State Preemption and Affordable Housing Policy[*]

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Many affordable housing policies are the domain of local governments. While subnational housing policies can be used to increase racial and economic segregation, they can also protect renters, and thus are not without controversy. Local affordable housing policies include inclusive zoning, rent control, short-term rental regulation, and source of income anti-discrimination. Starting in the 1980s, states began to preempt these local laws, preventing their cities from adopting affordable housing policies. We ask why states choose to preempt one or more of these four affordable housing policies. Using a cross-sectional, time-series dataset of preemptions, we find evidence that more conservative legislatures are more likely to adopt preemptions, while more professional legislatures and states with higher rental rates and previous preemptions are less likely to preempt. Contrary to expectations, interest group density, electoral competition, and policy diffusion are not significant predictors of preemption. For advocates and policymakers concerned with increasing affordable housing in their jurisdictions, these results raise unease about the ability to further an affordable housing agenda at the local level, particularly in more conservative political environments, suggesting instead affordable housing may need to return to the purview of the federal government.

Keywords: preemption, affordable housing, ideology, rent control, source of income discrimination

INTRODUCTION

In the US, many affordable housing policies are the domain of local governments. States often set the floor on housing regulations (Hatch 2017), with cities choosing to enact their own policies that may be more interventionist than the state standard. Local affordable housing policies include inclusive zoning, rent control, short-term rental regulation, and source of income anti-discrimination. Starting in the 1980s, as part of a larger trend towards state preemptions of city laws (Goodman, Hatch, and McDonald III 2020), states began to preempt these laws, preventing their cities from adopting affordable housing policies. Legislative politics, such as ideology (Riverstone-Newell 2017), professionalism (Jansa, Hansen, and Gray 2019), and single party control (Flavin and Shufeldt 2020; Swindell, Svara, and Stenberg 2018) may explain the likelihood that a state will preempt its cities. In fact, the most common explanation is that preemption is most likely to occur when more conservative states preempt policies enacted by their liberal cities (Swindell, Svara, and Stenberg 2018). Other authors emphasize the role of powerful interest groups (Givel and Glantz 2001; Riverstone-Newell 2017), which use their political capital to lobby against particular policies. A limitation of many studies seeking to understand the reasons for preemption is that they are cross-sectional and do not take advantage of the temporal nature of preemptions. We address this shortcoming by using a cross-sectional, time-series dataset to examine the causes of affordable housing preemptions in the US.

Affordable housing is an appropriate case study of state preemptions of city laws because it represents an area with many different policy approaches (Hatch 2017) with substantial history of controversy. Furthermore, it is an area of increased public interest in recent years, with the COVID-19 pandemic bringing it the forefront of the public consciousness. This attention to affordable housing is only likely to grow as large cities, particularly in coastal areas, face skyrocketing prices and limited housing supplies (Richardson 2019).

We find evidence that affordable housing preemption is driven by legislative politics (ideology and professionalism) and the power of renters. More conservative legislatures increase the likelihood of preemption, while more

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professional legislatures, a greater percentage of the population as renters, and previous housing preemptions decrease the likelihood of preemption. Contrary to expectations, the power of cities, real estate interest group and construction employment density, and policy diffusion are not significant predictors of preemption. This research makes two fundamental contributions to the literature. Methodologically, it is one of the first papers to use a cross-sectional, time-series approach to model the determinants of state preemptions over time. Substantively, it identifies the factors most likely to lead to preemptions of cities' affordable housing policies. For advocates and policymakers concerned with increasing affordable housing in their jurisdictions, these results raise unease about the ability to further an affordable housing agenda and respond to citizen needs (Blair and Stark 2017) at the local level, particularly in more conservative political environments. In an era of rising state preemptions (Haddow 2021), affordable housing may need to return to the purview of the federal government.

STATE PREEMPTION

Preemption is "the use of coercive methods to substitute state priorities for local policymaking" (Goodman, Hatch, and McDonald III 2020, 147). All three branches of government in the US can initiate preemptions. While Governor (Chief Executive)-initiated preemptions were widespread during the COVID-19 pandemic (McDonald III, Goodman, and Hatch 2020) and court-driven preemptions do occur (Swanson and Barrilleaux 2020), preemptions that emanate from the legislature are more common and are the focus of this research. Much like the diffusion of innovations (Eyestone 1977), one can think of preemption as having several different waves. According to Goodman, Hatch, and McDonald III (2020) there are four such epochs of modern preemption. First, preemption took the form of tax and expenditure limits (TELs) in the 1970s and 1980s. This was followed in the 1980s and early 1990s by a series of unfunded mandates. The third wave of preemptions was in the 1990s and early 2000s, when states preempted laws focused on public health. Finally, the most recent wave of preemptions, which started in the mid-2000s, lacks a clear pattern, but is likely to include punitive consequences for violating the preemption combined with a lack of state policymaking on the topic. These epochs help to explain preemption mechanisms over time, but should not be seen as clear temporal delineations. For example, fair housing policy preemptions started in the 1980s, with a spike in the latter half of the 2010s.

