

Date of Hearing: April 20, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

AB 2697 (Bonilla) – As Amended April 14, 2016

SUBJECT: Redevelopment dissolution: successor agencies: disposal of assets and properties.

SUMMARY: Requires successor agencies to create a first right of refusal process for the disposal of land for the purpose of developing low- and moderate- income housing. Specifically, **this bill:**

- 1) Requires the successor agency to a former redevelopment agency to send to any "local public entity," within whose jurisdictions the land is located, a written offer to sell land belonging to the former redevelopment agency for the purpose of developing the land into low- and moderate-income housing.
- 2) Requires the successor agency to send "housing sponsors," upon written request, a written offer to sell land for the purpose of developing low- and moderate-income housing.
- 3) Requires all notices to be sent by first class mail and to include the location and description of the property.
- 4) Requires priority to be given to offers to purchase the land by entities that agree to development affordable housing for lower-income households.
- 5) Requires preference to be given to an entity that proposes to make at least 25% of the units affordable, by sale or rent, to lower-income households and that agrees to record an affordability covenant restricting the property for a period of at least 55 years.
- 6) Provides that if the successor agency receives more than one offer for the land that priority be given to the entity that proposes the greatest number of units at the highest level of affordability.
- 7) Provides that if land is not sold to an entity that agrees to include affordable housing on site but is sold for a residential use that includes at least 10 units, then at least 15% of the units must be provided at an affordable housing cost to low-income households. Rental units must remain affordable and occupied by eligible households for 55 years. Ownership units must be subject to an equity sharing agreement. These requirements must be recorded against the property and are enforceable by the local government or eligible residents.
- 8) Defines a "local public entity" to mean any county, city, city and county, Indian reservation or rancheria, redevelopment agency, housing authority, state agency, public district or other political subdivision of the state that is authorized to engage in or assist in the development or operation of housing for persons or families of low or moderate income.
- 9) Defines "housing sponsor" to mean an individual, joint venture, partnership, limited partnership, trust, corporation, limited equity housing cooperative, cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, certified by the agency, pursuant to rules and regulations of the agency as qualified to

either own, construct, acquire or rehabilitate a housing development, whether for profit, nonprofit, or organized for limited profit, and subject to the regulatory powers of the agency, pursuant to rules and regulations of the agency and other terms and conditions set forth in this division.

- 10) Clarifies that a successor agency is not required to sell a property at less than fair market rate to a developer who agrees to include units affordable to lower-income households.
- 11) Provides that reimbursement to local agencies shall be made, if the Commission on State Mandates determines that this act contains costs mandated by the state.

EXISTING LAW:

- 1) Requires an oversight board to direct the successor agency to a redevelopment agency to dispose of all assets and properties of the former redevelopment agency expeditiously and in a manner that maximizes value.
- 2) Defines "local agency" for purposes of the surplus land disposal procedures as every city, whether organized under general law or by charter, county, city and county, and district, including school districts of any kind or class, empowered to acquire and hold real property.
- 3) Defines "housing sponsor" to mean an individual, joint venture, partnership, limited partnership, trust, corporation, limited equity housing cooperative, cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, certified by the agency pursuant to rules and regulations of the agency as qualified to either own, construct, acquire or rehabilitate a housing development, whether for profit, nonprofit, or organized for limited profit, and subject to the regulatory powers of the agency pursuant to rules and regulations of the agency and other terms and conditions set forth in this division.
- 4) 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.
- 5) Requires that a local agency must provide 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.
- 6) Provides that a local agency wishing to dispose of surplus land must also provide a written offer to additional entities, depending on the type of proposed usage, for park and recreational purposes, school facilities construction or use by a school district for open-space purposes, enterprise purposes, and infill opportunity zones or transit village plans.
- 7) Provides that, if a notified entity desires to purchase or lease the surplus land, it must notify the local agency of its intent within 60 days after receipt of the agency's intent to sell or lease the land.

- 8) Provides that, if a local agency receives notice from an entity provided with a written offer desiring to purchase or lease the land, the local agency and the entity must enter into good faith negotiations. If the price or terms cannot be agreed upon after a period of not less than 60 days, the land may be disposed of without further regard to the disposal procedures.
- 9) Provides that any public agency selling surplus land to a notified entity for park or recreation purposes, for open-space purposes, for school purposes, or for low- and moderate- income housing purposes, may provide for a payment period of up to 20 years in any contract of sale or sale by trust deed.
- 10) Provides that nothing in the disposal procedure limits the power of any local agency to sell or lease surplus land at fair market value or at less than fair market value, and nothing shall be interpreted to empower any local agency to sell or lease surplus land at less than fair market value.
- 11) Provides that, with respect to any offer to purchase or lease from a notified entity for the purpose of low- or moderate-income housing development, priority shall be given to development of the land for affordable housing for lower income, elderly, or disabled persons or households, and other lower-income households.
- 12) Specifies that, in the event that a local agency receives multiple offers for the purchase or lease of surplus land from more than one of the notified entities, the local agency shall give first priority to the entity that agrees to use the site for housing for persons and families of low- or moderate-income, except that first priority shall be given to an entity that agrees to use the site for park or recreational purposes, if the land being offered is already being used and will continue to be used for park or recreational purposes, or if the land is designated for park and recreational use in the local general plan and will be developed for that purpose.

