
THIRD READING

Bill No: AB 1734
Author: Jones-Sawyer (D)
Amended: 9/8/23 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 8-0, 7/5/23
AYES: Caballero, Seyarto, Blakespear, Dahle, Durazo, Glazer, Skinner, Wiener

SENATE HOUSING COMMITTEE: 11-0, 7/10/23
AYES: Wiener, Ochoa Bogh, Blakespear, Caballero, Cortese, McGuire, Padilla, Seyarto, Skinner, Umberg, Wahab

SENATE APPROPRIATIONS COMMITTEE: 7-0, 9/1/23
AYES: Portantino, Jones, Ashby, Bradford, Seyarto, Wahab, Wiener

ASSEMBLY FLOOR: 79-0, 5/31/23 - See last page for vote

SUBJECT: Local Government: Surplus Land Act: exemptions

SOURCE: Mayor of Los Angeles Karen Bass

DIGEST: This bill exempts, until January 1, 2034, certain housing and homelessness projects from the Surplus Land Act (SLA) in local agencies that have declared a local homelessness emergency and meet other requirements.

Senate Floor Amendments of 9/8/23 establish a 10-year sunset, narrow the bill to the City of Los Angeles; requires labor protections for projects that benefit from the bill's exemptions, and revise the informational and penalty requirements in the bill.

ANALYSIS:

Existing law:

- 1) Establishes procedures for the disposal of publicly-owned land that is surplus to the needs of local agencies, under SLA.
- 2) Requires local officials that want to dispose of public property to declare that the land is no longer needed for the agency's use in a public meeting and declare the land either "surplus land" or "exempt surplus land."
- 3) Requires local agencies to follow the procedures laid out in the SLA before surplus land can be sold, including, but not limited, to:
 - a) Send a written notice of availability to various public agencies and nonprofit groups, referred to as "housing sponsors," notifying them that land is available for the following purposes:
 - i) Low- and moderate-income housing;
 - ii) Park and recreation, and open space;
 - iii) School facilities; or
 - iv) Infill opportunity zones or transit village plans.
- 4) Requires local agencies to negotiate in good faith for 90 days with housing sponsors that respond.
- 5) Allows the local agency to dispose of the property on the private market if agreement is not reached with a housing sponsor.
- 6) Requires that, if a property sold as surplus is not sold to a housing sponsor, but housing is developed on it later, 15% of the units must be sold or rented at an affordable cost to lower income households.
- 7) Imposes penalties of 30% of the sale price of the land for a first violation and 50% of the sale price for any subsequent violation for selling land in violation of the SLA. Establishes an enforcement process, which provides, among other things, that a local agency cannot be liable for a penalty if it is not notified by the Department of Housing and Community Development (HCD) that it is in violation of the act.

- 8) Designates certain types of land as “exempt surplus land” and provides that the entirety of the SLA does not apply to exempt surplus land.
- 9) Defines “Low Barrier Navigation Center” to mean a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing.
- 10) Defines “supportive housing” as housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving their health status, and maximizing their ability to live and, when possible, work in the community.
- 11) Defines, federally, “transitional housing” to mean buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance.

This bill:

- 1) Provides that the SLA does not apply to the disposal of land by a city with a population exceeding 2.5 million for:
 - a) Low-barrier navigation centers;
 - b) Supportive housing;
 - c) Transitional housing; or
 - d) Affordable housing where 100% of the units are affordable to lower-income households, 20% of which can be for moderate-income households.
- 2) Authorizes a city to dispose of land pursuant to this bill, if it:
 - a) Has a compliant housing element; and
 - b) Is designated pro-housing by HCD.
- 3) Requires all construction workers, except apprentices, on construction or rehabilitation work on the land to be paid prevailing wage, as specified;

- 4) Requires any project involving construction or rehabilitation of 40 or more housing units, excluding low barrier navigation centers, to be subject to a public labor agreement.
- 5) Requires a city that disposes of land pursuant to this bill to include in their existing annual progress report to HCD, the status of a development of land disposed of pursuant to this section, as specified.
- 6) Authorizes HCD to request additional information on land disposed of pursuant to the bill.
- 7) Sets civil penalties on a city if it disposes land in violation of this bill's requirements:
 - a) For the first violation, 30% of the greater of the final sale price or fair market value of the land at time of disposition, or, in the case of leases, of the net present value of the lease at the time of disposition; and
 - b) For any additional violations, 50% of the applicable value.
- 8) Requires that an independent appraisal of the land must determine the fair market value.
- 9) Allows any of the following can bring an action to enforce these penalties:
 - a) Entities entitled to receive notices of availability under the SLA;
 - b) A person who would have been eligible to apply for residence in affordable housing had the agency not violated the provisions of this bill;
 - c) A housing organization;
 - d) A beneficially interested person or entity; or
 - e) HCD.
- 10) Mandates penalties to be deposited into a local housing trust fund, or certain state affordable housing funds, as specified.
- 11) Provides that, notwithstanding the penalty provisions, a city that responds to HCD's request for information shall not be liable for the civil penalty if the city is not notified by HCD that the proposed disposal would violate this section within 30 days of receiving the requested information.

- 12) Grants a city 60 days to cure or correct a violation before an action can be brought under the bill.
- 13) Provides that the bill shall not be construed to impose or affect any requirement applicable to disposals of land under any other provision of the SLA, including, but not limited to, any requirement for notice.
- 14) Sunsets the bill's provisions on January 1, 2034.

Background

Surplus Land Act. Public agencies are major landlords in some communities, owning significant pieces of real estate. When properties become surplus to their needs, public officials want to sell the land to recoup their investments. The SLA spells out the steps local agencies must follow when they want to dispose of land. It requires local governments to give a “first right of refusal” to other governments and nonprofit housing developers, and to negotiate in good faith with them to try to come to agreement.

