

ASSEMBLY THIRD READING
AB 2139 (Garcia)
As Amended April 16, 2026
Majority vote

SUMMARY

Exempts the Ontario Sports Empire in the City of Ontario (City) from the Surplus Land Act (SLA), subject to specified conditions.

Major Provisions

- 1) Creates a new, project-specific exemption to the SLA for certain land owned by the City that is part of a master-planned regional sports and entertainment district.
- 2) Limits the exemption to specified parcels (identified by assessor parcel numbers (APNs)) that:
 - a) Are subject to a master plan, specific plan, or sectional planning area document consistent with the general plan.
 - b) Are used for integrated district purposes, including sports facilities, recreation, open space, visitor-serving commercial uses, and supporting infrastructure.
- 3) Requires the Ontario City Council to make findings at a public meeting that:
 - a) The land is part of an integrated, master-planned project.
 - b) The disposition is consistent with the adopted plan.
 - c) Application of the exemption is necessary to facilitate coordinated, phased development.
 - d) The project advances public benefits such as recreation, economic development, and tourism.
- 4) Restricts the exemption by:
 - a) Capping the total land area at 199 acres.
 - b) Prohibiting land acquired through eminent domain from qualifying.
 - c) Prohibiting logistics or industrial uses on the site.
- 5) Requires deed-restricted affordable housing if any residential development occurs, including:
 - a) At least 15% of units affordable to lower income households.
 - b) Long-term affordability requirements (55 years for rental, 45 years for ownership).
 - c) Equity sharing requirements for ownership units.

- 6) Authorizes the City to use the exemption only if it meets one of the following conditions:
 - a) It has not received an HCD notice of violation in the prior five years and has facilitated at least 4,000 housing units in that period, with at least 50% affordable to lower income households, and deposits 10% of the land value into a local housing fund.
 - b) It deposits 30% of the greater of the sales price or fair market value (or lease value) into a local housing fund at the time of disposition.
- 7) Requires funds collected (including any penalties) to be deposited into a local housing-specific set-aside account and used within three years for housing affordable to extremely low-, very low-, or low-income households.
- 8) Requires unspent funds after three years to revert to the state for deposit into the Building Homes and Jobs Trust Fund or the Housing Rehabilitation Loan Fund for affordable housing in the same jurisdiction, subject to legislative appropriation.
- 9) Specifies that violations are deemed to impact the availability of affordable housing and are treated as second or subsequent violations under existing SLA penalty provisions.
- 10) Requires the provisions of this bill to be recorded as a covenant or restriction running with the land and enforceable against future owners.

COMMENTS

Background. According to the City of Ontario, the Ontario Sports Empire is 199 acres and will be home to a minor league baseball stadium, eight baseball/softball fields, four multiuse soccer/football fields, eight soccer fields, plaza areas, baseball and soccer concession buildings, family activity areas, playgrounds, ticket booths, hotels, retail, dining, entertainment, and parking.

Surplus Land Act. Public agencies are major landlords in some communities, owning significant pieces of real estate. When properties become surplus to an agency's needs, public officials sometimes want to dispose of the land, which means to sell or lease it for more than fifteen years, 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 public agencies, nonprofit housing developers, schools, and parks and recreation departments. After notifying these groups that the land is available, the disposing agency must negotiate in good faith with these interested parties for 90 days to try to come to agreement before the local agency can dispose of the surplus land.

Revenue Generation and the SLA. Generally, 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." AB 480 (Ting), Chapter 788, Statutes of 2023, allowed certain types of exempt surplus land to be declared exempt ministerially, in-lieu of a public hearing. The local agency must publish a notice and allow for public comment for a minimum of 30 days. Land that is being used for an agency's work or operations is not surplus and therefore is not disposed. Pursuant to GOV Section 54221 (c), "agency's use" includes land that is being used, or is planned to be used pursuant to a written plan adopted by the local agency.