While recognizing preemption mechanisms change over time, scholars have hypothesized several reasons for preemptions. The most frequent set of explanations are legislative politics, led by ideology. Riverstone-Newell (2017) argues most recent preemptions are conservative states limiting the actions of their more liberal cities, a sentiment shared by Phillips (2017). In one of the only other studies to examine state preemptions using a cross-sectional, time-series methodology, Goodman and Hatch (2020) finds more conservative states are likely to preempt the labor policies of their more liberal cities. Two other potential political factors affecting the likelihood of a state preemption are legislative professionalism and competition. Less professional legislatures are more likely to copy legislation (Jansa, Hansen, and Gray 2019), and therefore may be more likely to pass model preemption legislation, although Kim, Aldag, and Warner (2021) do not find legislative professionalism to be a significant factor in labor preemptions. When there is more political competition and one party has less control of the legislature, legislators are more likely to be punished for passing controversial bills (Rogers 2017). States are more likely to pass preemption legislation when one party is in control of both branches of the legislature and the executive branch, regardless of what party is in control (Swindell, Svara, and Stenberg 2018). Therefore, we hypothesize that states with more conservative legislatures and those with less competition will be more likely to adopt affordable housing preemptions while states with more professionalized legislatures will be less likely to adopt preemptions.

Another possible explanation for state preemption is the influence of interest groups in state policymaking. Powerful groups such as the firearm, alcohol, and tobacco industries were key actors in state preemptions regulating their industries in the 1990s and early 2000s (Givel and Glantz 2001; Goodman, Hatch, and McDonald III 2020). Groups such as the American Legislative Exchange Council (ALEC) have been associated with general policy diffusion (Hertel-Fernandez, 2019) as well as preemption adoption (Pomeranz and Pertschuk 2017). ALEC, for example,

has model legislation preempting city regulation of short-term rentals[1] and rent control,[2] while the Goldwater Institute has model legislation preempting regulation of short-term rentals.[3] Business interest's influence in state policymaking may be particularly acute in places with low capacity (Hertel-Fernandez 2019). Relevant interest groups in the affordable housing arena include the real estate lobby and the construction industry. In addition, non-elites can exhibit power over the policymaking process. For example, organized renter groups have had success in persuading local governments to adopt policies that are beneficial to them (Michener 2020; Michener and SoRelle 2022). We therefore expect a positive relationship between the size of the real estate and construction industries and affordable housing preemptions and a negative relationship between the number of renters in the state and housing preemptions.

There are two potential reasons why research finds such different explanations for preemptions. First, states preempt a wide variety of policies including tobacco (Douglas et al. 2015; Givel and Glantz 2001) , food and beverages (Crosbie, Schillinger, and Schmidt 2019; Pomeranz and Pertschuk 2019), guns (Gorovitz, Mosher, and Pertschuk 1998), immigration (Blizzard and Johnston 2020), fracking (Goho 2012), COVID-19 pandemic responses (McDonald III, Goodman, and Hatch 2020), labor policies (Goodman and Hatch 2020; Kim, Aldag, and Warner 2021), and LGBTQ+ discrimination (Ellis 2016). As Grossmann (2013) contends, the politics of policy areas vary significantly, and "[i]ssue area case-selection decisions make large differences in likely findings" (p. 77). For example, 58% of housing policy enactments involve interest groups while only 31% of criminal justice policies involve these actors. Grossmann (2013) finds housing is a centralized network with significant state/local influence and strong ties between the legislative and executive branch. It is also a significantly path-dependent issue area. In contrast, criminal justice policy is a small network with primarily judicially made policy. We therefore would expect the reasons for preemptions in each of these two issue areas (as well as other issue areas) to be different. Kim, Aldag, and Warner (2021) take this approach, focusing on the causes of labor rights preemptions, finding labor-specific factors such as unionization rates and the state minimum wage are significantly associated with preemption.