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

- 1) **Bill Summary.** This bill requires successor agencies to create a first right of refusal process for the disposal of land for the purpose of developing low- and moderate- income housing.

This bill is an author-sponsored measure.

- 2) **Author's Statement.** According to the author, "California has a lack of housing which has spurred increased housing prices across the state. A key issue with supply is lack of easily identifiable and affordable sites on which to build new structures. Although local governments are obligated to identify housing sites in their housing elements on which residential housing can be constructed, these identified sites often are insufficient – some do not shift as anticipated from prior uses to residential uses, their cost is prohibitive, or they are dually zoned to accommodate commercial and residential use, with the commercial use winning out. Housing developers also have a hard time identifying sites on which to build. Affordable housing developers are at a special disadvantage because they cannot compete with market developers when it comes to buying land. Land is one of the most costly parts of a project, especially in California.

“AB 2697 will allow affordable housing developers to have first right of refusal to purchase any properties currently in possession of redevelopment successor agencies. This small step will give these developers a leg up in the process to locate and acquire properties on which to build affordable housing.

“With the current dissolution of redevelopment agencies and the requirement for successor agencies to liquidate their assets, we have a good opportunity to shift those properties towards the development of affordable housing. There is no current requirement that successor agencies give first right of refusal to affordable housing developers when liquidating agency assets.”

- 3) **Background.** Local agencies are required to inventory the land they own every year. If land is no longer needed, a local agency must follow certain procedures prior to disposal of this "surplus" land. The intent behind the disposal procedures is to promote the use of surplus land towards affordable housing, parks and recreation purposes, open-space purposes, and transit-oriented development. The disposal procedures provide a Right of First Refusal to entities agreeing to use the land for, amongst other things, affordable housing.

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. A local agency wishing to dispose of surplus land must also provide a written offer to additional entities, depending on the type of proposed development, for park and recreational purposes, school facilities construction or use by a school district for open space purposes, enterprise purposes, and infill opportunity zones, or transit village plans.

If one of these entities is interested in buying or leasing the land, it must notify the local agency within 60 days of receipt of the offer. If a notified entity is interested, but cannot agree with the agency upon the price or terms, the local agency must enter into good faith negotiations with the entity for at least 60 days. If 60 days have passed without an agreement, then the local agency may sell or lease the land without further regard to the Right of First Refusal requirements under the disposal procedures.

If the land is going to be used for residential development and a local agency receives multiple offers from notified entities, the local agency is required to give first priority to the entity that agrees to use the site for affordable housing for low- or moderate-income individuals and families. In the event that a local agency enters into a contract to sell or lease the land to a notified entity for park or recreation purposes, open-space purposes, school purposes, or for low- and moderate-income housing purposes, that contract may provide for a payment period of up to 20 years. While nothing in the disposal procedure limits the power of a local agency to sell or lease surplus land at fair market value or at less than fair market value, it also provides that nothing in the procedure shall be interpreted to empower any local agency to sell or lease surplus land at less than fair market value.

AB 2135 (Ting), Chapter 677, Statutes of 2014, amended the procedure for the disposal of surplus land by local agencies and expanded the provisions relating to the prioritization of affordable housing development if the surplus land would be used for residential development.

- 4) **Policy Considerations.** The Committee may wish to consider the following:
- a) **Land Appropriate for Residential.** The Committee may wish to consider whether all properties are suitable for residential development. What if the local agency does not have the land zoned appropriately for residential use?
 - b) **Cross Reference to “Local Public Entity”.** The cross reference the bill includes to the definition of “local public entity” is as follows:

“Local public entity” means any county, city, city and county, Indian reservation or Rancheria, redevelopment agency, housing authority, state agency, public district or other political subdivision of the state...

However, the definition in the surplus lands statute (used in AB 2135 (Ting)) defines "local agency" for purposes of the surplus land disposal procedures as every city, whether organized under general law or by charter, county, city and county, and district, including school districts of any kind or class, empowered to acquire and hold real property.
- 5) **Arguments in Support.** Supporters argue that this bill will allow successor agencies to utilize their remaining property as was intended and help to develop a significant amount of affordable homes.
- 6) **Arguments in Opposition.** Opponents argue that “imposing new procedural and substantive requirements for the disposition of former RDA properties at this time would no doubt complicate and delay the wind down process. Additionally, it would work to the disadvantage of the local taxing entities which have an interest in obtaining maximum value for the properties to be sold and or get the benefit of increased valuations from the properties that are to be used for economic development.”
- 7) **Double-Referral.** This bill was heard by the Housing and Community Development Committee on April 13, 2016, where it passed with a 6-1 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

California Housing Consortium
Non-Profit Housing Association

Opposition

Cities of Palmdale, San Carlos, and Torrance
League of California Cities

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