

Date of Hearing: March 29, 2023

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 457 (Joe Patterson) – As Amended March 15, 2023

SUBJECT: Surplus Land Act: exempt surplus land: leases.

SUMMARY: Creates an exemption from the Surplus Land Act (SLA) for parcels abutting a state highway right-of-way that a local agency identified in its circulation element or capital improvement plan for future roadway development. Specifically, **this bill**:

Adds a new category of “exempt surplus land” to the SLA for surplus land that satisfies all of the following conditions:

- 1) The parcel is identified in the local agency’s circulation element or capital improvement program for future roadway development.
- 2) The parcel is no larger than two acres.
- 3) The parcel and all adjacent parcels are zoned for retail commercial use, and the parcel is leased for a purpose consistent with the underlying zoning.
- 4) The parcel abuts a state highway right-of-way.

EXISTING LAW:

- 1) Requires each city and county to prepare, adopt, and administer a general plan for their jurisdiction, which must include a circulation 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 the Department of Housing and Community Development (HCD) no later than April 1 beginning in 2021.
 - 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).

FISCAL EFFECT: None.

COMMENTS:

- 1) **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.

- 2) **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.
- 3) **City of Rocklin Transportation Development.** The City of Rocklin intends to develop a freeway overpass over the I-80 freeway to connect Granite Drive and Sierra College Boulevard. To allow for the future development, the City of Rocklin acquired a parcel that is approximately 1.95 acres in size. The vacant parcel is located in Rocklin between the intersection of Granite Drive and Dominguez Road and the I-80 freeway. The parcel is zoned for commercial development and is surrounded by other developed commercial uses along the I-80 corridor. Rocklin’s adopted Circulation Element, as well as its capital improvement plan identify the parcel for the development of a two-lane bridge over the I-80. The project is estimated to cost \$11,920,000 and will be funded through a combination of sources including traffic impact fees.

According to the city, generating sufficient revenue to begin construction of the overpass will require an extensive period of time. In the meantime, the city intends to lease the land to a nearby property owner that will use the property for outdoor storage and a viewing area for “for sale” vehicles. The city consulted with HCD regarding their intended use of the land. In March of 2022, HCD opined that the city could lease the land for a period of less than five years without triggering the SLA, but that any lease extending beyond five years would subject the disposition to the SLA.¹ This freeway adjacent commercial property that is entirely surrounded by commercial uses is inappropriate for long-term development, housing or otherwise, given the planned construction of a freeway overpass. This measure will create

¹ Burgos, Jillian. Public Lands Manager, Division of Housing Policy Development, Department of Housing and Community Development. Guidance letter to the City of Rocklin: *HCD’s Review of the City of Rocklin’s Draft Lease for Vacant Parcel Located on the South Side of Granite Drive, Rocklin, CA, between 4401 Granite Drive (APN 045021036) and 4381 Granite Drive (APN 045021035)*. 4 March 2022

an exemption from the SLA so that the City of Rocklin may negotiate lease terms that are appropriate for the property.

- 4) **Bill Summary and Author's Statement.** This bill exempts from the SLA parcels that are less than two acres in size, adjacent to a state highway right-of-way, identified for future roadway development by the local agency that owns the parcel, zoned and leased for a commercial use, and adjacent to parcels that are also zoned for commercial use.

According to the author, "Under the Surplus Land Act, leases of city-owned land can't exceed 5 years which leaves limited options for communities to put the land to use. In some cases, the local agency may have an intended future purpose, but funding considerations can make development unlikely in the near-term. AB 457 creates a narrow exception by simply allowing cities to lease the property for longer periods only in instances in which a future public-purpose is intended, such as transportation infrastructure. This will allow the property to be used for a limited period and generate much-needed revenue while the local agency puts together the necessary funding."

This bill is sponsored by the author.

- 5) **Competing Measures.** Several authors introduced measures that seek to amend the SLA this year. The author and sponsors of this bill may wish to coordinate their efforts with other measures amending the SLA to avoid conflict and duplication.
- 6) **Related Legislation.** 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 this 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 this 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 1607 (Wendy Carrillo) exempts land transferred within Los Angeles County to the Los Angeles County Affordable Housing Solutions Agency from the SLA. AB 1607 is pending in the Housing and Community Development Committee.

- 7) **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 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 would make various technical changes to the SLA. AB 1271 was held 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.

8) **Arguments in Support.** None on file.

9) **Arguments in Opposition.** None on file.

10) **Double-Referral.** This bill is double-referred to the Assembly Committee on Housing and Community Development.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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