Second, previous studies have not examined the temporal nature of preemptions, in part because of a lack of time-series data. Our unique dataset contains these data, which allow us to situate our question about the spread of preemptions in terms of policy diffusion. Early policy diffusion literature focused on the reasons why policy innovations spread, generally concentrating on internal factors such as political structure (Walker 1969) and economic conditions (Gray 1973) and external factors such as neighboring jurisdictions with similar policies (Lutz 1986). Foundational research by Berry and Berry (1990) emphasizes the importance of examining these internal and external factors together. We take this approach to ask why states preemption city affordable housing laws, focusing on the role of legislative politics, interest group power, and geographic diffusion.

AFFORDABLE HOUSING POLICIES

Local governments can have a substantial impact on housing within their jurisdictions. For example, zoning determines everything from where homes can be built to lot size. Other policies such as racial covenants and redlining determine who is excluded from certain neighborhoods. Trounstine (2018) argues segregation is the result of public policies adopted in response to white property owners and businesses concerned about property values. Opposition to affordable housing is often framed in terms of race and class (Nguyen, Basolo, and Tiwari 2013; Tighe 2012). Yet, local policies can also make neighborhoods inviting. Source of income anti-discrimination laws can allow housing voucher recipients to move into neighborhoods to which they previously did not have access (Tighe, Hatch, and Mead 2017).

Housing is an important policy area for governments because of the far reaching effects housing (in)stability has on all aspects of individuals' (Baker et al. 2017) and communities' lives. At an individual level, housing is linked to

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1. https://alec.org/model-policy/an-act-relating-to-online-lodging-marketplaces-establishing-statewide-standards-protecting-privacy-and-enabling-efficient-tax-remittance/
2. https://alec.org/model-policy/rent-control-preemption-act/
3. https://goldwaterinstitute.org/article/the-property-ownership-fairness-act-protecting-private-property-rights/

physical (Fuller-Tomson, Hulchanski, and Hwang 2011), mental (Hatch and Yun 2021; Suglia, Duarte, and Sandel 2011), and financial health (Desmond and Gershenson 2017), as well as child school achievement (Haveman, Wolfe, and Spaulding 1991). At a community level, housing matters for crime and gang activity (Boggess and Hipp 2010; Dupéré et al. 2007), civic engagement (Temkin and Rohe 1998), and neighborhood attachment (Taylor 1996). Housing policies create feedback effects (Grogan-Myers and Hatch 2019), such that inequitable policies create the political environment that leads to more inequitable policies. Therefore, jurisdictions considering a housing policy approach should consider the long-term consequences of that path. With over 47 percent of renters in the US classified as cost burdened (spending more than 30 percent of their income on housing) (Joint Center for Housing Studies of Harvard University 2017), housing affordability is a policy concern for many jurisdictions. Four of these policies are examined here: inclusive zoning, rent control, short-term rentals, and source of income anti-discrimination.

Inclusionary zoning policies require or incentivize affordable housing development. Evidence on the effects of these policies is mixed. For example, inclusionary zoning increases the supply of long-term affordable housing (Thaden and Wang 2017). However, in competitive housing markets when housing prices are rising, inclusionary zoning policies increase housing prices (Schuetz, Meltzer, and Been 2011). In one of the only studies on the effects of affordable housing preemptions, Melton-Fant (2020) finds more adults report poor health in states with inclusionary zoning preemptions, an effect that is particularly acute for Black adults.

Rent control laws put a limit on the amount of rent or how much rent can be increased and when for specific units. Research on the effects of rent control, both in the US and other countries, is mixed. Rent control can both increase and decrease rents in the non-rent controlled market (Hubert 1993), with the effects likely varying by the policy's specifics (Skak and Bloze 2013). Rent control increases the likelihood of families staying in rent controlled units, but also reduces the overall supply of rental housing (Diamond, McQuade, and Qian 2019). Landlords and real estate corporations are some of the biggest opponents of rent control, recently spending more than $70 million to stop a ballot initiative in California to repeal the state's rent control preemption (BondGraham and Lempres 2018).

Short-term rentals, such as Airbnb, are a relatively new phenomenon. Short-term rentals increase capital flows to neighborhoods (Wachsmuth and Weisler 2018) and can increase tax revenue (Gottlieb 2013). However, short-term rentals are associated with increased gentrification in New York City, US (Wachsmuth and Weisler 2018); Lima, Peru (del Castillo and Klaufus 2020), and Madrid, Spain (Ardura Urquiaga, Lorente-Riverola, and Ruiz Sanchez 2020), among others. In one of the only studies to examine the factors associated with short-term rental preemptions, Rosebrook (2019) finds that only legislative professionalism—not partisan control or interest groups—is associated with the adoption of this type of preemption, with more professional legislatures less likely to preempt their cities.

