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## SENATE COMMITTEE ON HOUSING

Senator Scott Wiener, Chair

2019 - 2020 Regular

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<b>Bill No:</b>	AB 1486	<b>Hearing Date:</b>	7/2/2019
<b>Author:</b>	Ting		
<b>Version:</b>	6/27/2019 Amended		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Erin Riches		

**SUBJECT:** Surplus land

**DIGEST:** This bill expands Surplus Land Act requirements for local agencies, requires local governments to include specified information relating to surplus lands in their housing elements and annual progress reports (APRs), and requires the state Department of Housing and Community Development (HCD) to establish a database of surplus lands, as specified.

### ANALYSIS:

*Existing law under the Surplus Land Act:*

- 1) Requires DGS, when disposing of surplus state real property, to first offer it to local agencies, then to non-profit affordable housing sponsors, prior to offering it for sale to private entities or individuals.
- 2) Requires DGS to maintain a list of surplus state real property on its website. DGS shall provide local agencies and, upon request, members of the public with electronic notification of updates to this list.
- 3) Requires any local agency, when disposing of surplus land, to first offer it for sale or lease for the purpose of developing low- and moderate-income housing. First priority must be given to affordable housing for lower income seniors or disabled persons or households, and other lower income households.
- 4) Requires each local agency, on or before December 31 of each year, to make an inventory of all lands it holds, owns, or controls, including a description of each parcel found to be in excess of its needs.
- 5) Defines “surplus land” as land owned by any local agency that is determined to be no longer necessary for the agency’s use, except property being held by the agency for the purpose of exchange or property meeting other exemptions.

*Existing housing element law:*

- 1) Requires every city and county to prepare and adopt a general plan, including a housing element, to guide the future growth of a community. The housing element must identify and analyze existing and projected housing needs, identify adequate sites with appropriate zoning to meet the housing needs of all income segments of the community, and ensure that regulatory systems provide opportunities for, and do not unduly constrain, housing development.
- 2) Requires each city and county to submit an annual progress report (APR) to HCD and the Office of Planning and Research that includes specified information relating to progress in meeting the jurisdiction's share of regional housing needs pursuant to its housing element.

**This bill:***Surplus Lands Act*

- 1) Clarifies the public agencies to which the Surplus Land Act applies and revises the definition of "surplus land."
- 2) Expands the list of exemptions from the Surplus Land Act to include, among other things, surplus land that is put out to open, competitive bid by a local agency for either:
  - a) A housing development that restricts 100% of units to low- or moderate-income households, with at least 75% of units restricted to low-income, for at least 55 years, with a maximum affordable sales price or rent level that does not exceed 20% below median market rents or sales prices for the neighborhood in which the development is located.
  - b) A mixed-use development that includes at least 300 units and restricts at least 25% of the units to lower-income households, with an affordable sales price or rent level, for at least 55 years.
- 3) Requires a local agency that is disposing of surplus land for purpose of developing low- and moderate-income housing to send a notice of availability, as specified, to housing sponsors that have notified HCD (rather than the appropriate council of governments) of their interest. Requires HCD to maintain a list of all notices of availability on its website.
- 4) Prohibits the negotiations between a disposing agency and interested entities to determine price and terms to:

- a) Disallow residential use of the site as a condition of its sale or lease.
- b) Reduce the allowable number of residential units or the maximum lot coverage below what may be allowed by zoning or general plan requirements.
- c) Require as a condition of sale or lease, any design standards or architectural requirements that would have a substantial adverse effect on the viability or affordability of a housing development for very low-, low-, or moderate-income households, other than the minimum standards required by general plan, zoning, and subdivision standards and criteria.

### *Surplus land database*

- 1) Requires, rather than authorizes, each local agency to make a central inventory of all its surplus land on or before December 31<sup>st</sup> of each year, as specified.
- 2) Requires each local agency to report to HCD by April 1<sup>st</sup> of each year, beginning in 2021, a description of each surplus land parcel, in a form prescribed by HCD.
- 3) Requires each local agency to, upon request, provide a list of its surplus lands free of charge.
- 4) Requires HCD to create by September 30, 2021, and to maintain, and annually update, a searchable and downloadable public inventory on its website of all publicly owned or controlled lands, and their present uses, as reported to HCD.

### *Surplus Land Act violations*

- 1) Requires a local agency, prior to agreeing to the terms for the disposition of surplus land, to provide specified information about its disposition process to HCD. Requires HCD to submit to the local agency, within 30 days, written findings of any process violations that have occurred. Provides the local agency at least 30 days to either correct the violations or adopt a resolution with findings explaining why the process is not in violation.
- 2) Provides that a local agency that disposes of land in violation of this bill following a notification from HCD is liable for a penalty of up to 50% of the final sale price. Penalty assessments shall be deposited into a local housing trust fund, the state Building Homes and Jobs Fund, or the Housing Rehabilitation Loan Fund, as specified.

- 3) Adds Surplus Land Act violations to the list of violations HCD may notify the Attorney General about.

