

ASSEMBLY THIRD READING

AB 1734 (Jones-Sawyer)

As Amended April 20, 2023

Majority vote

SUMMARY

States that the Surplus Lands Act (SLA) does not apply to the disposition of land for emergency shelter and affordable housing in jurisdictions that meet specified criteria, including having a declared state of emergency related to homelessness.

Major Provisions

- 1) States that the SLA does not apply to the disposition of land in the following circumstances:
 - a) The disposition would be for any of the following:
 - i) Emergency shelters that meet the requirements of Low Barrier Navigation Centers;
 - ii) Supportive housing;
 - iii) Transitional housing; or
 - iv) Housing developments with 100% of all units in the development, but exclusive of a manager's unit or units, sold or rented to lower income households, except that up to 20 percent of the units in the development may be for moderate-income households.
 - b) The local agency disposing of the land meets all of the following criteria:
 - i) Adopted a housing element that is compliant with law, as determined by the Department of Housing and Community Development (HCD);
 - ii) Received a pro-housing designation by HCD; and
 - iii) Declared a local emergency related to homelessness.
- 2) Requires a local agency that disposes of land pursuant to 1) to submit an annual report to HCD that includes the number of emergency shelter beds, supportive housing units, transitional housing units or beds, affordable housing units, and total number of projects permitted and produced utilizing this authority.
- 3) Enables HCD to request additional information from the agency regarding land disposed of pursuant to 1).
- 4) Provides that if a local agency disposes of land in violation of this bill the agency is liable for a civil penalty calculated as follows:
 - a) For a first violation, 30% of the greater of the final sale price or the fair market value of the land at the time of disposition; and
 - b) For a second or subsequent violation, 50% of the greater of the final sale price or the fair market value of the land at the time of disposition.

- 5) Authorizes HCD, entities identified in the SLA, as well as person who would have been eligible to apply for residency in affordable housing had the agency not violated this bill to bring an action to enforce the penalty provisions of the bill.

COMMENTS

Local Surplus Lands: The SLA prioritizes the use of a local agency's surplus land for the development of affordable housing. It spells out the steps local agencies must follow when they dispose of land they no longer need. It gives first priority to housing projects that provide the greatest number of affordable units and the deepest levels of affordability. The exception to this is if the surplus land meets specified criteria that enables it to be considered "exempt surplus land." These exemptions include:

- 1) Land that is transferred for the construction of affordable housing, as specified;
- 2) Land that is transferred to or exchanged with another government agency that will be utilized by that agency;
- 3) Land that is difficult or impossible to build upon, such as small sites and sites subject to valid legal restrictions that prohibit housing; and
- 4) Land whose future use meets specified criteria, such as land put to open bid for use as 100 percent affordable housing or larger mixed-use projects with at least 25 percent affordable housing.

To dispose of exempt surplus land, such as for production of affordable housing, the SLA, as interpreted by HCD, requires local agencies to make written findings. It may be difficult for local agencies to write such findings in cities where the utilization of public land for affordable housing is politically contentious.

There is no exemption in the SLA for the disposal of for the creation of Low Barrier Navigation Centers. As such, such projects need to go through the SLA's proscribed competitive bidding process. This process requires noticing the availability of the land to local public entities and any housing developers that have conveyed to HCD their interest in being noticed. The noticed entities have 60 days to respond to the notice, after which the local agency could enter into negotiations with an entity that meets the proposed specifications. This negotiation process can also take several months. This bill would enable qualified jurisdictions to bypass this process and directly dispose of land for Low Barrier Navigation Centers.

This bill removes the applicability of the SLA in qualified jurisdictions for the production of Low Barrier Navigation Centers, supportive housing, transitional housing, and affordable housing. To qualify, the jurisdictions must have a declared local emergency related to homelessness, have a state-compliant housing element, and have been designated as a pro-housing jurisdiction by HCD. Currently, it is believed that the only jurisdiction to meet that requirement is the City of Los Angeles. However, that could change at any moment, as jurisdictions are added to the list of pro-housing jurisdictions and/or declare states of emergency related to homelessness.

According to the Author

"California has the largest population of people experiencing homelessness in the nation but builds only a fraction of the affordable housing needed. Though the Surplus Land Act was designed to promote an increase in the supply of affordable housing, existing exemptions for affordable housing projects often lead to a prolonged process and unfulfilled projects. AB 1734 will enable pro-housing government and transit agencies to dispose of publicly owned property for the development of shelters, transitional housing, supportive housing, or affordable housing."

Arguments in Support

Supporters of the bill argue that, while well intentioned, the SLA could actually slow down the development of affordable housing. According to City of Los Angeles Mayor Karen Bass, "My Administration is acting with urgency to meet the moment, in partnership with the State, to build more housing, faster. To save lives, restore our neighborhoods, and house Angelenos immediately, we must urgently prioritize underutilized existing publicly owned property. Unfortunately, the Surplus Land Act has proven to be an impediment to utilizing City-owned property."

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Assembly Committee on Appropriations:

- 1) Cost pressures (Trial Court Trust Fund) in the mid- to high-hundreds of thousands of dollars annually for trial courts to hear and adjudicate additional civil actions for alleged violations of the exemptions to the state SLA provided pursuant to this bill. This bill allows HCD, various local entities, housing organizations, as well as beneficially interested and potentially harmed individuals to sue local agencies for violations. If ten cases are filed in civil court annually requiring seven to ten days (56 to 80 hours) of court time, at an average cost per hour of \$1,000 in workload costs, the cost to the trial courts would be between \$560,000 and \$800,000 annually. Actual costs would vary depending on the number of cases filed and the amount of court time required in each case. Although courts are not funded on the basis of workload, increased pressure on the courts and staff may create a need for increased funding for courts to perform existing duties.
- 2) Minor and absorbable costs to HCD. However, HCD notes there are multiple bills moving through the legislature impacting the SLA. While many of these bills in isolation would have a minor and absorbable fiscal impact, were multiple of these bills to be chaptered, HCD anticipates an increased workload comprising additional monitoring and enforcement efforts, training for existing staff, updating guidelines and technical assistance materials, and providing technical assistance to local agencies directly impacted by these bills. Additional staffing would be required to absorb this cumulative workload.

VOTES

ASM HOUSING AND COMMUNITY DEVELOPMENT: 7-0-1

YES: Wicks, Wendy Carrillo, Zbur, Kalra, Quirk-Silva, Sanchez, Ward

ABS, ABST OR NV: Joe Patterson

ASM LOCAL GOVERNMENT: 8-0-0

YES: Aguiar-Curry, Dixon, Boerner, Pacheco, Ramos, Robert Rivas, Waldron, Wilson

ASM APPROPRIATIONS: 15-0-1

YES: Holden, Megan Dahle, Bryan, Calderon, Wendy Carrillo, Dixon, Mike Fong, Hart, Lowenthal, Mathis, Papan, Pellerin, Sanchez, Weber, Ortega

ABS, ABST OR NV: Robert Rivas

UPDATED

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