Source of income anti-discrimination laws prohibit landlords from discriminating against tenants or potential tenants because of their lawful source of income, including housing vouchers, military benefits, and government programs. These laws may allow voucher holders to move to more desirable neighborhoods, defined as being safer (Lens, Ellen, and O'Regan 2011) and less segregated (Freeman and Li 2014). Voucher holders are more likely to be able to use their vouchers in jurisdictions with source of income anti-discrimination laws (Freeman 2012). Opponents of these laws, in addition to being against any rental market regulation (Tighe, Hatch, and Mead 2017), argue accepting vouchers can represent a significant time and financial burden to landlords (Greenlee 2014).

All four of these affordable housing policies are therefore contentious. Undergirding preemptions of all affordable housing policies is a concern that housing market regulation leads to inefficiencies and can increase housing costs and/or reduce supply (Gyourko and Molloy 2015). Those opposed to such preemptions argue the policies are necessary on equity grounds and decisions about affordable housing are best made at the local level (Ramakrishnan, Treskon, and Greene 2019). In the next section, we discuss how common affordable housing preemptions are and when they occurred.

DATA & EMPIRICAL STRATEGY METHODOLOGY

Preemption of affordable housing policies

Data on state preemption of local laws are notoriously difficult to track (Goodman and Hatch 2020). Currently, there is no centralized database of state preemptions or unifying structure to track such legislative actions. To overcome this obstacle, we rely on the initial work of the Local Solutions Support Center (LSSC) to form the basis of our preemption data.[4] LSSC provides the legislative citations for preemptions in the four housing policy areas outlined above – essentially a cross-sectional dataset of preemption. Since our strategy (explained below) relies upon within-state time-series variation, we examine each legislative action and extract the date of adoption to form the final cross-sectional, time-series data for analysis.[5] From the raw data, we construct our dependent variable, recorded as a one if any housing policy preemption is adopted in a year and zero otherwise. This variable allows us to analyze the *within-state* probability of preemption (TK cite).[6]

The timing and scope of state preemption of affordable housing policies varies across states. While outside of our analysis time frame, preemption of local rent control was a staple of legislative action in the 1980s and continued to be through the 1990s and early 2000s (see Figure 1, panel A). More recently in 2018, two states preemption local rent control ordinances. Preemption of inclusive zoning happened a little later, first in 1990 and sporadically until 2018. Source of income preemptions all occurred in 2015, while short-term rentals are also a relatively new innovation, beginning in 2011.

States vary in their total number of affordable housing preemptions from zero to four (see Figure 1, panel B). Two states (Indiana and Tennessee) preempt all four policies we examined in this study, and four states (Arizona, Idaho, and Texas) preempt three policies. Looking at Figure 1, panel B, there appears to be a geographic variation in the number of preemptions, with states in the northeast and upper plains states having no preemptions except for New Hampshire's recent short-term rental preemption. The states with the highest levels of preemption are largely in the sunbelt region with the exception of Indiana. This suggests there may be geographic diffusion patterns, justifying a policy diffusion approach (Berry and Berry 1990).

Other data

Data on state legislative ideology is provided by Shor and McCarty (2011). They use the Project Vote Smart National Political Awareness Test (NPAT) and roll call voting records to calculate legislator-specific ideal points. These data are then aggregated to the legislative chamber level and median ideal points are calculated. Following Shor and McCarty (2011), we then average to two median ideal points to form average state legislative ideology. This value is centered on zero with scores below zero indicating a more liberal state legislature and scores above zero indicating a more conservative legislature. As seen in Table 1, the average state is slightly conservative; however, there is wide variation across states and time with state legislatures taking a decidedly conservative turn in 2010.

In addition to legislative ideology, we include other facets of legislative politics. First, we include legislative professionalism. This variable is operationalized using data from Squire (1992, 2000, 2007, 2012, 2017) and measures state legislative professionalism relative to US congressional professionalism. On average, professionalism is low: approximately 20 percent of the professionalism of the US Congress. Second, we include the strength of one-party control via the folded Ranney index (Bibby and Holbrook 2004). A value of 0.5 indicates perfect one-party control of state

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4. https://www.supportdemocracy.org/equitablehousing

5. Our dataset includes information on preemptions starting in 1980; however, we only use data from 1993 to 2018 due to limitations in the state legislative ideology data. Our data focuses exclusively on *legislative* preemptions – preemptions implemented by the passage of a law. This necessarily excludes some preemptions adopted via referendum (such as Massachusetts' Question 9 in 1994) or via judicial decree. See Goodman, Hatch, and McDonald III (2020) for more information.

