

Date of Hearing: August 16, 2023

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Chris Holden, Chair
SB 240 (Ochoa Bogh) – As Amended May 2, 2023

Policy Committee:	Accountability and Administrative Review	Vote:	6 - 0
	Housing and Community Development		8 - 0

Urgency: No State Mandated Local Program: No Reimbursable: No

SUMMARY:

This bill provides that use of surplus state real property by a local agency or nonprofit affordable housing sponsor for an affordable housing project is a use by right and not a “project” under the California Environmental Quality Act (CEQA).

This bill also adds housing for formerly incarcerated individuals as a use for such property that: (a) qualifies a local agency or nonprofit affordable housing sponsor as a potential priority buyer of such property and (b) allows such property to be sold at less than fair market value.

FISCAL EFFECT:

Costs of an unknown, but potentially significant, amount in forgone revenue to the state, to the extent providing by-right affordable housing development and adding an additional priority and discounted use for surplus state real property increases disposal of such property for lower sales prices (Special Fund for Economic Uncertainties or fund that paid for the property).

COMMENTS:

1) **Purpose.** According to the author:

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.

This bill is supported by the California Apartment Association, California State Association of Counties, and pro-growth housing groups.

2) **Background.**

Surplus State Real Property. Surplus state real property is real property declared surplus by the Legislature for disposal by the Department of General Services (DGS). Existing law declares the intent of the Legislature that priority is given to the disposal of surplus state real property for housing persons and families of low or moderate income, where land is suitable for housing and there is a need for housing in the community.

Disposal Process. A local agency, followed by a nonprofit affordable housing sponsor, has right of first refusal to purchase surplus state real property before DGS can sell the property to private entities or individuals in the open market. To be considered a potential priority buyer, a local agency or nonprofit affordable housing sponsor must notify DGS of its interest in an available property within 90 days of the property's listing on DGS's website and demonstrate the property will be used for open space, public parks, affordable housing, or development of local government-owned facilities. While surplus state real property must generally be sold at market value, DGS may sell such property at less than fair market value to a local agency or nonprofit affordable housing sponsor if the discount will enable the provision of housing for persons and families of low to moderate income. This bill adds housing for formerly incarcerated individuals as a use for which a local agency or nonprofit affordable housing sponsor can qualify as a priority buyer, and for which surplus state real property may be sold at less than fair market value.

Development By Right. Existing law exempts ministerial projects from CEQA's environmental review requirements. A ministerial project is one that requires conformance with a fixed standard or objective measurement and requires little or no personal judgment by a public official. Thus, housing projects reviewed ministerially require only an administrative review designed to ensure consistency with existing general plan and zoning rules, as well as standards for building quality, health, and safety. However, most large housing projects require discretionary review and are subject to CEQA and public hearings. This bill provides that use of surplus state real property by a local agency or nonprofit affordable housing sponsor for an affordable housing project is a use by right, making the development ministerial in nature and exempt from CEQA review. Such housing streamlining generally provides more certainty and shortened approval timelines, which is beneficial to affordable housing developers seeking funding from multiple federal, state, and local sources, especially when building in unfriendly jurisdictions.

Unlike other provisions of this bill, this by-right provision does not extend to housing for formerly incarcerated individuals.

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