

Date of Hearing: April 26, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 1607 (Wendy Carrillo) – As Amended April 20, 2023

SUBJECT: Los Angeles County Affordable Housing Solutions Agency.

SUMMARY: Excludes land owned by the Los Angeles County Affordable Housing Solutions Agency (LACAHSAs) from the Surplus Land Act (SLA) provided that it is disposed of for the production of housing. Specifically, **this bill:**

- 1) Except as explicitly provided in the bill, excludes land that is owned by LACAHSAs from the SLA if it is disposed of for the production of qualified housing.
- 2) Requires LACAHSAs to submit an annual report to the Department of Housing and Community Development (HCD) that includes, with respect to land disposed of pursuant to the authority created by this bill:
 - a) The location of disposed land.
 - b) The number of units approved to be developed on the land.
 - c) The number of units produced on the land.
- 3) Authorizes HCD to request additional information from a local agency regarding land disposed of pursuant to this bill's provisions.
- 4) Specifies that this bill does not authorize HCD to require the submission of data related to land dispositions authorized under this bill as a precondition of the disposition.
- 5) Provides that if a local agency disposes of land in violation of this bill the agency shall be liable for a civil penalty calculated as follows:
 - a) For a first violation, 30 percent of the greater of the final sale price or the fair market value of the land at the time of disposition.
 - b) For a second or subsequent violation, 50 percent of the greater of the final sale price or the fair market value of the land at the time of disposition.

Provides that the fair market value of the land shall be determined by an independent appraisal of the land.

- 6) Authorizes HCD, entities identified in the SLA, as well as person who would have been eligible to apply for residency in affordable housing had the agency not violated this bill to bring an action to enforce the penalty provisions of the bill.
- 7) Provides that a penalty assessed pursuant to this bill shall be deposited in the Building Homes and Jobs Trust Fund or the Housing Rehabilitation Loan Fund for the sole purpose of financing newly constructed housing units located in the same jurisdiction as the disposed land and that are affordable to extremely low, very low, or low-income households.

Notwithstanding any law, expenditure of any penalty moneys deposited into the Building Homes and Jobs Trust Fund or the Housing Rehabilitation Loan Fund shall be subject to appropriation by the Legislature.

- 8) Defines “qualified housing” to mean housing where 100 percent of the units are restricted to households earning 80 percent of the area median income or below and that will be used in a manner consistent with purposes of LACAHSAs as outlined in statute.
- 9) Makes technical changes to the Los Angeles County Regional Housing Finance Act relative to the board structure of LACAHSAs.
- 10) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the uniquely severe shortage of available funding and resources for the development and preservation of affordable housing and the particularly acute nature of the housing crisis within the County of Los Angeles.

EXISTING LAW:

- 1) Requires each city and county to prepare, adopt, and administer a general plan for their jurisdiction, which must include a housing element, to shape the future growth of its community (Government Code § 65300 – 65404).
- 2) Establishes the SLA which, among other provisions, provides the following:
 - a) Requires each local agency, on or before December 31 of each year, to make an inventory of all lands held, owned or controlled by it or any of its departments, agencies, or authorities, to determine what land, if any, is in excess of its foreseeable needs. Requires a description of each parcel found to be in excess of needs to be made a matter of public record and requires the agency to report this information to HCD no later than April 1.
 - b) Defines “surplus land” as land owned by any local agency that is determined to be no longer necessary for the agency’s use.
 - c) Exempts certain types of surplus land owned by local agencies from the requirements of the SLA.
 - d) Requires a local agency that is disposing of surplus land to notify certain public entities and housing sponsors that surplus land is available for one of the following purposes:
 - i) Low- and moderate-income housing.
 - ii) Park and recreation, and open space.
 - iii) School facilities.
 - iv) Infill opportunity zones or transit village plans.
 - e) Requires that if another agency or housing sponsor wants to buy or lease the surplus land for one of these purposes, it must inform the disposing agency of its interest within 60

days, and if multiple entities want to purchase the land, the housing sponsor that proposes to provide the greatest level of affordable housing gets priority. The disposing agency and the entity have an additional 90 days to negotiate a mutually satisfactory price and terms in good faith. If they can't agree, the agency that owns the surplus land can dispose of the land on the private market.

