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State Legislation Increasingly Targets Pricing Technologies

US – October 2025

On October 16, 2025, New York enacted the first statewide ban on landlords using real estate management software to set rents. The law treats the use of rent-pricing software across multiple landlords as unlawful collusion and prohibits vendors from facilitating such coordination. It arrives alongside a broader housing package for New York and follows several city-level bans across the country (e.g., San Diego, San Francisco and Philadelphia). The statute is set to take effect 60 days after enactment.

Across the country, California banned the use and distribution of Artificial Intelligence (AI) pricing technology, which includes rent-pricing software, when Governor Gavin Newsom signed AB 325 on October 6, 2025, amending the Cartwright Act (California's antitrust statute). The new law, effective January 1, 2026, makes it unlawful to use or distribute AI pricing technology as part of an agreement in restraint of trade, and creates a stand-alone offense for coercing another firm to adopt AI pricing technology. The statute defines "common pricing algorithm" broadly to include tools using competitor data to recommend or influence pricing.

At the federal level, agencies have utilized enforcement powers rather than regulation to try to tackle the use of software pricing and rent pricing schemes.[1] The Department of Justice (DOJ) recently sued large national landlords, alleging the landlords participated in a scheme to set their rents by using competitively sensitive information. Some of the defendants, including Greystar Real Estate Partners LLC (Greystar), have settled with the DOJ. The Greystar settlement agreement is far narrower than the broad-sweeping ban in the New York legislation. For example, Greystar can still use software to set rent prices, but they can no longer use competitively sensitive, external non-public data.

RealPage, the developer of the software at the center of the controversy, faces several lawsuits, including the case brought by the DOJ, claiming that its platform enabled property managers to share confidential rental data and align pricing. RealPage has continuously denied any wrongdoing and claims rising rent costs are due to the COVID-19 pandemic. RealPage entered into its first settlement agreement with Nevada in September 2025, though RealPage still faces similar lawsuits by private litigants and the DOJ. Similar to the terms of the Greystar settlement, and much narrower than the New York legislation, the RealPage-Nevada settlement still permits RealPage to develop this software, while limiting how RealPage can use non-public data.

State legislatures are taking up the banner to restrict the use of software pricing in a manner beyond what has been achieved in litigation brought by the DOJ, states and private litigants. While New York and California may have paved the way, other states are considering legislation containing similar restrictions in the use of software driven pricing models in rental markets[2], and in general.[3] New York's law is unique in that it reframes shared software price-setting as collusion by tool, not just by agreement. California's AB 325 generalizes this framework across all industries and adds a coercion hook that could apply to platform or data-intermediary models. AB 325 also clarifies pleading standards under the Cartwright Act, which may spur more private suits alleging software coordination. Both laws expressly contemplate software providers and data services as potential participants, meaning risk extends to both developers and end-users.

Any company developing a pricing tool, and any company considering subscribing to market-intelligence services that recommend pricing, should conduct a state-law liability review before launch or procurement. New York and California now provide concrete statutory hooks that reach both the design and use of software pricing tools, creating potential exposure for developers, distributors and users alike.

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1 *See Brief for the United States as Amicus Curiae in Support of Plaintiffs-Appellants, Gibson v. Cendyn Group, LLC*, Case No. 24-3576 (9th Cir. Oct. 24, 2024) (arguing that the use and widespread adoption of third-party algorithmic revenue management software can be used to prove conspiracy and intent to agreement despite a lack of action and constitute a *per se* violation of the Sherman Act).

2 New Jersey AB 4872; SB 3699; Illinois HB 1427, Hawaii HB 831 and SB 157; Michigan HB 4538; North Carolina HB 970.

3 Ohio SB 79; Pennsylvania HB 1779.