A FREE E-BOOK



By Right

Buying and Entitling Land Under the New State Housing Laws

A practical guide for developers and landowners on finding, underwriting, and entitling land where housing no longer needs a rezoning fight.

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THE KAUFMAN REPORT

By Right

A practical guide for developers and landowners on finding, underwriting, and entitling land in the states that now allow housing without a rezoning fight.

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Introduction

The most valuable thing that happens to a piece of land is not the building. It is the moment a city says yes. Before that moment, you own dirt with a story. After it, you own a site with a number of homes attached to it, a schedule, and a cost you can underwrite.

For a long time, that yes came slowly. A rezoning meant a pre application meeting, a staff report, a planning commission hearing, a council hearing, neighbors at the microphone, and a vote you could not predict. Months turned into years, and the carrying cost of the land ran the whole time.

That is changing. Since 2023, a run of state laws has moved housing approvals out of the hearing room and into the zoning code. Texas now requires its largest cities to allow apartments by right on most commercial land, effective September 1, 2025 (Haynes Boone). California's transit housing law took effect July 1, 2026 (ABAG). Florida tightened its Live Local Act in 2025 so that qualifying projects get administrative approval with no board review (Bilzin Sumberg). Montana's Supreme Court upheld that state's duplex and ADU laws in March 2026 (State Court Report).

The laws are real, but they are not self executing. In North Texas, developers report that some cities answered the Texas law with new requirements of their own, and lawmakers are already talking about tightening it when the legislature returns in January 2027 (CRE Daily). The opportunity goes to the people who read the statute, read the local code, and underwrite the difference between the two.

This book is how I think about that work. It covers why entitlement is where land value is made, what the new state laws actually allow, how to read a parcel, how to underwrite entitlement risk and time, how to write a land contract that protects you, and how to work the approval process when it is still discretionary. Every example is labeled, and every number from a public source is linked so you can check it yourself.

Chapter 1. Entitlement Is Where the Value Is Made

Land has no fixed value. It has a value under its current rules, and a different value under the rules you can get approved. The gap between the two is the entitlement premium, and it is the single largest lever a landowner or developer controls.

Entitlement is the bundle of approvals that turns a parcel into a buildable site: the zoning that allows the use, the density and height that set the unit count, the plat or site plan, and the utility and access commitments that make it real. A buyer pays for certainty. Each approval you secure removes a risk the next buyer, lender, or builder would otherwise price against you.

Think about the same parcel at three stages.

Stage	What you own	What drives the price
Raw	Dirt under its current zoning	Today's allowed use, plus a buyer's guess about what might be approved
In process	A parcel with an application on file	The odds of approval, the time left, and the cost to finish
Entitled	A site with an approved use, unit count, and plan	Units times what a builder can pay per unit, less the cost to build

The jump from raw to entitled is where the money is made, and it is also where the money is lost. Time is the reason. Every month in process costs taxes, insurance, option or extension payments, consultant fees, and the return you could have earned elsewhere. A rezoning that takes eighteen months instead of six can erase the premium it was supposed to create.

That is why the new state laws matter. They do not make land cheaper. They take the discretionary hearing out of the path for certain projects, which compresses the time in process and removes the risk of a no vote. When the rules let you skip the hearing, the value moves to the parcels that qualify, and the edge goes to the person who knows which parcels those are.

Three principles carry through the rest of this book:

1. **Buy the rule, not the rendering.** Underwrite what the code allows today and what a statute guarantees, not what you hope a council will approve.
2. **Price time explicitly.** Put a monthly carrying cost on every path to approval, and compare paths on total cost, not just on unit count.
3. **Control before you close.** Use the contract to buy time to confirm the entitlement before your capital is at full risk.

Chapter 2. The New By Right Map

By right means a project that meets the written standards must be approved by staff, with no rezoning, variance, or discretionary vote. The laws below differ in detail, but each one moves housing approvals in that direction. Read the summaries as a starting point, then read the statute and the local ordinance before you rely on any number.

