorithm to two or more persons with the intent that it be used to set or recommend prices or commercial terms of the same or similar products or services in the state, or (2) the person uses the algorithm to set or recommend prices or commercial terms of products or services and knows (or should know) that the algorithm is (or was or will be) used by another person to set or recommend prices or commercial terms of the same or similar products or services in the state. A "common pricing algorithm" is defined as a process or rule, including a process derived from machine learning or other AI techniques, that processes the same or substantially similar data to recommend or set a price or commercial

term using the same or performing a substantially similar function.

**Ohio.** Ohio bill [S.B. 79](#) would ban the use or distribution of a pricing algorithm that uses, incorporates, or is trained with "nonpublic competitor data," which it defines as nonpublic data that is derived from or otherwise provided by another person that competes in the same market as a person, or a related market, but not including information communicated in a way that does not reveal any underlying data from a competitor, such as narrative industry reports. A violation would be considered to be a conspiracy against trade and illegal under the state's existing law. The bill also would establish a presumption that a defendant entered into an agreement, contract, combination, or conspiracy against trade in certain cases, for example, where a plaintiff establishes that a defendant used a pricing algorithm to set the price of a product or service and the pricing algorithm was used by another person to set the price of a product or service in the same market.

### Proposed Federal Legislation

Algorithmic pricing legislation has also been proposed at the federal level. Introduced by Senator Amy Klobuchar (D., Minn.) on January 23, 2025, [Senate Bill 232](#) would extend to the pricing of products and services generally and would prohibit the use or distribution of pricing algorithms that use, incorporate, or were trained with nonpublic competitor data. The proposed legislation also would provide for law enforcement audits of persons using or distributing pricing algorithms and create a presumption for purposes of [Sec. 1 of the Sherman Act](#) that the defendant entered into an agreement, contract, combination, or conspiracy in restraint of trade and for purposes of [Sec. 5\(a\) of the Federal Trade Commission Act](#)

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that the defendant has engaged in an unfair method of competition in certain circumstances where a pricing algorithm was used or distributed. The presumption would arise, for example, where a plaintiff establishes that a defendant used a pricing algorithm to set the price of a product or service, and the pricing algorithm was used by another person to set the price of a product or service in the same market.

### **What’s Next**

Of the states in which algorithmic pricing bills have been introduced in 2025, so far, only Colorado has had a bill pass both of its legislative chambers. Colorado’s bill now will be sent to the governor and, depending on action by the governor, may be enacted into law soon. It remains to be seen whether any of the bills in other states will succeed. While some state legislatures adjourned without taking action on the proposed laws, some bills remain pending. And it is likely that state lawmakers will introduce similar legislation in the next term where bills did not make it

over the finish line. Legislators considering the proposals might want to consider whether to include bans on algorithms that do not use nonpublic competitor data. Overly broad bans risk stifling innovation made possible by AI that does not have anticompetitive effects. That states are considering such proposals while the antitrust suit brought by the Department of Justice and several states against RealPage and landlords proceeds adds further uncertainty as lawmakers might want to see whether existing antitrust laws are adequate to combat any anticompetitive uses of pricing algorithms before enacting additional measures.

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