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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair  
2023 - 2024 Regular Session

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### AB 1734 (Jones-Sawyer) - Local Government: Surplus Land Act: exemptions

**Version:** July 12, 2023

**Policy Vote:** GOV. & F. 8 - 0, HOUSING  
11 - 0

**Urgency:** No

**Mandate:** No

**Hearing Date:** August 21, 2023

**Consultant:** Mark McKenzie

**Bill Summary:** AB 1734 would exempt land disposed of by a local agency for certain affordable housing and homelessness project purposes from the requirements of the Surplus Land Act (SLA) if the local agency has declared a local homelessness emergency and meets other specified requirements. The bill would also specify civil penalty provisions for a local agency that violates the requirements of the bill.

#### **Fiscal Impact:**

- Unknown, potentially moderate court workload cost pressures for trial courts to hear and adjudicate new civil actions for alleged violations of the specified exemptions to the SLA that are brought under the provisions of this bill (Trial Court Trust Fund, General Fund). See Staff Comments.
- The Department of Housing and Community Development (HCD) indicates that costs associated with this bill would be minor and absorbable, but notes that, to the extent multiple bills are enacted that create exemptions to the SLA, HCD may need to request additional resources to absorb the cumulative workload for additional monitoring and enforcement, updating guidelines, and providing technical assistance to local agencies. (General Fund)

**Background:** Existing law, the Surplus Land Act, requires local agencies to compile an inventory of all lands under the agency's control that are in excess of its foreseeable needs at the end of each calendar year, and to include specified information related to surplus lands in annual progress reports to HCD. Existing law prescribes a process for disposing of surplus property that is no longer necessary for a local agency's use to certain entities for preferred purposes prior to offering the land on the open market. Existing law requires any local agency disposing of surplus land to first offer it for sale or lease for the purpose of developing low- and moderate-income housing. Prior to disposing of surplus property, the local agency must send a written offer to sell or lease the property to specified entities, such as housing authorities, affordable housing developers, specified parks and recreation entities, school districts, and transportation entities, depending on the proposed use of the land. An interested agency must notify the disposing agency in writing of its intent to purchase the land within 60 days. An entity proposing to use the surplus land for development of low- and moderate-income housing must agree to designate at least 25% of the units as lower-income. If the local agency receives a notice of interest from multiple entities, it must give first priority to the proposal that would provide the deepest average level of affordability for the affordable units. Existing law designates certain types of land as "exempt surplus land" that may be disposed of without following the general requirements of the SLA.

Existing law requires HCD to make educational resources and materials to inform local agencies of their obligations under the SLA, and requires the department to maintain an up-to-date listing of all notices of availability of local surplus properties on its website. Existing law requires a local agency, prior to agreeing to the terms for the disposition of surplus land, to provide specified information about its disposition process to HCD, which must provide written findings within 30 days that note any process violations that have occurred. The local agency would have 60 days to correct the violations or adopt a resolution with findings explaining why the process is not in violation. A local agency that disposes of land in violation of the SLA is liable for a penalty of 30% of the final sale price for a first violation and 50% for subsequent violations. HCD is also authorized to notify the Attorney General of local Surplus Land Act violations.

Existing law, as enacted by AB 101 (Budget Committee), Chap. 159/2019, defines a “low-barrier navigation center” as a high-quality, low-barrier, service-enriched shelter focused on moving people into permanent housing while connecting them with services. Until January 1, 2027, AB 101 requires low-barrier navigation center developments to be a use by-right, as defined, in areas zoned for mixed uses and nonresidential zones permitting multifamily uses if the development meets certain requirements. A navigation center is low barrier if it includes best practices to reduce barriers to entry, such as allowing tenants to have partners, pets, possessions, and privacy. Local agencies must notify a developer within 30 days of receiving an application for a low barrier navigation center whether the application is complete, and must act upon its review of a completed application within 60 days.