- f) 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. The law provides a 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.
 - g) Provides that a local agency that disposes of land in violation of the SLA following a notification from HCD is liable for a penalty of 30 percent of the final sale price for a first violation and 50 percent for subsequent violations. Requires that 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 (Government Code § 54220-54234).
- 3) Establishes the Los Angeles County Regional Housing Finance Act which creates LACAHSAs and establishes governance requirements of the agency including:
- a) Its jurisdiction extends throughout Los Angeles County.
 - b) LACAHSAs' purpose is to increase the supply of affordable housing in Los Angeles County by providing for significantly enhanced funding and technical assistance at a regional level for renter protections, affordable housing preservation, and new affordable housing production of 100 percent affordable housing for households earning 80 percent of the appropriate area median income or below, with financing priority on the lowest levels of affordability.
 - c) LACAHSAs are to be governed by a board of directors composed of 21 voting members, including:
 - i) All five members of the Los Angeles Board of Supervisors.
 - ii) The mayor of Los Angeles.
 - iii) Three appointees of the mayor of Los Angeles, as specified.
 - iv) An appointee of the President of the Los Angeles City Council.
 - v) The mayor or vice mayor of Long Beach.
 - vi) Five members each of whom must be a mayor or a member of a city council, appointed by the Los Angeles County City Selection Committee, as specified.
 - vii) One at-large member from an eligible small city, as specified and determined by the board of directors of LACAHSAs, who is appointed by all members of the Los Angeles County City Selection Committee that are eligible for the seat.

- viii) The chair of the citizens' oversight committee.
- ix) Three community members with specified expertise.
- d) LACAHSAs has the ability to raise revenue through a parcel tax, a gross receipts business license tax, a document transfer tax, and the issuance of bonds, as specified.
- e) LACAHSAs must expend revenues through a specified formula, including a minimum of 40 percent on the production and preservation of affordable housing, 30 percent on renter protections and support, and five percent on technical assistance to local governments (Government Code § 64700-64832).

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

- 1) **Bill Summary and Author's Statement.** This bill excludes land that is owned by LACAHSAs from the provisions of the SLA provided that the land is used for purposes consistent with the Los Angeles County Regional Housing Finance Act. This bill provides that LACAHSAs must submit annual reports to HCD regarding the dispositions that occur under the authority created by this bill. This bill also subjects LACAHSAs to penalties if it is found to dispose of land in violation of the provisions in the bill. Finally, this bill makes technical and clarifying provisions to the structure of the governing board of LACAHSAs.

According to the author, "By its very nature, [LACAHSAs] will further the goals of the [SLA] to produce affordable housing. As such, it should be able to avoid the SLA's time-consuming competitive bid process and get right to leasing land for the construction of affordable housing. At the same time, guaranteeing that the SLA's oversight requirements are applicable to LACAHSAs will help ensure now and in perpetuity that the land is used towards the SLA and LACAHSAs's shared goal of affordable housing."

This bill is sponsored by the United Way of Greater Los Angeles.

- 2) **LACAHSAs.** Like most of California, Los Angeles County has an acute housing crisis. In the County, over half of renters – more than 1 million households – are rent-burdened, meaning they pay over 30 percent of their income towards rent. At last count, there were over 66,000 homeless persons in the County.

A major cause of the housing crisis is the mismatch between the supply and demand of affordable housing. Through the Regional Housing Needs Assessment process (RHNA), the Southern California Association of Governments (SCAG) has determined that the governments within Los Angeles County need to plan for 341,000 homes by 2029 that are affordable to lower income households. However, if current production rates continue, Los Angeles County would create just 25,000 of these units in the next eight years.

To help address this crisis, in 2022 the Legislature passed SB 679 (Kamlager), Chapter 661, which created LACAHSAs. The stated purpose of LACAHSAs is "to increase the supply of affordable housing in Los Angeles County by providing for significantly enhanced funding and technical assistance at a regional level for renter protections, affordable housing preservation, and new affordable housing production of 100 percent affordable housing for

households earning 80 percent of the appropriate area median income or below, with financing priority on the lowest levels of affordability.”

To help fulfill its purpose, LACAHSa is empowered to raise revenue through a parcel tax, a gross receipts business license tax, a document transfer tax, and the issuance of bonds. LACAHSa must expend this revenue in specified ways, including dedicating a minimum of 40 percent to the production and preservation of affordable housing, 30 percent to renter protections and support, and five percent to technical assistance for local governments. LACAHSa is governed by a 21-member board, composed of specified elected officials and housing experts.