State and law	Where it applies	What it allows	Key limits
Texas SB 840, effective Sept. 1, 2025	Cities over 150,000 people, wholly or partly in a county over 300,000	Multifamily and mixed use residential by right in office, commercial, retail, warehouse, and mixed use districts	Density floor of 36 units per acre, height floor of 45 feet, parking capped at one space per unit; excludes heavy industrial areas and sites near airports and military bases
Texas SB 15, effective Sept. 1, 2025	Large cities (reported as cities of 150,000 or more in counties of 300,000 or more), new subdivisions of 5 acres or more	Single family lots as small as 3,000 square feet	Lots cannot be required wider than 30 feet or deeper than 75 feet; private deed restrictions still apply
California SB 79, effective July 1, 2026	Residential, mixed use, and commercial sites within a quarter or half mile of qualifying rail and bus rapid transit stops in urban transit counties	Heights of 55 to 75 feet and densities of 80 to 120 units per acre, depending on distance and service level	Affordable set asides above 10 units; cities may adopt HCD approved alternative plans; historic, fire, and airport exclusions
Florida Live Local Act, amended by SB 1730, effective July 1, 2025	Sites zoned commercial, industrial, or mixed use, including qualifying PUD parcels	Multifamily and mixed use with administrative approval, no board review	At least 40 percent of units affordable up to 120 percent of AMI for 30 years; height near single family neighborhoods can be capped at 10 stories
Montana SB 323 and SB 528, upheld March 2026	Duplexes in larger cities, ADUs statewide	Duplexes on single family lots; ADUs in single family zones	Private covenants that prohibit ADUs are not overridden

Sources: Texas SB 840 from Haynes Boone and Squire Patton Boggs; Texas SB 15 from Squire Patton Boggs and the Texas Tribune; California SB 79 from ABAG and Kassouni Law; Florida from Holland & Knight and Bilzin Sumberg; Montana from State Court Report and HousingWire.

What these laws have in common

Each law targets land that already has a commercial, mixed use, or single family designation and lets housing ride on it. That is the pattern to look for. The best opportunities are often parcels that were priced as retail pads, office sites, or tired strip centers, and now carry a guaranteed residential use the seller has not priced in.

What they do not do

None of these laws removes the rest of the code. Building codes, fire access, utility capacity, drainage, and environmental rules still apply. California's law, for example, does not itself create a ministerial review process or amend CEQA, although qualifying projects may use the separate SB 35 and SB 423 streamlining if they meet those requirements (ABAG).

Expect friction, and read the local response

A state law sets a floor. Cities still write the details. In North Texas, developers have reported new local requirements such as ground floor retail, minimum building heights, and amenity packages after SB 840 took effect, while Dallas has largely aligned with the law and Plano reported three projects totaling 827 units under review (CRE Daily). Two cities under the same statute can produce very different outcomes. Your underwriting has to be city by city.

Chapter 3. Reading a Parcel

Before I care about a price, I want to know what the parcel is allowed to become. That answer lives in documents, not in the listing. I work through the same questions in the same order every time, because a single missed item can turn a by right site into a two year fight.

Step 1. Confirm the statute applies

1. **Jurisdiction.** Is the parcel inside the city limits, or in an unincorporated county area or extraterritorial jurisdiction where the state law may not reach? California's SB 79, for example, does not take effect in unincorporated county areas until the next housing element cycle (Kassouni Law).
2. **Population tests.** Confirm the city and county meet any population threshold, using the figures the statute names.
3. **Base zoning.** Pull the official zoning map and the district text. Confirm the district is one the law covers, such as a district that permits office, commercial, retail, or warehouse uses under Texas SB 840.
4. **Exclusions.** Check every carve out: proximity to heavy industrial uses, airports, and military bases in Texas; historic, fire hazard, airport, and sea level rise exclusions in California; working waterfronts and protected areas in Florida.

Step 2. Read the local implementation

1. Has the city adopted an ordinance implementing the state law, or an approved alternative plan?
2. Has it added design standards, ground floor requirements, or fees since the law passed?
3. Call the planning department and ask how it is processing applications under the law today. Write down the name of the person you spoke with and the date.

Step 3. Test the physical site

Item	What to pull	Why it matters
Survey and title	ALTA survey, title commitment, recorded plats	Easements, setbacks, and access can shrink the buildable area
Private restrictions	Deed restrictions, CC&Rs, HOA documents	State laws generally do not override private covenants, a point both Texas SB 15 and Montana's ADU law leave in place

Item	What to pull	Why it matters
Utilities	Will serve letters for water, sewer, and power	By right zoning does not guarantee capacity
Access and traffic	Driveway permits, state highway access rules	Curb cuts and turn lanes can drive both cost and layout
Environmental	Phase I report, wetlands, floodplain maps	Can remove land from the yield or add mitigation cost
Topography and soils	Topographic survey, geotechnical report	Grading and foundations can change the unit count that pencils

Step 4. Calculate the yield the rules allow

Only now do I count units. Start with the gross acreage, subtract right of way, easements, floodplain, and required open space, then apply the density the statute guarantees or the local code allows, whichever is higher. Check the result against the height limit, parking ratio, and setbacks to make sure the units actually fit on the land. If the yield depends on a variance, it is not by right, and you should underwrite it as a discretionary path.

