

Date of Hearing: July 12, 2023

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Buffy Wicks, 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: Adds housing 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 by the agency or sponsor housing for formerly incarcerated individuals, as specified.
- 2) Provides that 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 a use by-right.

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. (Government Code (GC) Section 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. (GC 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. (GC 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. (GC 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. (GC 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. (GC 11011.1(b)(2)(D))

FISCAL EFFECT: Unknown.

COMMENTS:

Author's Statement: 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."

Excess and Surplus State Land: The State of California owns over 3,100 properties and over 44,000 parcels totaling nearly seven million acres in size. Most of these are actively in use by the state's departments and agencies, or are non-developable land. Each year, state agencies review their lands, identify real properties which are excess to their needs, and report them to DGS. Until recently, DGS's prioritization for this disposal was to transfer to other state agencies, sell to local governments, sell to affordable housing developers, or sell on the open market, in that order. During the period between 2010 and 2020, DGS disposed of 64 properties, of which seven were utilized for affordable housing.

In January 2019, Governor Newsom issued Executive Order (EO) N-06-19, which ordered DGS and HCD to identify and inventory excess state-owned property for affordable housing projects. The EO reoriented DGS' priorities to focus on facilitating the conversion of excess property to affordable housing. Within the required three months, DGS reviewed over 44,000 parcels, and identified 92 properties potentially suitable for housing. Since the beginning of implementation in 2019, DGS has awarded 16 of these state properties, totally 24 projects, for affordable housing development, each of which is proceeding through the planning, development, or construction phase. These properties will provide approximately 5,000 units of affordable housing through a low-cost (\$1/year), long-term (99+ years) ground lease with the state. In 2023, DGS will select and award at least 5 more sites for the development of affordable housing.

If excess state lands are not viable for affordable housing development, DGS will then offer the properties to other state agencies in order to maximize state use of existing facilities. If no state

agencies express interest, DGS asks to include the properties in the annual surplus property bill and requests legislative authorization to sell or dispose of those properties. The Legislature must declare the property to be surplus and must authorize the Director of DGS to sell, exchange, lease, or transfer the surplus property according to specified procedures set forth in law.

Generally, current law requires surplus property to be transferred or sold at market value, or upon such other terms and conditions that DGS determines are in the best interest of the state. Current law gives right of first refusal on any surplus property to a local agency and then to a nonprofit affordable housing sponsor, prior to being offered for sale to private entities or individuals in the open market. In addition, DGS is authorized to sell surplus property to a local agency or to a nonprofit affordable housing sponsor at a sales price less than fair market value if DGS determines that such a discount will enable housing for individuals or families of low or moderate income.

This bill would add “housing for formerly incarcerated individuals” to the type of activities that would qualify for discounted surplus property.

Approving Housing Developments: Before new housing can be built, housing developers must obtain one or more permits from local planning departments and must also obtain approval from local planning commissions, city councils, or county board of supervisors. Some housing projects can be permitted by city or county planning staff ministerially or without further approval from elected officials. Projects reviewed ministerially require only an administrative review designed to ensure they are consistent with existing general plan and zoning rules, as well as meet standards for building quality, health, and safety. Most large housing projects are not allowed ministerial review. Instead, these projects are vetted through both public hearings and administrative review. Most housing projects that require discretionary review and approval are subject to review under the California Environmental Quality Act (CEQA), while projects permitted ministerially generally are not.

In addition to bypassing the CEQA process and the potential for litigation, housing streamlining provides more certainty as to what is required for permitting approval, and generally also requires approval within specified timelines. This certainty and shortened approval timelines are particularly beneficial to affordable housing developers seeking funding from multiple federal, state, and local public funding sources. Additionally, this certainty provides more opportunities for multifamily developers to build in jurisdictions that are not housing friendly. Some local governments have intentionally made entitlement and permitting onerous to such a degree developers—and in particular affordable housing developers—have avoided working in those jurisdictions altogether. Longer, uncertain permitting situations are risky for developers, and could kill projects all together. Streamlining unlocks more land opportunities, particularly in higher-resource, unfriendly housing cities.

This bill would allow surplus state land developed by a local agency or nonprofit affordable housing sponsor for an affordable housing purposes project or housing for formerly incarcerated individuals a use by-right, making the development ministerial in nature.

Arguments in Support: According to the California Apartment Association, “this bill would be a positive step to address California’s homelessness crisis by ensuring that affordable housing is developed for individuals who need assistance transiting outside of the criminal justice system back into our communities.”

Arguments in Opposition: None on file.

Related 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.

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.

Double Referred: This bill is double referred. It was heard in the Assembly Committee on Accountability and Administrative Review and passed on a vote of 6-0 on June 21, 2023.

REGISTERED SUPPORT / OPPOSITION:

Support

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

Opposition

None on file.

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