6. We also analyze the number of preemptions or the intensity of preemption (Bucci and Jansa 2021) per year. No variables are statistically significant in this analysis. The results are available upon request.

Figure 1: State Preemption of City Ordinances related to Housing Affordability, 1993-2018

A. Preemptions over time
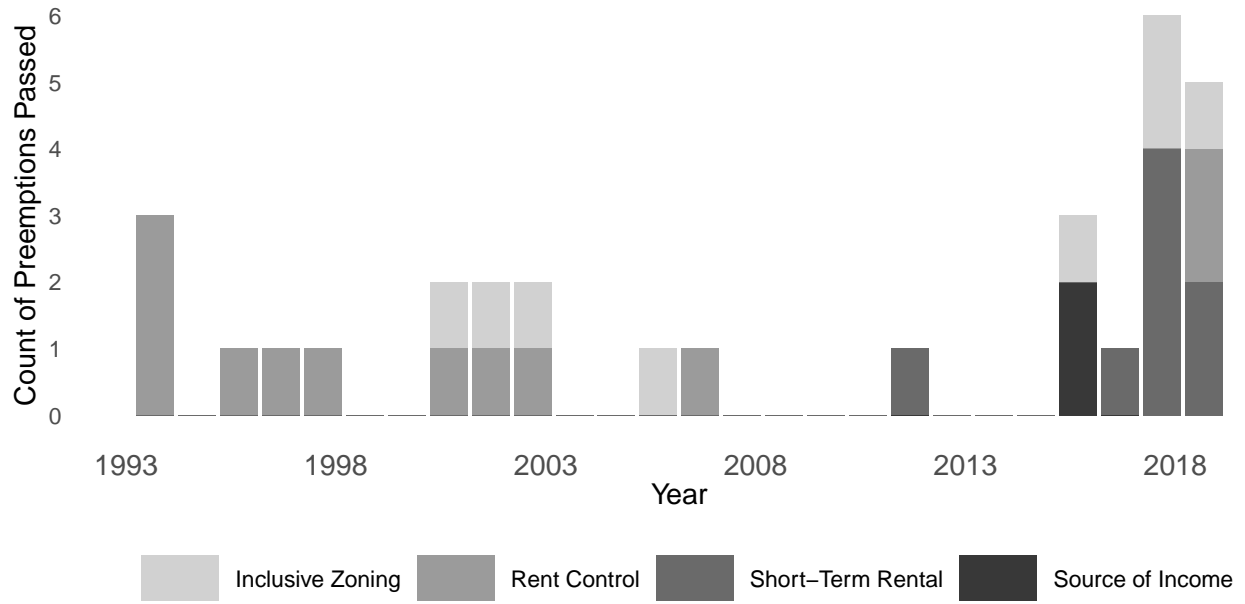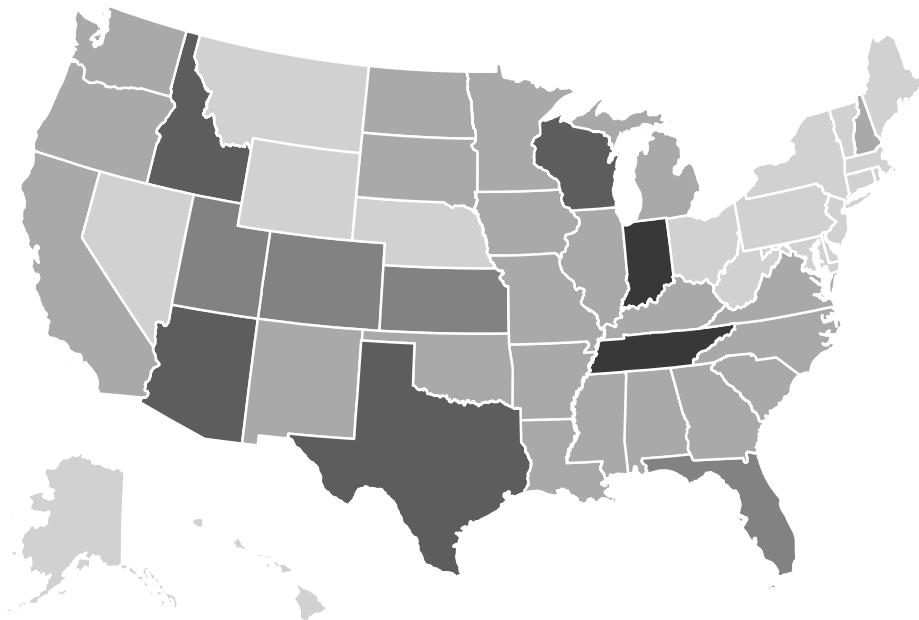

B. Preemptions across space

Table 1: Summary Statistics

Variable	Source	Units	Mean	Std Dev	Min	Max
Any housing related preemption	LSSC	Indicator, 0 or 1	0.029	0.168	0.000	1.000
Source of income preemption	LSSC	Indicator, 0 or 1	0.003	0.051	0.000	1.000
Inclusionary zoning preemption	LSSC	Indicator, 0 or 1	0.011	0.102	0.000	1.000
Short-term rental preemption	LSSC	Indicator, 0 or 1	0.011	0.102	0.000	1.000
Rent control preemption	LSSC	Indicator, 0 or 1	0.013	0.114	0.000	1.000
Average state legislative majority ideology	McSh	Common Space	0.139	0.772	-1.672	1.370
FHFA house price index (1975=100)	FHFA	Index	426.254	159.426	209.580	1230.350
Rental Rate	Census	Percentage	0.312	0.048	0.212	0.462
Employment in construction of single-family homes per capita	CBP	Fraction	0.003	0.001	0.001	0.008
Employment in real estate per capita	CBP	Fraction	0.001	0.000	0.000	0.003
State direct expenditures on housing and community development per capita	CoG	Fraction	0.025	0.027	0.000	0.191
Population	Census	1000s	6925.919	7295.614	638.168	39461.590
Personal income per capita	REIS	$1000s	41.709	6.600	28.124	68.627
Population density	Census	Ratio	125.508	149.235	9.249	882.389
% Urban population	Census	Percentage	0.726	0.162	0.314	0.997
% 65 and older	SEER	Percentage	0.132	0.020	0.085	0.205
% 19 and younger	SEER	Percentage	0.277	0.023	0.217	0.385
% population with BA +	CPS-ASEC	Percentage	0.232	0.051	0.110	0.415
Ethnic fractionalization	SEER	Fraction	0.269	0.114	0.041	0.508
State legislative professionalism	Squire	Fraction	0.188	0.120	0.027	0.629
Folded Ranney index	BH	Fraction	0.837	0.080	0.638	1.000
Electoral competition	Klarner	Index	38.322	12.319	7.198	71.776
% of neighboring states preempting	LSSC	Percentage	0.757	0.265	0.000	1.000

