# State legislatures propose varied housing reforms to address zoning, building and property rights



State legislatures across the United States have seen a surge in housing-related legislative activity in recent weeks, with proposed bills and policy reforms aiming to address various zoning and building regulations. This wave of proposals seeks to reshape housing policies, often focusing on expanding housing supply, loosening restrictive zoning rules, and reforming building codes.

One notable example comes from Montana, where Senator Becky Beard (R–Elliston) introduced Senate Bill 146, named the Private Property Protection Act. This bill takes a "rights-based" approach to zoning reform, setting a legal standard that requires any property use restriction enacted by state or local governments to be "demonstrably necessary and narrowly tailored to fulfil a compelling governmental interest in public health or safety." The bill empowers private property owners to challenge use restrictions in court if they do not meet this strict scrutiny standard, significantly raising the current bar which only requires laws to be a rational means of achieving governmental objectives.

Kendall Cotton, president and CEO of the Montana-based Frontier Institute, explained, "The law applies to everything going forward that's either enacted or enforced. If there's an enforcement decision of the laws that are on the books today, after this law is passed, that decision to enforce that law will need to meet this really high standard." Legal experts note this represents a considerable departure from the traditional regulatory approaches and the post-Euclid regime that has permitted single-family zoning since 1926. Should the bill become law, it would enable property owners to sue against zoning laws that restrict businesses or apartment buildings in residential neighbourhoods unless the government can prove such restrictions are essential for protecting health and safety.

In California, Representative Kevin Kiley (R–Calif.) has announced plans to introduce federal legislation aimed at curbing the broad powers of the California Coastal Commission. This powerful regulatory agency oversees development along 860 miles of California's coastline, with authority to approve or reject local zoning and development efforts. Kiley criticised the commission for overstepping its remit and negatively impacting important policies, pointing to examples such as fines levied on homeowners for installing gates or commissions that have blocked affordable housing projects.

Kiley told Reason magazine, "It's an agency that has gone far beyond its purpose, which is to protect the California coast, and undermined a lot of important policy objectives through the way it's abused its powers. It's really past time that we reined them in." His proposed legislation would seek to remove the federal delegation of approval authority that the commission holds and introduce due process protections for property owners within the coastal zone. Additionally, the bill aims to prevent the commission from hindering wildfire rebuilding efforts in the Los Angeles area, an issue highlighted by California Governor Gavin Newsom's emergency order temporarily suspending the commission's power over rebuilding fire-damaged homes.

Meanwhile, in Colorado, Governor Jared Polis is championing reforms to building codes, particularly targeting the common requirement that multifamily apartment buildings include two stairwells. The current two-staircase mandate is argued to force larger building footprints, making efficient, family-sized apartments more difficult to construct, especially on smaller lots. Polis has dubbed the reform "smart stair" reform and supports legislation that would allow buildings of up to six stories to be constructed with just one staircase, a model prevalent internationally.

Addressing fire safety concerns raised by officials opposed to the reform, Polis told Reason, "This helps effectively stop forcing builders from building massive apartment buildings because of stair requirements and get government out of micromanaging of stairs." He added, "Right now [two-staircase requirements] are not really optimized for safety," pointing out that in larger buildings, occupants may be farther from exits despite the extra stairwell. The introduction of modern fire safety measures, such as sprinklers and fire-resistant materials, are cited as effective compensations for reduced stair requirements.

Other housing policy developments include proposals by Washington State lawmakers to cap rent increases at 7 percent, narrowly passing out of a House committee, and California Assembly Bill 253, which would allow private third parties to issue building permits to accelerate approvals, a measure with potential to aid homeowners rebuilding after wildfires. Texas enacted a similar permitting law in 2023.

These legislative initiatives come amid a broader national context in which housing remains a central but deeply contested policy area. Notably, the Biden administration last week withdrew a proposed Affirmatively Furthering Fair Housing Rule; this rule had sparked significant political debate. Former President Donald Trump’s administration had earlier signed executive orders directing federal agencies to focus on expanding housing supply as a means to reduce housing costs, reflecting the ongoing bipartisan attention to housing challenges nationwide.

This recent spate of legislative activity underscores the varied approaches being taken across states to balance property rights, housing development, environmental protection, and public safety within the complex field of residential zoning and building regulations.

Source: [Noah Wire Services](https://www.noahwire.com)

## Bibliography

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