*Housing element and APR requirements*

- 1) Requires a housing element's site inventory to include, for non-vacant sites that are owned by the city or county, a description of whether there are plans to dispose of the property during the planning period and how the city or county will comply with the Surplus Lands Act. Sunsets this provision on Dec. 31, 2028.
- 2) Requires a local agency's APR to include a list of sites owned by the city or county, and included in its housing element inventory, that have been sold, leased, or otherwise disposed of in the prior year. The list shall include the entity to whom each site was transferred and the intended use for the site.

**COMMENTS**

- 1) *Purpose of the bill.* The author states that California is facing an affordable housing crisis and unused public land has the potential to promote affordable housing development throughout the state. This bill clarifies and strengthens provisions in the Surplus Land Act that will promote the use of public land for affordable housing projects.
- 2) *Affordable housing gets right of first refusal on surplus lands.* Under the state Surplus Land Act, if land is no longer needed or is not being held for exchange, a local agency must follow certain procedures prior to disposal of this "surplus" land. Prior to disposing of surplus land, local agencies must make a written offer to sell or lease surplus land for the purpose of developing low- or moderate-income housing to "housing sponsors" upon written request, as well as any local public entity within the jurisdiction where the surplus land is located.
- 3) *Housing element inventory of adequate sites.* Existing law requires every city and county to prepare a housing element as part of its general plan. This is done every eight years by local governments located within the territory of a metropolitan planning organization (MPO), and every five years by local governments in rural non-MPO regions. Each community's fair share of housing is determined through the regional housing needs allocation (RHNA) process, which is composed of three main stages: (1) the Department of Finance and HCD develop regional housing needs estimates; (b) councils of government (COGs) allocated housing within each region based on the estimates; and (c)

cities and counties incorporate their allocations into their housing elements. The housing element must contain an inventory of land suitable for residential development, which is used to identify sites that can be developed for housing within the planning period and are sufficient to provide for the locality's share of the regional housing need for all income levels.

- 4) *Governor's Executive Order.* The Governor's Proposed Budget noted that the state has identified many state-owned properties that are suitable for housing development. The Governor issued an executive order in January that, among other things, directed DGS, HCD, and the California Housing Finance Agency (CalHFA) to work together to prioritize affordable housing development for these parcels. On April 11, 2019, the Governor announced that the Administration has completed an initial review of state-owned property. HCD and DGS have developed a screening tool to further evaluate these properties, and will work with other state agencies to determine the viability of specific parcels for affordable housing development. The Administration will partner with local cities to release at least three Requests for Proposals (RFPs) for new housing construction within a year, with the first parcel identified and an RFP issued by September 30, 2019. The Administration has partnered with the mayors of Chico, Fresno, Oakland, Sacramento, San Diego, and San Francisco to work on expedited development of housing on state-owned properties in those areas.
- 5) *Connecting surplus lands and housing production.* As noted above, the Surplus Land Act requires local agencies to prioritize affordable housing when disposing of surplus land. In 2014, the Act was amended (AB 2135, Ting) to require surplus land sold for affordable housing to provide at least 25% of the units at a cost affordable to low-income households. AB 2135 also required surplus land sold outside the housing preference system to provide at least 15% of the units at a cost affordable to low-income households. According to the author, local governments have attempted to circumvent this statute. These conflicts have delayed the sale of surplus sites and stunted affordable housing development. This bill aims to ensure that opportunities to create new affordable housing through surplus lands, are realized.
- 6) *How many databases do we need?* In addition to this bill, the Legislature is currently considering a number of bills requiring HCD to either create a statewide database or to collaborate with another agency to create one, including:

AB 67 (L. Rivas/Chiu) Amended 5/17/19	AB 1255 (R. Rivas) Amended 4/11/19	AB 1483 (Grayson) Amended 6/24/19	AB 1486 (Ting) Amended 6/27/19	SB 6 (Beall/McGuire) Amended 4/23/19
Requires HCD, in collaboration with the Homeless Coordinating and Financing Council, to create a statewide integrated data warehouse.	Requires DGS to create a database of local surplus lands, including infill sites and high-density sites, as reported to DGS in a format prescribed by HCD and included in housing elements.	Requires HCD, or another state entity designated by HCD, to create a statewide parcel geographic database from information submitted in APRs.	Requires HCD to maintain an inventory of all publicly owned or controlled lands and their present uses.	Requires DGS to create a database of sites identified in local housing elements submitted to HCD, along with state surplus land sites.

At minimum, the authors of the bills creating databases for surplus lands may wish to consider aligning their bills to avoid duplication.

- 7) *Opposition concerns.* Opponents state that this bill imposes onerous new requirements on the disposition of surplus land and does not take into consideration the unique needs of various local agencies and special districts.
- 8) *Triple-referral.* This bill was also referred to the Governance and Finance Committee, which passed it on a 4-3 vote on June 26th, and the Governmental Organization Committee, which will hear it next.