Chapter 4. Underwriting Entitlement Risk and Time

The right question is not what the land is worth. It is what the land is worth to you, on the path you can actually get approved, after you pay for the time it takes. I answer it with a residual land value: start from what the finished project will earn, back out the cost to build it and the return it has to clear, and what is left is what you can pay for the dirt.

Worked example (illustrative)

The numbers below are illustrative, chosen to show the method. They are not market data, and you should replace every input with your own.

A seller is marketing a 4 acre commercially zoned parcel in a Texas city covered by SB 840 at $18 per square foot.

Input	Value
Site area	4 acres, or 174,240 square feet
Asking price	$18 per square foot, or $3,136,320
Guaranteed density floor	36 units per acre, or 144 units
Average rent	$1,650 per unit per month
Operating expenses	40 percent of revenue
Net operating income	$11,880 per unit per year
Target yield on cost	6.5 percent
Hard and soft cost, excluding land	$160,000 per unit

Step 1, maximum total cost per unit: $11,880 divided by 6.5 percent is about $182,769.

Step 2, supportable land per unit: $182,769 less $160,000 is about $22,769.

Step 3, supportable land value: $22,769 times 144 units is about $3,278,769, compared with an asking price of $3,136,320, or about $21,780 per unit.

At these inputs the deal clears by roughly $142,000. That is a thin margin, and the next test shows why.

Stress the inputs

If hard and soft cost comes in 5 percent higher, at $168,000 per unit, supportable land falls to about $14,769 per unit, or about $2,126,769 in total. The same parcel is now roughly $1.0 million overpriced. Put another way, at the asking price the project only works if cost stays at or below about $160,989 per unit. A residual model is very sensitive to cost and rent, so run the high and low cases before you sign anything.

Price the time

Now compare three paths on the same parcel, using illustrative timelines. Assume carrying cost of taxes, insurance, and related items at 2.5 percent of the land price per year (illustrative).

Path	Time to approval	Carrying cost at 2.5% per year
By right site plan under SB 840	About 3 months	About $19,602
Discretionary rezoning	About 12 months	About $78,408
Contested rezoning	About 18 months	About $117,612

Carrying cost is only the visible part. The longer path also adds consultant and legal fees, exposes you to rising construction costs, and carries the chance of a denial. In this example, a discretionary path that delivered the same 144 units would cost roughly $58,000 to $98,000 more in carry alone, against a margin of about $142,000. The value of a by right path is not just speed. It is the risk you no longer have to price.

A simple rule

I assign every path a probability of approval and a timeline, multiply through, and compare the expected land value of each path. When the by right path produces a lower unit count but a much higher probability and a shorter clock, it often wins. Certainty is worth paying for, and the market usually underprices it.

Chapter 5. Structuring the Land Contract

The contract is where you buy time to confirm everything in Chapters 3 and 4 before your money is fully at risk. A seller wants a fast, clean close. You want enough time to prove the entitlement. A good contract trades those two things fairly, and it says exactly what happens at every step.

The clauses that matter most

1. **Feasibility period.** A window, often 60 to 120 days, to complete due diligence with the right to walk away and recover your deposit. Make the list of what you can study broad: zoning, utilities, environmental, survey, title, soils, and market.
2. **Entitlement contingency.** Separate from feasibility. Closing is conditioned on receiving a specific approval, such as an approved site plan for a stated number of units. Define the approval precisely, and say it must be final and no longer subject to appeal.
3. **Seller cooperation.** The seller agrees to sign applications, attend meetings if needed, and not oppose or alter the zoning while you are under contract.
4. **Extensions.** Paid extensions if the city runs long. Negotiate whether extension payments are refundable and whether they apply to the purchase price.
5. **Deposit release schedule.** Tie each increase in nonrefundable deposit to a milestone you control or can verify, such as the end of feasibility or a staff determination.
6. **Statute change protection.** Given talk of amending laws like Texas SB 840 in the 2027 session (CRE Daily), consider a right to terminate if a change in law materially reduces the allowed yield before you close.