- 3) **Local Surplus Lands.** The SLA spells out the steps local agencies must follow when they dispose of land they no longer need. Before local officials can dispose of property, they must declare that the land is no longer necessary for the agency’s use in a public meeting and declare the land either “surplus land” or “exempt surplus land.” The SLA designates certain types of land as “exempt surplus land,” which is not subject to the requirements of the SLA. All other surplus land must follow the procedures laid out in the SLA.

After a local agency declares that a piece of land is surplus to its needs (and is not exempt), the agency must send a written notice of availability to various public agencies and nonprofit groups, referred to as “housing sponsors,” notifying them that land is available for any of the following purposes:

- a) Low- and moderate-income housing.
- b) Park and recreation, and open space.
- c) School facilities.
- d) Infill opportunity zones or transit village plans.

If another agency or housing sponsor wants to purchase or lease the surplus land for one of these purposes, it must tell the disposing agency within 60 days. Except where the surplus land is currently used for park or recreational purposes, the local agency must give priority to the housing sponsor that proposes to provide the greatest level of affordable housing on the land. If the surplus land is currently used for park or recreational purposes, the disposing agency must give first priority to an entity that agrees to continue to use the site for park or recreational purposes.

If the local agency and any of the prioritized entities are not able to negotiate a mutually satisfactory price after 90 days of good faith negotiations, the local agency may proceed to sell the land on the open market.

- 4) **Exemptions from the SLA.** The SLA exempts a series of potential land dispositions from its requirements. Exempt dispositions are not required to go through the solicitation and negotiation process outlined in the SLA. This reflects the reality that certain dispositions provide intrinsic value to residents, will provide one of the desired outcomes (provision of affordable housing, or preservation of parklands) envisioned in the SLA, or that the land that is being disposed of is incompatible with housing. For example, surplus land that will be developed with a large mixed-use development that dedicates at least 25 percent of the units

to lower income households is considered “exempt surplus land,” as the affordability levels provided are equivalent to the minimum requirements of the SLA. This exemption allows local agencies to more expeditiously dispose of land while achieving one of the desired outcomes of the SLA.

- 5) **Local Noticing Requirements.** Prior to disposing of surplus land, the SLA requires local agencies to declare that the land is surplus land or “exempt surplus land” at a public meeting. This action increases the transparency related to the disposal of surplus land, making stakeholders aware of the potential to acquire surplus land, or to protest a designation of surplus land as exempt.

The SLA provides for a series of categories and several subcategories of surplus land that is deemed “exempt surplus land.” Certain categories of “exempt surplus land” are subjective and could be widely interpreted; in this case, declaring land exempt at a public hearing adds a useful layer of disclosure. However, certain categories of “exempt surplus land” are patently objective and not subject to interpretation. Requiring local agencies to declare these parcels are exempt at a public meeting adds an unnecessary layer of procedure to the disposition of objectively “exempt surplus land.” Disposition of these categories of “exempt surplus land” should still require public notice; however, the appropriate level of notice can be achieved through a notice that is made public prior to the disposal.

- 6) **Land Dispositions under the SLA.** HCD provided data to the Committee on local land dispositions that occurred since the updates to the SLA took effect in January of 2021. HCD reviewed 237 standard land dispositions i.e. land that is subject to the provisions of the SLA and does not fall under a category of “exempt surplus land.” According to HCD, these standard dispositions led to 21 projects that are currently in the development pipeline and are expected to generate 2,994 housing units, of which 1,832 will be affordable units.

HCD reported that it reviewed another 525 dispositions that were either determined to be necessary for the agency’s use or categorized as “exempt surplus land” i.e. non-standard dispositions. Local agencies are not required to identify land that continues to be necessary for an agency use to HCD as surplus or exempt surplus land. That land is not surplus and is excluded from the disposition requirements of the SLA, constituting a de facto exemption. However, local agencies often consult with HCD to verify that an intended disposition meets the statutory definition of “agency use.” HCD provided expanded data on 290 of the most recent non-standard dispositions. Of the non-standard definitions, 253 were categorized as “exempt surplus land” and 37 dispositions were determined to be necessary for the local agency’s use.