As a general rule, "agency's use" cannot include commercial or industrial uses or activities, and land disposed of for the purpose of investment or generating revenue cannot be considered necessary for the agency's use. As a result, cities and counties are limited in their ability to dispose of properties for economic development or revenue generation purposes. However, most special districts are not subject to those restrictions on agency's use as long as they can demonstrate that use of the site will do one of the following:

- 1) Directly further the express purpose of agency work or operations.
- 2) Be expressly authorized by a statute governing the local agency.

The SLA designates certain types of land as "exempt surplus land." Statute provides that the entirety of the SLA does not apply to disposals of exempt surplus land. However, some exemptions have requirements for eligibility. If the disposal is not consistent with the exemption claimed, the disposition may be illegal. All other surplus land must follow the procedures laid out in the SLA before a local agency can dispose of it.

Process of the SLA. Before agencies can enter into negotiations to dispose of surplus land, they must send a written notice of availability to various public agencies and nonprofit affordable housing developers, commonly referred to as "housing sponsors," notifying them that land is available for the following purposes:

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

Housing sponsors can notify HCD if 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 buy or lease the surplus land for one of these purposes, it must tell the disposing agency within 60 days. 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. If surplus land is not sold to an affordable housing developer, but housing is developed on it later, 15% of the units must be sold or rented at an affordable cost to lower income households.

The SLA says that nothing in its provisions:

- 1) Limits the power of any local agency to sell or lease surplus land at fair market value or less than fair market value;
- 2) Prevents a local agency from obtaining fair market value;
- 3) Limits a local agency's authority or discretion to approve land use, zoning, or other entitlement decisions in connection with surplus land; or

- 4) Requires a local agency to dispose of land just because it is surplus.

Penalties under the SLA. Local agencies that dispose of surplus land in violation of the SLA face penalties totaling 30% of the sales price or the appraised fair market value at the time of disposition for the first violation, and 50% for subsequent violations. These penalty revenues must be deposited in a local housing trust fund. The enforcement process in the SLA requires that: Prior to agreeing to terms for the disposition of surplus land, a local agency must provide HCD with a description of the notices of availability sent, and negotiations conducted with any responding entities, as specified. HCD must submit written findings to the local agency within 30 days of receipt of the description of the disposal if the proposed disposal of the land will violate SLA.

A local agency has at least 60 days to respond to the findings before HCD may take further action. The local agency must consider findings made by HCD and then either correct any issues found by HCD or respond in writing explaining why the disposal complied with the SLA. If the local agency does not respond or does not address the issues, HCD must notify the local government and may notify the Attorney General that the disposal violates the SLA. A local agency cannot be held liable for the penalties under the SLA if HCD does not notify the agency that the agency is in violation within 30 days of receiving the description.

SLA Reform. In 2023, AB 480 (Ting), Chapter 788 and SB 747 (Caballero), Chapter 786 made significant changes to the SLA. Together the bills attempted to strike a balance between ensuring comprehensive coverage of dispositions, while enacting exemptions and other changes that would streamline the process for local governments. Specifically, AB 480 and SB 747:

- 1) Defined "dispose" to include leases of longer than 15 years that are entered into on or after January 1, 2024, but excluded leases of terms 15 years or less and leases where no development or demolition will occur.
- 2) Applied penalties to leases that violate the SLA, but provided that penalties don't apply to non-substantive violations of the SLA.
- 3) Added numerous categories of exempt surplus land, such as properties smaller than one-half acre, specified mixed-use developments and developments on larger sites that include affordability requirements, airport land, and others.
- 4) Authorized disposal of certain categories of exempt surplus land without a public hearing, as long as specified notice is provided.
- 5) Established additional types of activities that explicitly qualify as "agency's use."
- 6) Extended provisions that allow projects with an exclusive negotiating agreement in place to follow a previous version of the SLA.

According to the Author

"California's Surplus Land Act serves an important statewide purpose by prioritizing affordable housing and other public uses when local agencies dispose of land that is no longer needed for agency operations. However, the Act was not designed with every type of large-scale, integrated public project in mind. The Ontario Sports Empire is a unique multi-phase regional sports and entertainment complex intended to function as a unified destination for youth and amateur

athletics, community recreation, tourism, hospitality, and economic development. Because the project depends on coordinated planning, phased development, long-term leases, and public-private partnerships across a single master-planned site, applying the Surplus Land Act's parcel-by-parcel notice and negotiation process to each component could create uncertainty, delay implementation, and undermine the City of Ontario's ability to deliver the project as intended.

