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# Current & Future Legal Changes Affect New Home Builders & Construction Industry

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Home buyers are scrambling to find affordable entry-level homes as the already low supply continues to decrease. On the surface, it seems like a golden opportunity for builders to step up and fill the gap. Unfortunately, many have not been able to.

Why? Because they can’t afford the mounting costs imposed by new regulations on land and construction.

The home construction industry has long been at the mercy of a multitude of laws that can affect everything from construction costs to workforce availability to

homeowners' ability to get a mortgage. Over the past decade, an onslaught of new laws and regulations have driven up costs and drawn out construction timelines for builders, who are getting hammered from all sides by restrictions levied at every level of government.



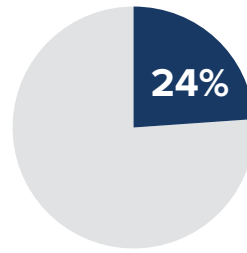
A federal permit for stormwater discharge on construction sites is required, for example. Statewide environmental regulations add another layer of expenses. In addition to these items, builders have local permits, hookup and impact fees, which can cause expensive delays along with the hard costs developers and builders must pay—and that's not even including the price of complying with new city building codes, which change every three years.

Of course, these are just the regulations that target the construction industry directly. Other laws, such as immigration and labor laws, can have an indirect but equally costly impact on home builders.

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## The cost of regulation

Regulations at all levels of government account for more than [24 percent](#) of the final sale price of a new single-family home, the National Association of Home Builders estimates. More than 14 percent comes from costs incurred during lot development, which result in higher land costs for builders, while builders foot the rest of the bill directly once the lot has been purchased. [Nearly two-thirds](#) of regulatory costs during the construction phase are related to changes in construction codes and standards during the past 10 years.



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Today's home building requirements “can be a very lengthy list of things you maybe wouldn't have seen 10, 15, 20 years ago,” says [Phil Bodem](#), president of the Southern California division of Taylor Morrison. “But you're also seeing it in fees that counties and cities impose on new home construction. Fees can be anywhere from \$50,000 to \$100,000 per home to build.”

Not only are compliance costs on the rise, but the pace at which they're growing is accelerating, thanks to the sheer volume of new regulations in the pipeline. In fact, regulatory costs are rising twice as fast as homeowners' ability to pay for them. Between 2011 and 2016, regulatory costs grew nearly 30 percent, while disposable income rose only [14.4 percent](#).

What this means for the construction industry is that despite the nationwide housing shortage, contractors are having a harder time building new homes—and homeowners are having a harder time affording them.



## Federal laws affecting builders

The election of a new president always ushers in a period of uncertainty and speculation among businesses, and the construction industry is no exception. Builders have been waiting with baited breath to see how the new administration will affect them, given it has the power to

substantially change regulations, taxes, labor laws and a myriad of other aspects of the home building process.

“I don’t know if anybody can predict what the new administration will really do,” says construction attorney [Gina Vitiello](#). “There’s a sense of uncertainty among contractors. If I’m planning on a major contract and it might not go forward, that’s a little scary.”



Potential trade conflicts with China and other rivals could drive up the price of construction materials. Stricter immigration policies could squeeze the labor force, driving up wages and causing costly delays. The new administration’s plans for building more infrastructures could siphon workers away from residential construction and deepen an already painful [labor shortage](#).

On the plus side, industry experts are hopeful that the President and his fellow Republicans in Congress will follow through on a unified call for less governmental regulation. The most likely target is former President Obama’s Dodd-Frank Wall Street reform act of 2010, which made it harder for many homeowners to get a mortgage. Loosening the current restrictions on lenders could allow more first-time buyers to qualify for home loans.

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There’s also the possibility that the new administration’s policies will lift some of the regulatory burdens builders are shouldering themselves.

“If we do get an administration that’s taking a look at various kinds of regulatory policies—where they’ve grown too large or too expensive—that will certainly help the supply side of the market,” says NAHB chief economist [Robert Dietz](#). “And I think that’s good news, not just for builders, but it’s good news for renters and prospective homebuyers because adding supply is the way that you address housing affordability issues.”

## **Still, there are new regulations on the horizon that builders should be aware of, including:**



### **Chesapeake Bay Cleanup Plan.**

Not only is the Environmental Protection Agency’s effort to reduce pollution in Chesapeake Bay driving up development costs in surrounding states, but it could become a blueprint for establishing tougher clean water standards in other parts of the country.



### **Silica safety standards.**

The Occupational Safety and Health Administration’s new standards to protect construction workers from breathing crystalline silica went into effect recently, with the potential to cost the construction industry billions of dollars in extra expenses.



## State and local regulations

In addition to increasingly stringent local building codes that change every few years, many states are seeing a flurry of costly new regulations. Last year alone, at least [19 states](#) changed their construction laws. While some of the changes were trivial, others put the crunch on contractors statewide.

Often when one state passes a new law, other legislatures adopt similar statutes in a ripple effect that can cascade throughout the nation. What happens in one state is often a predictor of what's to come in surrounding areas.

### Key state-level issues builders should keep on their radar include:

- ✓ **Environmental standards.** Efforts to protect waterways and reduce greenhouse gas emissions are getting a lot of attention at the state and local levels. Many states are looking at proposals to restrict development in exurban areas and revise existing land use, building and zoning codes. California, one of the nation's leaders in sustainable building regulations, reviewed its energy efficiency standards again last year and made changes to the state's building code that went into effect in January. It also identified a new goal: Achieve net zero energy for new residential construction by 2020, a target that will likely come with a heavy price tag for builders.
- ✓ **Fire sprinklers.** Another hot-button issue that could get expensive for builders is the call for fire sprinklers in newly built homes. Although statewide efforts throughout the nation have been blocked so far, local fire departments continue to advocate for the new

regulation, which would add an average of [\\$6,000](#) to the cost of building a single-family home.

- ✓ **Home warranties.** Many states require builders to provide buyers with some sort of home builder warranty services. Each state determines its own laws regarding the type of builder warranty required, and requirements vary depending on the locale of the operation. Within the past decade, several states have passed or considered legislation that would extend the time frame of a builder's long-term liability with regards to newly constructed homes. Some have doubled the length of coverage for materials and workmanship from [one year to two](#) and extended HVAC, electrical and plumbing coverage to four years or more.

**With all of the new laws and codes builders must comply with, it's no wonder they're struggling to meet the demand for entry-level homes. Keeping up with the myriad of regulations that affect new-home construction is a challenge—but it's essential for contractors looking to remain in compliance with federal and local building laws.**



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