On January 8, 2020, Governor Newsom issued Executive Order N-23-20, which declared, among other provisions, that “...reducing the population of homeless individuals in California is a matter of critical statewide importance, the state can and needs to do more to help local communities act with urgency to address street homelessness and the society-wide problems associated with the homelessness crisis.” Among other things, the executive order declared that a shelter crisis is in effect. State law authorizes certain local jurisdictions that have declared a shelter crisis to allow homeless individuals to occupy public facilities designated as emergency housing, for the duration of the crisis. It also allows a locality to adopt an ordinance that provides reasonable local standards for design, site development, and operation of shelters, but HCD must review ordinances to ensure minimum health and safety standards.

**Proposed Law:** AB 1734 would exempt land disposed of by a local agency for certain affordable housing and homelessness project purposes from the requirements of the SLA. Specifically, this bill would authorize a local agency that has a compliant housing element and has declared a local emergency related to homelessness, as specified, to dispose of land for any of the following purposes without following the requirements of the SLA:

- A Low Barrier Navigation Center, as specified.
- Supportive housing, as specified.
- Transitional housing for youth and young adults (persons between 12 and 24 years of age, inclusive, and including persons who are pregnant and parenting).
- Affordable housing developments that are 100% affordable for lower income households, except that up to 20% of the units may be for moderate-income households, as specified.

A local agency that disposes of land pursuant to the bill must submit an annual report to the Legislature that includes the location of any disposed land, the number of low barrier navigation center beds and housing units approved and produced on the land, and any other information HCD may request from the local agency.

The bill would make a local agency that disposes of land in violation of the bill's requirements liable for a civil penalty of 30% of the greater of the final sale price or fair market value at the time of disposition for a first violation, and 50% of the final sale price or fair market value at the time of disposition, whichever is greater, for a second or subsequent violation. An action to enforce these penalty provisions may be brought by any of the following parties: entities entitled to receive notices of availability under the SLA, a person who would have been eligible for residency in affordable housing had the agency not violated the bill's provisions, a housing organization, a beneficially interested person or entity, and HCD. Any penalties assessed under the bill would be deposited into a local housing trust fund, the Building Homes and Jobs Trust Fund, or the Housing Rehabilitation Fund, as specified. If funds deposited into a local housing trust fund have not been expended within five years, they would revert to the state for deposit into either of the two specified funds for the financing of new affordable housing units located in the jurisdiction where the surplus land is located.

**Related Legislation:** AB 480 (Ting), which is currently pending in this Committee, would change the penalty provisions or violations of the SLA and make procedural changes to noticing provisions that apply to "surplus land" and "exempt surplus land" disposed of by local agencies subject to the SLA.

AB 747 (Caballero), which is currently pending in the Assembly Appropriations Committee, would make numerous changes to the SLA, including expanding the definition of agency use and exempt surplus land, to facilitate disposal of public land for purposes besides the development of affordable housing.

**Staff Comments:** Currently, the bill appears to apply only in the City of Los Angeles, but more cities are actively being designated as pro-housing by HCD and are declaring states of emergency related to homelessness. It is unknown how many additional civil actions will be brought as a result of AB 1734. Staff notes, however, that an action may be brought by numerous persons and agencies, including entities entitled to receive notices of availability under the SLA, a person who would have been eligible for residency in affordable housing, a housing organization, a beneficially interested person, and HCD. It generally costs about \$8,000 to operate a courtroom for one eight-hour day. If civil cases brought as a result of this bill take an additional 50 hours of court time in the aggregate in a given year, the cost pressures to the courts would surpass the Suspense File threshold. Although courts are not funded on the basis of workload, increased staff time and resources may create a need for increased funding for courts from the General Fund to perform existing duties. Numerous trial court operations are funded through the imposition and collection of criminal fines and fees. However, the Legislature has reduced and eliminated criminal fines and fees over the past decade. As a result, the 2023-24 Budget includes an ongoing annual allocation of \$105.1 million from the GF to backfill declining revenue to the Trial Court Trust Fund.