"This bill is needed to provide a narrow, project-specific exemption that recognizes the distinct nature of the Ontario Sports Empire while preserving the overall framework of the Surplus Land Act. The proposal is not a broad rollback of surplus land law, but a targeted solution for a defined regional project expected to generate substantial public benefits, including expanded recreational opportunities, youth sports access, job creation, tourism, and local economic activity in the Inland Empire. By allowing the City of Ontario to dispose of and lease land within the project area in a coordinated manner consistent with an adopted plan, this bill will help ensure the successful development of a major community and regional asset."

Arguments in Support

The City of Ontario, sponsor of the bill writes in support of a previous version of the bill, "California's Surplus Land Act serves an important statewide purpose by prioritizing affordable housing and other public uses when local agencies dispose of land that is no longer needed for agency operations. However, the Act was not designed with every type of large-scale, integrated public project in mind. The Ontario Sports Empire is a unique multi-phase regional sports and entertainment complex intended to function as a unified destination for youth and amateur athletics, community recreation, tourism, hospitality, and economic development. Because the project depends on coordinated planning, phased development, long-term leases, and public-private partnerships across a single master-planned site, applying the Surplus Land Act's parcel-by-parcel notice and negotiation process to each component could create uncertainty, delay implementation, and undermine the City of Ontario's ability to deliver the project as intended."

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Arguments in Opposition

Public Advocates, NonProfit Housing Association of Northern California, East Bay Housing Organizations, San Diego Housing Federation, and the Public Interest Law Project write in opposition to a previous version of the bill, "Since 2021 the Surplus Land Act has helped create over 37,000 homes statewide including over 23,000 new deed-restricted affordable homes. This tool is especially important to protect at a time when over 180,000 Californians are experiencing homelessness on any given night and where voters consistently rank housing and homelessness as their top concerns. Our particular concerns are:

"There are existing exemptions for master-planned developments and they all require development of affordable housing. In previous SLA legislation, the legislature has been willing

to accommodate multi-phased, master-planned mixed-use developments, but those exceptions all require development of affordable housing. See, e.g., Gov. C. 54221(f)(1)(H), (I), (N), and (P). In stark contrast, the exception created by AB 2139 would provide no requirement to make this publicly owned land available for affordable housing development. The author and the sponsors should work with the Department of Housing and Community Development to understand what is possible under normal disposition of land under the SLA and to explore the applicability of these existing exemptions to the City's project."

"The City of Ontario has not met its RHNA obligations for low-income housing. The City's current housing element indicates that there were no affordable housing developments in the pipeline to accommodate any of the City's 8,926-unit regional housing need for lower income housing. AB 2139 would remove 199 acres of land from even the possibility of helping satisfy the unmet RHNA obligations."

"This exemption trades away affordable housing with no commensurate public benefit..."

FISCAL COMMENTS

Minor and absorbable costs to HCD.

VOTES

ASM LOCAL GOVERNMENT: 10-0-0

YES: Carrillo, Ta, Johnson, Pacheco, Ramos, Ransom, Blanca Rubio, Stefani, Ward, Wilson

ASM HOUSING AND COMMUNITY DEVELOPMENT: 9-1-2

YES: Haney, Patterson, Caloza, Garcia, Kalra, Lee, Ta, Tangipa, Wilson

NO: Ávila Farías

ABS, ABST OR NV: Quirk-Silva, Wicks

ASM APPROPRIATIONS: 14-0-1

YES: Wicks, Hoover, Bauer-Kahan, Calderon, Caloza, Ellis, Fong, Mark González, Krell, Pacheco, Pellerin, Solache, Ta, Tangipa

ABS, ABST OR NV: Sharp-Collins

UPDATED

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