

Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 512 (Holden) – As Amended March 30, 2021

Policy Committee: Housing and Community Development Vote: 8 - 0

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill requires the Department of Transportation (Caltrans), prior to selling an unimproved property within the State Route (SR) 710 corridor in the cities of Los Angeles, Pasadena, and South Pasadena, to offer to sell the property at the original acquisition price to a housing-related entity for affordable housing purposes. Specifically, this bill:

- 1) Requires the sales price of an unimproved property to be the original acquisition price paid by Caltrans that has not been adjusted for inflation and to be sold in existing “as is” condition.
- 2) Requires a housing-related entity to do all of the following for each unimproved property:
 - a) Cause the property to be used for low- and moderate-income rental housing for a term of 55 years.
 - b) Record a covenant against the property requiring the property remain available and affordable for rent by lower-income and moderate-income households for a term of no shorter than 55 years.
 - c) Comply with monitoring requirements as determined by Caltrans.
- 3) Requires, if a property is sold prior to the expiration of the affordability covenants, the housing-related entity must transfer title of the property to a city in which the property is located, which must then transfer the title and operations to the successor housing-related entity.
- 4) Requires any new properties added to a property sold subject to this bill to be used only for low- or moderate-income rental housing.
- 5) Authorizes Caltrans to designate in regulations, or delegate by agreement, a public agency to monitor compliance with affordability covenants. Authorizes a monitoring entity to charge a property owner a fee to cover the cost of monitoring.
- 6) Exempts unimproved properties Caltrans has leased out for agricultural or recreational purposes.

FISCAL EFFECT:

- 1) Estimated ongoing costs of \$747,000 (GF) annually to the Department of Housing and Community Development (HCD) for four staff to monitor the affordability covenants and long-term affordability requirements, assist Caltrans in drafting and updating required monitoring requirements, provide technical assistance to housing-related entities, build and update maps of transferred properties and provide legal and technical support.
- 2) Unknown, potentially major foregone revenues (GF) related to provisions requiring Caltrans to sell unimproved surplus properties at their original purchase price, with no inflation adjustment, rather than at fair market value. Lower property prices would result in an unknown reduction of revenues, the amount of which will depend on the fair market value of each property at the time of sale and which properties are sold. Revenues from these sales go to the General Fund to pay for bond debt.

COMMENTS:

- 1) **Purpose.** This bill seeks to expand the construction of affordable housing in the SR 710 corridor while ensuring current tenants are protected. According to the author:

The history of the 710 North corridor has included injustice, conflict, and slow action on the part of the state. When the state purchased land and homes 60 years ago, it displaced many people and bifurcated a community all in service of constructing a freeway. Now that a freeway is off the table, it is time to rebuild the community. This bill is a step in that direction by lowering the price of land to incentivize the construction of affordable housing in an area that is badly in need of it.

- 2) **Background.** Under existing law, whenever Caltrans determines real property acquired for highway purposes is no longer necessary, that property may be sold or exchanged upon terms, standards and conditions established by the California Transportation Commission (CTC). If a proposed state highway route location is rescinded, existing law requires Caltrans to sell any excess real property acquired for the rescinded route location and use the proceeds to fund the state highway project that is proposed as the alternative to the rescinded route.

In 1953, Caltrans began acquiring property by eminent domain for the purpose of extending the SR 710 freeway through Alhambra, El Sereno, South Pasadena and Pasadena, to close a 4.5 mile unconstructed gap of the freeway. Local opposition stalled the project and Caltrans began renting the residential properties it had acquired. Caltrans currently owns approximately 460 properties in the SR 710 corridor, including 330 homes and 103 multi-family housing units.

Over the past fifty years, alternative concepts have been proposed and evaluated to build the SR 710 freeway extension. However, community members have continued to oppose the freeway project over the impact of the freeway on their communities. In November 2018, the Los Angeles County Metropolitan Transportation Authority (LA Metro) and Caltrans identified a transportation alternative that does not require demolition of the Caltrans-owned SR 710 properties. Subsequent legislation restricted Caltrans from pursuing the freeway extension. These actions alleviate the need to retain the SR 710 properties for freeway purposes. Accordingly, Caltrans began, and is currently continuing, to sell excess properties.

- 3) **The Roberti Act.** The Roberti Act establishes priorities and procedures for selling surplus residential properties owned by Caltrans. Single-family homes must first be offered at fair market value to a former owner who currently occupies the property, second, at an “affordable price,” to a current low- or moderate-income occupant who has occupied the property for at least two years, and third, at an “affordable price” to a current occupant who has occupied the unit for at least five years whose income does not exceed 150% of the area median income. Properties not purchased by a current or former owner must then be offered to housing-related private or public entities that provide affordable housing at a “reasonable price,” among other requirements. Housing-related entities are required to offer the property as a limited-equity cooperative with first right of refusal for occupancy to existing occupants, unless that is infeasible, in which case the housing can be offered to low- and moderate-income households.

This bill creates an alternative process for the sale of unimproved surplus properties to housing-related entities only in the cities of Los Angeles, Pasadena and South Pasadena. A housing-related entity would not be required to offer the property first to existing tenants as a limited-equity cooperative. A housing-related entity would record a 55-year affordability covenant on the property and develop it into affordable housing for low- and moderate-income households.

- 4) **Sales Price.** The Roberti Act generally requires surplus residential properties be sold at the fair market value. For low- and moderate-income households, the price must be affordable, but the properties cannot be sold for less than what Caltrans originally paid.

Caltrans is in the process of amending its regulations related to SR 710 property sales to clarify the minimum sales price of the properties. In December of 2016, 42 properties in the corridor were offered for sale. Caltrans set the minimum sales price at the original acquisition price, adjusted for inflation, and was subsequently sued over the inflation-adjusted pricing. The initial lawsuit resulted in Caltrans adopting emergency regulations to implement the inflation-adjusted pricing. A subsequent lawsuit promptly challenged the emergency regulations. Caltrans prevailed in that lawsuit in October 2020 and is in the process of amending the regulations to permanently adopt the inflation-adjusted pricing.

This bill would explicitly prohibit Caltrans from adjusting the original purchase price for inflation when offering surplus SR 710 properties for sale pursuant to the Roberti Act.

- 5) **Related Legislation.** SB 51 (Durazo), of this legislative session, creates an alternative process for selling both improved and unimproved surplus properties owned by Caltrans in the SR 710 corridor in the City of Los Angeles. SB 51 is pending on the Assembly Floor.
- 6) **Prior legislation.** SB 9 (Durazo), of the 2019-2020 Legislative Session, was substantially similar to SB 51 above, but also included the cities of Pasadena and South Pasadena in the Roberti Act amendments. SB 9 was not taken up for concurrence on the Senate Floor on the final night of the legislative session.