Notes: LSSC = Local Solutions Support Center; ShMc = Shor and McCarty (2011); Census = Census Bureau; REIS = Regional Economic Information System; SEER = Surveillance, Epidemiology, multiple years; BH=Bibby and Holbrook; Klarner = Klarner (2013); Squire = Squire (Various Years); CoG = Census of Governments; CPS-ASEC = Current Population Survey - Annual Social and Economic Supplement. Data are for 49 states from 1993 to 2018 excluding Nebraska.

government and as the index increases, the control of state politics becomes more fractured. The average state-year in our data is a 0.84 on the Ranney index – reasonably far from one party control. Lastly, we include legislative electoral competition using a Holbrook and Van Dunk (1993) index.[7] The index is a composite of four electoral factors by district: winning percentage of the popular vote, the winning candidate's margin of victory, an indicator of whether the district is "safe," and an indicator of whether the district is contested. District-level measures are aggregated to the state. A value of zero indicates a complete absence of electoral competition and electoral competition increases to a maximum (theoretical) value of 100. The average state-year is 38.3, suggesting reasonable competitiveness.

Interest group power is operationalized by three variables. First is the rental rate measured as one minus the homeownership rate by state. Second is the number of realtors and real estate brokers in a state, per capita. These data are extracted from County Business Pattern data for NAICS four-digit code 5312, Offices of Real Estate Agents and Brokers. Third is employment in the residential building industry per capita, operationalized as employment in NAICS four-digit code 2361, Residential Building Construction. In addition to housing interest groups, we include two additional housing related variables to control for baseline housing conditions: the FHFA house price index to control for average house prices and state spending on housing and community development per capita to control for direct state action in the housing market. Lastly, we account for geographic diffusion using the percentage of neighboring states adopting a housing related preemption in the current year. The remaining economic and demographic control variables can be found in Table 1.