## RELATED LEGISLATION:

**SB 6 (Beall, 2019)** — requires DGS, in coordination with HCD, to create a database of state and local surplus lands available for residential development as identified by local governments in their housing elements. *This bill is in the Assembly Accountability and Administrative Review Committee.*

**AB 1255 (R. Rivas, 2019)** — requires local governments to include an inventory of surplus lands in their housing elements and annually report the inventory to DGS, and requires DGS to create a searchable database of this information. *This bill will also be heard in this committee today.*

**AB 1483 (Grayson, 2019)** — adds a number of requirements to APRs; requires HCD or another state entity to establish a statewide parcel geographic database; requires cities and counties to post specified housing-related information on their websites; and requires HCD to develop a strategy and standards for state housing data. *This bill will also be heard in this committee today.*

**AB 1484 (Grayson, 2019)** — requires cities and counties to post information about all fees imposed on a housing development project on their websites. *This bill is in the Governance and Finance Committee.*

**AB 2065 (Ting, 2018)** — would have revised and expanded provisions of the Surplus Land Act. *This bill was held on the Assembly Appropriations Committee suspense file.*

**AB 2135 (Ting, Chapter 677, Statutes of 2014)** — required that surplus local government land sold under preference for affordable housing provide at least 25% of the units at affordable housing cost to low-income households. Requires that such land sold outside the preference system for residential use provide at least 15% of the units at affordable housing cost to low-income households.

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

**POSITIONS:** (Communicated to the committee before noon on Wednesday, June 26, 2019.)

**SUPPORT:**

East Bay Housing Organizations (Co-Sponsor)

Non-Profit Housing Association of Northern California (Co-Sponsor)

Bay Area Council

Bay Area Housing Advocacy Coalition

Bay Area Regional Health Inequities Initiative

Building Industry Association Of The Bay Area

Burbank Housing Development Corporation

California Apartment Association

California Coalition For Rural Housing

California Community Builders

California Housing Consortium

California Housing Partnership

California Rural Legal Assistance Foundation

California YIMBY

Chan Zuckerberg Initiative

Community Legal Services In East Palo Alto

EAH Housing

East Bay Asian Local Development Corporation

Enterprise Community Partners, Inc.

Greenbelt Alliance

Habitat For Humanity California

Habitat For Humanity East Bay/Silicon Valley  
Hamilton Families  
Housing California  
Midpen Housing  
North Bay Leadership Council  
Related California  
San Diego Housing Federation  
San Francisco Foundation  
San Francisco Housing Action Coalition  
Silicon Valley At Home  
Silicon Valley Community Foundation  
Southern California Association Of Nonprofit Housing  
TMG Partners  
Transform  
Tenderloin Neighborhood Development  
Urban Displacement Project, UC-Berkeley  
Western Center On Law & Poverty, Inc.

**OPPOSITION:**

Association Of California Healthcare Districts  
Association Of California Water Agencies  
California Association Of Sanitation Agencies  
California Municipal Utilities Association  
California Special Districts Association  
California State Association Of Counties  
Cambria Community Services District  
Central Contra Costa Sanitary District  
Chino Valley Independent Fire District  
Coachella Valley Water District  
Costa Mesa Sanitary District  
Crestline Sanitation District  
Cucamonga Valley Water District  
Denair Community Services District  
Desert Recreation District  
Dublin San Ramon Services District  
East Contra Costa Fire Protection District  
Eastern Kern County Resource Conservation District  
El Dorado Hills Community Services District  
Fallbrook Public Utilities District  
Fresno Mosquito And Vector Control District  
Garberville Sanitary District



Georgetown Divide Public Utility District  
Goleta Sanitary District  
Goleta West Sanitary District  
Greenfield County Water District  
Helix Water District  
Humboldt Bay Municipal Water District  
Ironhouse Sanitary District  
Irvine Ranch Water District  
Kern County Cemetery District  
Leucadia Wastewater District  
Mckinleyville Community Services District  
Merced County Mosquito Abatement District  
Mesa Water District  
Montara Water And Sanitary District  
Mt. View Sanitary District  
North County Fire Protection District  
North Tahoe Fire Protection District  
Northern Salinas Valley Mosquito Abatement District  
Oceano Community Services District  
Ojai Valley Sanitary District  
Orange County Cemetery District  
Orange County Mosquito And Vector Control District  
Orange County Water District  
Palo Verde Cemetery District  
Rainbow Municipal Water District  
Reclamation District 1000  
Rural County Representatives Of California  
San Bernardino Valley Water District  
San Juan Water District  
San Marcos; City Of  
San Ramon Valley Fire Protection District  
Sanitation Districts of Los Angeles County  
Santa Clara County  
Santa Margarita Water District  
Silveyville Cemetery District  
Solano County  
Solano Irrigation District  
South Coast Water District  
Stallion Springs Community Services District  
Stege Sanitary District  
Tahoe City Public Utility District  
Templeton Community Services District

Three Valleys Municipal Water District  
Town Of Discovery Bay Community Services District  
Tulare Mosquito Abatement District  
Tulare Public Cemetery District  
Urban Counties Of California  
Valley Center Municipal Water District  
Ventura Port District  
Visalia Public Cemetery District  
Vista Irrigation District  
West County Wastewater District  
West Side Recreation & Park District  
Yucaipa Valley Water District

**-- END --**