Worked example (illustrative)

Using the parcel from Chapter 4, a buyer and seller agree to the following illustrative terms.

Term	Illustrative value
Purchase price	$3,136,320
Initial deposit, refundable during feasibility	$50,000
Feasibility period	90 days
Entitlement period after feasibility	90 days for an approved site plan for 144 units
Extensions	Two 60 day extensions at $25,000 each, nonrefundable, applicable to price
Maximum time to close	300 days

Term	Illustrative value
Maximum nonrefundable exposure if both extensions are used and the buyer then walks	$50,000 deposit plus $50,000 in extensions, or $100,000

That $100,000 is about 3.2 percent of the price. It is the cost of an option on a site you have not yet proven, and it is far less than the cost of closing on land that turns out to support fewer units than you paid for. The deposit becomes nonrefundable only after feasibility, which is why the feasibility period has to be long enough to finish the work in Chapter 3.

Options and other structures

When the entitlement path is long, an option agreement can fit better than a purchase contract: you pay for the right, not the obligation, to buy at a set price within a set time. Some sellers will also accept a higher price in exchange for a longer approval period. Whatever structure you use, have a real estate attorney in your state draft and review it. Contract law, disclosure rules, and transfer requirements vary by state.

Chapter 6. Working the Approval Process

By right does not mean no process. It means the process is administrative, and the reviewer is a staff member applying written standards. Even under the new laws, plenty of projects still need a discretionary step: a plat, a variance for an odd shaped lot, a utility extension, or a site that falls just outside the statute. How you work the process decides how long it takes.

On a by right path

1. **Hold a pre application meeting.** Bring a site plan that shows compliance item by item: density, height, setbacks, parking, open space. Ask staff to confirm in writing which standards apply.
2. **Cite the statute in your application.** Name the section that makes the project by right, and show how it qualifies. Reviewers are still learning these laws, and a clear application reduces back and forth.
3. **Track every review clock.** Many state laws set deadlines for administrative review. Calendar them, and follow up the day after a deadline passes.
4. **Keep a record.** Save every comment letter and every response. If a city adds a requirement the statute does not allow, your record is what you will rely on, and in Florida the law even caps prevailing party attorney fees in Live Local litigation at $250,000 (Holland & Knight).

On a discretionary path

1. **Meet staff before you meet neighbors.** Learn what the planning department needs to recommend approval, and design toward it.
2. **Meet neighbors before the hearing.** The people who show up at a hearing are usually the people who heard about the project last. Go to them first, listen, and change what you reasonably can.
3. **Lead with the problem you solve.** Housing for teachers, nurses, and hourly workers, a cleaner site, a safer intersection. Specifics persuade. Adjectives do not.
4. **Count votes honestly.** If you cannot see a majority before the hearing, ask for a continuance rather than a denial. A denial can restrict how soon you can reapply.

A note on relationships

The new laws reduce the power of a single hearing, but cities still control inspections, utilities, permits, and dozens of smaller decisions. Treat staff as partners in getting it right. Be the applicant whose submittals are complete, whose answers are on time, and whose word holds. That reputation shortens every future review.

Chapter 7. Where By Right Meets Workforce Housing

The housing these laws make easiest to approve is often the housing communities need most: apartments on commercial corridors, small lot homes, duplexes, and ADUs. That lines up with attainable and workforce housing, and it is where I spend most of my attention.

Mountain and gateway towns

Resort and gateway communities have a particular problem. Land is scarce, second homes compete for every lot, and the people who run the mountain, the hospital, and the schools cannot afford to live near work. These towns are also where discretionary approvals have historically been hardest.

Montana shows what changes when the rules move. Its 2023 package requires larger cities to allow duplexes on single family lots and requires ADUs in single family zones, and a related law requires cities over 7,000 residents to allow multifamily in most commercial zones, according to HousingWire. After a court fight, the Montana Supreme Court unanimously upheld the package in March 2026 (State Court Report). In a gateway town, a duplex or an ADU on an existing lot is often the fastest unit you can add.