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7. As Shufeldt and Flavin (2012) explain, the correlation between the Ranney index and Holbrook and Van Dunk index is historically positive; however, there is a divergence between the two in the period we analyze, indicating a distinction in concepts.

Empirical strategy

We analyze the probability of adopting any housing related preemption. We specify the dependent variable asdi-chotomous [0,1]. We wish to explain within-state variation in preemption activity necessitating the needto include state-level fixed effects to control for any time-invariant, unobserved heterogeneity (Green, Kim, and Yoon 2001). Following the advice of Beck (2015) for the estimation of binary dependent variableswith fixed effects, we use a linear probability model with state and year fixed effects (Angrist 2001). Additionally, we constrain the data to only those states that exhibit time-series variation (Beck 2015) toeliminate the potential the "ALLo" group biases the coefficients toward zero. Standard errors areclustered on the state.

RESULTS

Table 2 shows the results of two regression models where the dependent variable is binary, indicating one if a state had a legislative preemption of local affordable housing ordinances of any kind in a given year. The first set of results uses average ideology of the controlling majority of legislators, and the second set of results relaxes this choice to include the ideology of the entire chamber, regardless of controlling party.[8] Regardless of specification, the sign on legislatively ideology is positive, indicating more conservative legislatures are more likely to preempt. Depending on the specification, the movement of a state legislature from a neutral ideology (0) to a conservative ideology (1) is associated with a 3.5 to 6 percentage point increase in the risk of preemption in any given year. These results echo Goodman and Hatch (2020), who finds roughly similar results (both in sign and magnitude) regarding labor rights preemptions.

Legislative professionalism exerts a consistent negative influence on the probability of preemption. More professionalized legislatures are less likely to preempt. Increasing a state's legislative professionalism from 0 (completely unprofessionalized) to 0.5 (half as professional as the US Congress), roughly equivalent to moving from the minimum to maximum observed level of professionalism, decreases the likelihood of preemption by about 15 percentage points. The direction and magnitude of the effect are roughly like those found by Rosebrook (2019). Neither the folded Ranney index or the index of political competition are influential on the probability of preemption. The proportion of neighboring states adopting an affordable housing related preemption has no influence on a state's probability of preemption; however, previously adopting an affordable housing related preemption decreases the likelihood of a preemption in the current period by about five percentage points on average.

Of the variables measuring the influence of housing-related interest groups, only the state rental rate is influential on the probability of preemption. A one percent increase in a state's rental rate is associated with roughly a one percentage point decline in the probability of preemption. Typically, renters are not thought to have much political power, especially relative to homeowners; however, our results suggest renters exert some political power when it comes to allowing local control over affordable housing laws. Employment in the construction or real estate industries, house prices, and state spending on community development are not influential on the probability of preemption.

The remaining social and demographics variables largely have no effect on the probability of preemption with one exception, ethnic fractionalization. As a state becomes more diverse, the probability of preemption increases substantially. We interpret these results recognizing that few places are truly integrated, so increasing diversity is largely increasing segregation. In this light, it is possible these results are driven by a declining majority seeking to lock in systematic advantages via state law, but more research is necessary in this area.

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8. We include both measures of state legislative ideology to account for two potential scenarios. The ideology of the legislative majority assumes no bipartisanship in preemption – only the ideology of the controlling majority is important. Including the ideology of the legislative chamber as whole expressly allows for bipartisan preemption by including the ideology of both parties in the legislature.

Table 2: Any affordable housing preemption, 1993-2018

	Legislative Majority	Chamber Majority
Average state legislative majority ideology	0.0362*	–
	(0.0145)	
Average state legislative chamber ideology	–	0.0607**
		(0.0220)
State legislative professionalism	-0.3096*	-0.3220*
	(0.1363)	(0.1374)
Folded Ranney index	-0.1104	-0.1005
	(0.1113)	(0.1123)
Electoral competition	0.0001	0.0001
	(0.0011)	(0.0011)
Rental Rate	-0.9359*	-0.9182*
	(0.4359)	(0.4339)
Employment in construction of single-family homes per capita	-12.4135	-13.2225
	(9.8366)	(9.8335)
Employment in real estate per capita	-1.4996	-0.8590
	(39.3503)	(38.1683)
FHFA house price index (1975=100)	-0.0002	-0.0002
	(0.0001)	(0.0001)
State direct expenditures on housing and community development per capita	-0.1697	-0.1267
	(0.4472)	(0.4353)
Population (1000s)	0.0000	0.0000
	(0.0000)	(0.0000)
Personal income per capita	0.0011	0.0017
	(0.0041)	(0.0041)
Population density	0.0007	0.0006
	(0.0010)	(0.0010)
% Urban population	0.1958	0.1993
	(0.1794)	(0.1788)
% 65 and older	-0.2091	-0.0625
	(2.2252)	(2.2241)
% 19 and younger	-2.7829	-2.8583
	(2.1136)	(2.1038)
% population with BA +	0.5218	0.5344
	(0.5015)	(0.4988)
Ethnic fractionalization	1.7369*	1.7805*
	(0.8244)	(0.8254)
% of neighboring states preempting	0.0404	0.0416
	(0.1156)	(0.1148)
Number of previous preemptions	-0.0487*	-0.0492*
	(0.0188)	(0.0189)
Constant	0.4818	0.4185
	(0.9208)	(0.9206)
State FE	Yes	Yes
Year FE	Yes	Yes
N	759	759