Exemption Category	Exempt Dispositions	Percent of Exempt Dispositions
Affordable housing (f)(1)(A)	36	12 %
Small lot (f)(1)(B)	38	13%
Property exchange for agency use (f)(1)(C)	24	8%
Agency to agency transfer (f)(1)(D)	63	22%
Former street, right-of-way, easement (f)(1)(E)	22	8%

Mixed-use affordable housing (f)(1)(F)(i) and (ii)	8	3%
Valid Legal Restriction (f)(1)(G)	18	6%
Trust land (f)(1)(H)	9	3%
Education Code (f)(1)(I)	30	10%
Former military base (f)(1)(J)	5	2%

7) **Related Legislation.** AB 457 (Joe Patterson) creates an SLA exemption for parcels that abut state highway right of way that a local agency identified in its circulation element or capital improvement plan for future roadway development. AB 457 is pending on the Assembly Floor.

AB 480 (Ting) changes the penalty provisions of the SLA and makes procedural changes to noticing provisions that apply to “surplus land” and “exempt surplus land” disposed of by local agencies subject to the SLA. AB 480 is pending in the Housing and Community Development Committee.

AB 837 (Alvarez) creates an SLA exemption for land acquired by a local agency for the development of a university and innovation district. AB 837 is pending in the Housing and Community Development Committee.

AB 983 (Cervantes) categorizes as exempt surplus land, properties that are designated in an adopted downtown revitalization plan, as specified. AB 983 is pending in this Committee.

AB 1734 (Jones-Sawyer) states that the SLA does not apply to the disposition of land for emergency shelter and affordable housing in jurisdictions that meet specified criteria. AB 1734 is pending in this Committee.

8) **Previous Legislation.** AB 1784 (Seyarto) of 2022 would have created an SLA exemption for low density parcels located in jurisdictions that meet or exceed their 6th cycle Regional Housing Needs Allocation (RHNA) production targets for Very Low Income (VLI) and Low Income (LI) housing on an annual basis. AB 1784 was held in the Housing and Community Development Committee.

AB 2319 (Bonta), Chapter 963, Statutes of 2022, created an exemption from the SLA for the Alameda Naval Air Station (Alameda Point).

AB 2357 (Ting) of 2022 was substantially similar to this bill. AB 2357 was held in the Governance and Finance Committee.

SB 361 (Umberg) of 2022 would have required the City of Anaheim to comply with additional transparency requirements prior to disposing of surplus land. SB 361 was ordered to the inactive file on the Assembly Floor.

SB 679 (Kamlager), Chapter 661, Statutes of 2022, created LACAHSAs and authorizes it to access financing tools in order to fund tenant protection efforts and affordable housing production and preservation initiatives.

SB 1373 (Kamlager), Chapter 724, Statutes of 2022, extended the authority for the City of Los Angeles to complete disposition of certain surplus property in accordance with the SLA as it read on December 31, 2019.

AB 1271 (Ting) of 2021 would have expanded the types of land exempt from the SLA, imposed new procedural requirements on local agencies disposing of surplus land, and made various technical changes to the SLA. AB 1271 was held in the Housing and Community Development Committee.

SB 719 (Min) of 2021 would have provided that land comprising the former Tustin Marine Corps Air Station is exempt surplus land for the purposes of the SLA if certain affordability standards for residential developments and other conditions are met. SB 719 was held in this Committee.

AB 1486 (Ting), Chapter 664, Statutes of 2019, expanded the scope of local agencies subject to the SLA, revised the definitions of “surplus land” and “exempt surplus land,” revised the noticing requirements relative to local agencies, housing sponsors and HCD, and added penalties for local agencies that sell land in violation of the SLA.

AB 2135 (Ting), Chapter 644, 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 will be used for residential development.

- 9) **Double-Referral.** This bill was double-referred to the Housing and Community Development Committee, where it passed on a 8-0 vote on April 19, 2023.
- 10) **Arguments in Support.** The United Way of Greater Los Angeles writes in support, “Since LACAHSAs mission is to preserve and build affordable housing, in line with the goals of the SLA, this bill would further the development of affordable housing and preserve these units in perpetuity.”
- 11) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

United Way of Greater Los Angeles [SPONSOR]

Opposition

None on file

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