Before local officials can dispose of property, they must declare that the land is no longer needed for the agency's use in a public meeting and declare the land either “surplus land” or “exempt surplus land.” Agency use includes land that is being used, or is planned to be used pursuant to a written plan the local agency's governing board adopts, or is disposed of to support agency work or operations.

The SLA designates certain types of land as “exempt surplus land,” and specifically provides that the entire law does not apply to exempt surplus land. All other surplus land must follow the procedures laid out in the SLA before a local agency can sell it. Before agencies can enter into negotiations to sell surplus land, they must send a written notice of availability to various public agencies and nonprofit groups, referred to as “housing sponsors,” notifying them that land is available for the following purposes:

- Low- and moderate-income housing;
- Park and recreation, and open space;
- School facilities; or
- Infill opportunity zones or transit village plans.

Housing sponsors can notify the HCD that they are interested in acquiring surplus land to develop affordable housing. HCD maintains a list of notices of availability on its website.

If another agency or housing sponsor wants to use the surplus land for one of these purposes, it must tell the disposing agency within 60 days, and if multiple entities want to purchase the land, the housing sponsor that proposes to provide the greatest level of affordable housing gets priority. The agency and the housing sponsor then have an additional 90 days to negotiate a mutually satisfactory price and terms in good faith. If they cannot agree, the agency that owns the surplus land can sell the land on the private market. The SLA says that nothing in its provisions prevents a local agency from disposing of the land at or below fair market value, where not in conflict with other law.

AB 1486 (Ting, 2019). In 2019, the Legislature substantially revised the SLA to increase the emphasis on affordable housing and address concerns that some local agencies were bypassing the SLA's requirements (AB 1486, Ting, Chapter 664, Statutes of 2019). Among other changes, AB 1486 broadened the definition of surplus land and required land to be designated as surplus prior to the local agency selling the land, which ensures that local agencies must comply with the SLA. AB 1486 prohibited local agencies from counting the sale of land for economic development purposes as being "for the agency's use." This means local agencies must open their properties up to affordable housing developers first, even if they have different purposes in mind for the property. Additionally, AB 1486 instituted a requirement that if a property sold as surplus is not sold to a housing sponsor, but housing is developed on it later, 15% of the units must be sold or rented at an affordable cost to lower income households.

City of Los Angeles. The City of Los Angeles is California's largest city with approximately 3.8 million residents. While the City of Los Angeles represents less than 10% of the State's total population, it is home to almost 25% of the state's unsheltered population. According to the 2022 Greater Los Angeles Homeless Count, there are nearly 42,000 unhoused Californians in Los Angeles alone. Housing availability is a key contributing factor. In 2019, the City of Los Angeles had a higher percentage of cost-burdened renter households than any other major American city, at nearly 60%. Over one-quarter of residents are severely cost-burdened, contributing to the homelessness emergency in the City.

Since taking office in December 2022, Los Angeles Mayor Karen Bass has taken steps to address the housing and homelessness crises. The Mayor declared, and the city council ratified, a citywide state of emergency to address homelessness.

Under the state of emergency, the City can take steps to lift rules and regulations that slow housing production, expedite housing contracts, and allow the City to acquire rooms, properties, and land to provide housing.

The Mayor also issued the following executive directives:

- No. 1, which required all affordable housing projects to be approved within 60 days and permitted within five days.
- No. 3, which expedited the identification and disposition of city-owned land that is vacant, surplus, or underutilized.

Los Angeles Mayor Karen Bass wants to allow local agencies that declare a local emergency related to homelessness, have a compliant housing element, and are designated pro-housing by HCD to exclude land that is disposed of for the following purposes from the SLA.

Comments

- 1) *Purpose of the bill.* According to the author, “California has the largest population of people experiencing homelessness in the nation, yet only builds a fraction of the affordable housing needed. Like most of the state, the City of Los Angeles is experiencing a housing crisis. Just last year, there were nearly 42,000 unhoused individuals in LA alone. Under Mayor Karen Bass’ leadership, LA has taken critical steps to address homelessness and expedite affordable housing production. Unfortunately, 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 jurisdictions that have declared a local emergency on homelessness and are compliant with state housing law more quickly dispose of publicly owned property to develop emergency shelters and transitional supportive or affordable housing.”
- 2) *To notice, or not to notice?* There is an ongoing debate regarding whether agencies that dispose of exempt surplus land need to notify HCD prior to disposing of the land. The Surplus Land Act states that the entirety of the Act does not apply to disposals of exempt surplus land. Nonetheless, HCD, through its guidelines for the SLA, has required local agencies that are disposing of exempt surplus land to provide notice to HCD 30 days prior to disposal. AB 1734 allows HCD to request information on properties that are disposed of under the provisions of the bill, and provides a safe harbor from penalties for the city if it responds to that request. But it stops short of directly requiring

notice prior to disposal. In any case, the bill provides that it does not change anything about whatever requirements on other disposals of land (such as exempt surplus land) apply under the SLA.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

- 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.
- 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)

SUPPORT: (Verified 9/11/23)

Mayor of Los Angeles Karen Bass (source)
 City of Long Beach
 LA Family Housing
 Los Angeles Unified School District
 St. Joseph Center
 The United Way of Greater Los Angeles

OPPOSITION: (Verified 9/11/23)

None received

ASSEMBLY FLOOR: 79-0, 5/31/23

AYES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Cervantes, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Vince Fong, Friedman, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert

Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting,
Valencia, Villapudua, Waldron, Wallis, Ward, Weber, Wicks, Wood, Zbur,
Rendon

NO VOTE RECORDED: Wilson

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