Notes: Dependent variable: 1 if state adopts any preemption in year t. Robust standard errors clustered on the state in parentheses. + $p<0.1$, * $p<0.05$, ** $p<0.01$

DISCUSSION & CONCLUSION

Despite expectations set by Grossmann (2013) that housing policy is a highly centralized network with significant interest group involvement, we find legislative politics, particularly ideology and legislative professionalism, explain state affordable housing preemptions, and that powerful interest groups do not have a significant impact on preemptions. Rather than being influenced by elites, states appear to respond to their constituents in that states are less likely to adopt affordable housing preemptions when a greater share of their population are renters. This raises questions of whether it is the presence of renters alone that influences policy decisions, or whether it is a reflection of renters' political power. This political power could occur because of the way renters organize (Michener 2020) or if renters vote at similar rates as homeowners, reducing participation bias (Franko 2013). Contrary to our expectations, we do not find evidence of preemption policy diffusion, but we do observe path dependency, whereby a previous affordable housing preemption decreases the likelihood of another preemption, which is consistent with Grossmann's (2013) contention that housing policy is a highly path dependent policy area. We also do not find electoral competition or the percent of the state that is urban to have a significant effect on the likelihood of a state adopting an affordable housing preemption.

One of the contributions of this research is methodological: it is among the first studies to take advantage of longitudinal trends to determine the factors associated with state preemption over time. This is important because policy is cumulative. Because the characteristics of preemptions change over time (Goodman, Hatch, and McDonald III 2020), it is reasonable to expect that the reasons for those preemptions would also change. Longitudinal data on state preemptions can be difficult to find because there is no one database containing information on all state preemptions, yet longitudinal analysis is necessary for a complete picture of the causes of these preemptions.

This study is not without limitations. Institutional housing investors may seek preemptions to lessen the local regulatory burden places on them by some city governments. We are unable to effectively control for this possibility, particularly over the long timeframe of our analysis. Given the documented importance of the business community on preemption in other policy areas (Hertel-Fernandez 2019), the political influence of a well-resourced, influential industry may well be large. Future research should focus on exploring the political activities of institutional housing investors.

Understanding why states pass affordable housing preemptions is important for cities that wish to strategize about their own policymaking. Cities have very little influence over legislative ideology and professionalism, which raises questions about their ability to prevent state preemption. Swindell, Svara, and Stenberg (2018) and the National League of Cities (Wagner et al. 2019) recommend cities lobby their state legislature to expand, rather than restrict through preemption, their powers. While this is a potential long-term solution to preemption, cities may also want to explore non policy approaches to expanding affordable housing in states that have preempted or are likely to preempt these policies. Just as community groups came together in Oklahoma to change societal norms surrounding tobacco use despite the state's tobacco regulation preemption (Douglas et al. 2015), renters, tenants organizations, and other community groups could work together to find a workaround to provide affordable housing that does not violate the state preemption, or even help repeal state preemptions.

The results of this study reinforce our argument that state preemptions need to be studied by policy area, rather than as a monolith. While ideology, legislative professionalism, and renters affect affordable housing preemption, interest groups are a driving force behind public health preemptions (Pomeranz and Pertschuk 2017) and unionization and state minimum wages are associated with labor preemptions (Kim, Aldag, and Warner 2021). Further research is needed using longitudinal data to determine the factors influencing state preemption across policy domains. Eventually, this will allow scholars to theorize about the relationship between the characteristics of different policies and the likelihood of state preemption of those policies. Such theory development is important for local policymakers who want to respond to their constituents' needs, but whose policy options are constrained by state preemption.

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