

Date of Hearing: June 21, 2023

ASSEMBLY COMMITTEE ON ACCOUNTABILITY AND ADMINISTRATIVE REVIEW

Cottie Petrie-Norris, Chair

SB 240 (Ochoa Bogh) – As Amended May 2, 2023

SENATE VOTE: 40-0

SUBJECT: Surplus state real property: affordable housing and housing for formerly incarcerated individuals

SUMMARY: This bill adds transitional housing projects intended for formerly incarcerated individuals as a priority in the disposal of state surplus land and provides that these projects are a use by right. Specifically, **this bill:**

- 1) Authorizes a local agency or nonprofit affordable housing sponsor to be considered as a potential priority buyer of surplus state real property upon demonstration that the property is to be used for transitional housing for formerly incarcerated individuals, as specified.
- 2) Provides that the development of surplus state real property by a local agency or nonprofit affordable housing sponsor for an affordable housing project or transitional housing for formerly incarcerated individuals is by right, making the development ministerial in nature and exempt from the California Environmental Quality Act (CEQA) requirements.

EXISTING LAW:

- 1) Authorizes the California Department of General Services (DGS), subject to legislative approval, to sell, lease, exchange, or transfer various specified properties for current market value, or upon such other terms and conditions that DGS determines are in the best interest of the state. (Gov. Code Sec. 11011.1 (b))
- 2) Requires each state agency, on or before December 31 of each year, to make a review of all proprietary state lands to determine what, if any, land is in excess of its foreseeable needs and report that information to DGS. (Gov. Code Sec. 11011(a))
- 3) Establishes criteria for state agencies to use in determining and reporting excess lands. A state agency must report land as excess that is:
 - a) Not currently utilized, or is underutilized, for any existing or ongoing programs;
 - b) Land for which the agency cannot identify a specific utilization relative to future needs; and,
 - c) Land not identified by the state agency within its master plan for facility development. (Gov. Code Sec. 11011(a))
- 4) Requires DGS to dispose of surplus state real property in a specified manner, and prescribes the priority of disposition of the property before DGS may offer it for sale to private entities or individuals. (Gov. Code Sec. 11011.1(b)(2)(B))

- 5) Authorizes DGS to sell surplus real property to a local agency or to a nonprofit affordable housing sponsor for affordable housing projects at a sale price less than fair market value if DGS determines that such a discount will enable housing for persons and families of low or moderate income. (Gov. Code Sec. 11011.1(c)(3))
- 6) Requires a local agency or nonprofit affordable housing sponsor to satisfy certain requirements to be considered as a potential priority buyer of the surplus state real property, including that the local agency or nonprofit affordable housing sponsor demonstrates, to the satisfaction of DGS, that the surplus state real property, or portion of that surplus state real property, is to be used by the local agency or nonprofit affordable housing sponsor for open space, public parks, affordable housing projects, or development of local government-owned facilities. (Gov. Code Sec. 11011.1(b)(2)(D))

FISCAL EFFECT: Legislative Counsel has keyed this bill as Fiscal.

COMMENTS:

- 1) *According to the Author:*

“The lack of new housing development has continued to increase the cost of housing in California to the point the vast majority of housing units are unaffordable. According to the Department of Finance, the median price of a single-family home peaked in May 2022 at \$898,980. To afford this, a family would need a combined income of \$180,000, more than twice California's median household income and almost five times the California Poverty Measure (CPM) line of \$36,900. The Legislature must look for every available opportunity to incentivize stakeholders to build affordable housing.

The Legislature has already found that the ‘provision of decent housing for all Californians is a state goal of the highest priority’ and that the ‘disposal of surplus state real property is a direct and substantial public purpose of statewide concern.’ SB 240 will address these concerns by ensuring the timely development of affordable housing is further prioritized in statute.”

- 2) *Executive Order N-06-19.* In January 2019, Governor Newsom issued Executive Order (EO) N-06-19, which directed DGS and the California Department of Housing and Community Development to identify and prioritize excess state-owned property suitable for affordable housing projects. DGS reviewed over 44,000 parcels and identified roughly 92 properties suitable for housing of which 20 properties are currently proceeding through the planning, development, or construction phase.¹ EO N-06-19 is making progress in repurposing surplus state real property for affordable housing.
- 3) *Homeless Rate for Formerly Incarcerated.* The formerly incarcerated are at a higher risk of homelessness. Prior research has found that formerly incarcerated people are about 10 times more likely to be homeless than the general public. “People who have been to prison just once experience homelessness at a rate nearly 7 times higher than the general public. But people who have been incarcerated more than once have rates 13 times higher than the

¹<https://www.dgs.ca.gov/RES/Projects/Page-Content/Projects-List-Folder/Executive-Order-N-06-19-Affordable-Housing-Development>

general public.”² This bill will add more affordable housing projects intended for formerly incarcerated individuals as a priority in the disposal of surplus state real property.

In support of the bill, the California Association of Counties writes:

“Roughly 70% of California’s unsheltered homeless population are criminal justice involved. Given this high percentage, it is imperative that the justice-involved population receives the necessary services and resources that are essential for successful reentry. ... Ultimately, additional housing support improves reentry outcomes and also plays a significant role in the prevention of crime and homelessness.”

- 4) *CEQA Exemption.* CEQA generally requires a lead agency to prepare and certify the completion of an environmental impact report on a project that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect.

CEQA provides for a number of exemptions, including projects that are considered ministerial. A ministerial project is one that requires only conformance with a fixed standard or objective measurement and requires little or no personal judgment by a public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no discretion or judgment in reaching a decision.

This bill provides that the development of surplus state real property by a local agency or nonprofit affordable housing sponsor for the development of affordable housing projects or transitional housing for formerly incarcerated individuals is by right, making the development ministerial in nature and exempt from CEQA requirements. This is intended to ensure the timely development of affordable housing on surplus state real property.

- 5) *Prior Legislation:*

SB 561 (Dodd, Chapter 446, Statutes of 2022) requires DGS to develop criteria to evaluate the suitability of state-owned parcels determined to be used for affordable housing and to conduct a comprehensive survey of state-owned parcels using that criteria by January 1, 2024, and every four years thereafter.

AB 2233 (Quirk-Silva, Chapter 428, Statutes of 2022) requires DGS to develop a plan to facilitate the development of affordable housing on state-owned excess land, as specified.

AB 2592 (McCarty, Chapter 439, Statutes of 2022) requires DGS to prepare and report to the Legislature a streamlined plan to transition underutilized multistory state buildings into housing, as specified.

SB 886 (Wiener, Chapter 663, Statutes of 2022) exempts, until January 1, 2030, faculty and staff housing projects and student housing projects meeting specified requirements from CEQA.

² <https://www.prisonpolicy.org/reports/housing.html>

SB 1336 (Wiener, 2022) would have provided that housing is a use by right on land owned by a religious institution or nonprofit college, as specified. (Never heard in the Assembly Natural Resources Committee)

SB 899 (Wiener, 2020) would have provided that housing is a use by right on land owned by a religious institution or nonprofit college. (Held in the Assembly Appropriations Suspense File)

SB 6 (Beall, Chapter 667, Statutes of 2019) requires DGS, in coordination with HCD, to create a public inventory of local sites suitable for residential development, along with state surplus lands.

REGISTERED SUPPORT / OPPOSITION:**Support**

California Apartment Association
California State Association of Counties
Fresno County Board of Supervisors

Opposition

None on file.

Analysis Prepared by: Bernie Orozco / A. & A.R. / (916) 319-3600