How I approach a workforce site

1. **Start with the employer.** Hospitals, school districts, resorts, and large employers know exactly how many people they cannot house. A commitment from an employer to lease or reserve units changes how a project is underwritten and how a city sees it.
2. **Match the product to the rule.** On a commercial corridor in a covered Texas city, that may be a 36 unit per acre garden or podium building. On a 5 acre single family tract, it may be 3,000 square foot small lots under SB 15. In Florida, it may be a Live Local project with 40 percent of units affordable up to 120 percent of AMI (Holland & Knight).
3. **Design for cost, not for applause.** Workforce rents only work when the building is efficient. Repeatable floor plans, modular or panelized components where they fit, and surface parking where the code allows one space per unit all help.
4. **Plan to own it.** Workforce housing is a long hold. Underwrite it on stabilized yield and durability, with materials and systems that hold up for decades.

Watch the data, not the headlines

A new law creates a window. Prices adjust as more buyers learn which parcels qualify. The early advantage goes to whoever tracks which cities are processing applications cleanly, which are adding friction, and where land is still priced under its old rules.

Chapter 8. Keep Learning, and Where to Get Help

The laws in this book will keep changing. Here is where to keep up, and where to bring a site when you want a second set of eyes.

LandBriefing, free tools

LandBriefing is a free land intelligence resource. Four parts are useful for the work in this book:

- **Opportunity Score.** A data driven score that ranks markets for land and development opportunity, with the methodology published on the site.
- **Mountain Watch.** Coverage of mountain resort and gateway town markets, where land is scarce and workforce housing is hardest to build, on the Mountain Watch page.
- **Market Pulse.** Regular reads on the market signals that move land values.
- **The LandBriefing newsletter.** Free updates delivered by email.

Kaufman Real Estate & Consulting, advisory

When you want help applying these ideas to a specific site, Kaufman Real Estate & Consulting offers four kinds of advisory work:

- **Development Strategy Session.** A focused working session on your project, your market, and your path to approval.
- **Site and Feasibility Review.** A review of a specific parcel: zoning, statute eligibility, yield, residual land value, and the entitlement path.
- **Project Advisory Retainer.** Ongoing advisory support through due diligence, entitlement, and design.
- **Land and Site Consulting.** Help identifying, evaluating, and positioning land.

The Kaufman Report

I write about markets, land, and development at The Kaufman Report. Subscribing is free, and it is where I track how laws like these play out on the ground.

Closing. The Rule Is the Asset

For a long time, the value of land depended on persuading a room. The new state laws move some of that value into the code itself, where anyone who reads carefully can find it. That is a real shift, and it rewards preparation over persuasion.

The work is the same as it has always been, just faster when you get it right. Confirm the rule applies. Read how the city is implementing it. Count the units the rules guarantee, not the units you hope for. Price the time. Write a contract that lets you prove the site before your capital is fully at risk. Then build something the community needs, and own it for the long run.

The parcels that qualify are out there today, many still priced under their old rules. Go find them.

About the Author

Daniel Kaufman is a real estate developer and long term owner and the founder of Kaufman & Company. His work focuses on workforce housing, build to rent communities, mountain resort communities, and housing data. He writes The Kaufman Report and leads advisory work through Kaufman Real Estate & Consulting.

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Disclaimer

This book is for general education only. It is not legal, tax, or investment advice, and it is not an offer or solicitation of any kind. State and local land use laws change often, and summaries of statutes in this book are drawn from the public sources listed below as of November 2026. Worked examples are illustrative and use assumed numbers, not market data. Before acting on any parcel or contract, confirm the current law and consult your own attorney, tax advisor, and other qualified professionals.

Sources

1. Texas Senate Bill 840: By Right Multifamily Development Now in Effect, Haynes Boone, November 2025.
2. Key Takeaways for Real Estate Developers From the 89th Texas Legislative Session: SB 840, Squire Patton Boggs.
3. Key Takeaways for Real Estate Developers From the 89th Texas Legislative Session: SB 15, Squire Patton Boggs.
4. Texas Lawmakers to Allow Smaller Homes on Smaller Lots, Texas Tribune, June 1, 2025.
5. Texas Multifamily Law Stalls Amid Local Resistance, CRE Daily, June 4, 2026.
6. Senate Bill 79 (2025), Association of Bay Area Governments, July 2026 update.
7. How SB 79 Changes Development Rights Near Transit Stops in California, Kassouni Law, June 2026.
8. 2025 Updates to Florida's Live Local Act, Holland & Knight, July 1, 2025.
9. 2025 Florida Live Local Act (SB 1730) Passed: Updates and Impacts, Bilzin Sumberg, May 2025.
10. Montana's Housing Crisis Fix Survives Constitutional Challenge, State Court Report, March 2026.
11. Montana Court Upholds Housing Reforms, HousingWire, March 19, 2026.