

Date of Hearing: June 15, 2022

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 1373 (Kamlager) – As Amended May 31, 2022

SENATE VOTE: 31-0

SUBJECT: Surplus land disposal.

SUMMARY: Extends the authority for local agencies to complete disposition of certain surplus property in accordance with the Surplus Land Act (SLA) as it read on December 31, 2019.

Specifically, **this bill:**

- 1) Extends, until December 31, 2024, the authority for local agencies to dispose of property pursuant to the SLA as it read on December 31, 2019, if the following conditions are met:
 - a) The local agency entered into an exclusive negotiating agreement (ENA) or other legally binding agreement to dispose of the surplus property by September 30, 2019.
 - b) The surplus property is located in a local agency with a population of over 2,000,000.
 - c) The local agency has either an option agreement duly authorized by the local agency's governing body to purchase the surplus property from the former redevelopment agency (RDA), or an ENA with a private entity to develop the surplus property for economic development or housing purposes.
- 2) Extends, until December 31, 2024, the authority for local agencies acting as successor agency for a former RDA's to dispose of that land pursuant to the SLA as it read on December 31, 2019 if the following conditions are met:
 - a) The local agency entered into an ENA or other legally binding agreement to dispose of the surplus property by December 31, 2020.
 - b) The surplus property is located in a local agency with a population of over 2,000,000.
 - c) The land is designated in a long-range property management plan for either sale or retention for future development.
 - d) The local agency has either an option agreement duly authorized by the local agency's governing body to purchase the surplus property from the former RDA, or an ENA with a private entity to develop the surplus property for economic development or housing purposes.
- 3) Contains an urgency clause, and findings and declarations to support the bill's purpose.

EXISTING LAW:

- 1) 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.

- 2) Defines “surplus land” as land owned by any local agency that is determined to be no longer necessary for the agency’s use.
- 3) 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:
 - a) Low- and moderate-income housing.
 - b) Park and recreation, and open space.
 - c) School facilities.
 - d) Infill opportunity zones or transit village plans.
- 4) 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.
- 5) 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.
- 6) Allows property to be disposed of under the SLA as the law read on December 31, 2019, if disposition is completed before December 31, 2022, and either of the following conditions apply to the property:
 - a) A local agency entered into an ENA with a developer for prior by September 30, 2019.
 - b) A local agency entered into an ENA by December 31, 2020, for a property held in a Community Redevelopment Property Trust fund or designated in a Long Range Property Management Plan (LRPMP) for sale or to be retained for future development.

FISCAL EFFECT: None.

COMMENTS:

- 1) **Author’s Statement.** According to the author, “Given the challenges created by the COVID-19 pandemic and other complicating factors associated with developing large-scale projects in urban, under-resourced areas, additional time is required to ensure that the publicly-owned property can be developed with community-serving and catalytic uses to meet the State’s housing and economic development objectives.

“The additional time is critical to ensure that remaining real property owned by former redevelopment agencies within complex urban areas can be developed to meet their highest and best use and provide community and public benefits.”

- 2) **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.
- 3) **Changes to the SLA.** AB 1486 (Ting), Chapter 664, Statutes of 2019, substantially revised the SLA to increase the emphasis on affordable housing and address concerns that some local agencies were bypassing the Act’s requirements. Among other changes, AB 1486 broadened the definition of surplus land and required land to be designated as surplus prior to the local agency selling the land, which ensures that the SLA is triggered such that a local agency must comply with it. AB 1486 prohibited local agencies from counting the sale of land for economic development purposes as being “for the agency’s use.” This means that local agencies must open their properties up to affordable housing developers first, even if they have a different purpose in mind for the property.

Additionally, AB 1486 instituted a requirement that, if a property sold as surplus is not sold to a housing sponsor, but housing is developed on it later, 15 percent of the units must be sold or rented at an affordable cost to lower income households. Finally, AB 1486 imposed penalties on local agencies that violate the SLA, totaling 30 percent of the sales price of land disposed of in violation of the Act for a first violation, and 50 percent of the price of the land for subsequent violations. These penalty revenues must be deposited in a local housing trust fund.

Prior to the enactment of AB 1486, state law did not require local agencies to always designate land as surplus prior to disposing of it, which meant they could enter into negotiations to dispose of land to further local priorities such as economic development without going through the SLA process. These types of dispositions often include ENAs between a local agency and a prospective buyer under which a local agency agrees not to make similar deals with other potential buyers for a specified period. ENAs grant local agencies and buyers time to negotiate the terms of the disposition of the property, including development disposition agreements that result in restrictions on the use of the property to the uses desired by the local agency and other public benefits such as affordable housing requirements.

- 4) **Redevelopment Properties.** State law regulates the use and disposition of properties owned by former RDAs and directs “successor agencies” to oversee the wind-down of RDA affairs and the payment of RDA obligations. Once a successor agency takes over for an RDA, the RDA’s property is typically transferred into a Community Redevelopment Property Trust Fund before subsequent disposal by the successor agency. The successor agency also reviews the RDA’s outstanding assets and obligations, and develops a plan to resolve those obligations and a LRPMP to address how the successor agency plans to use or dispose of former RDA’s real properties. A successor agency can dispose of assets by selling them to other governments or interested parties, provided that they are disposed of expeditiously and

in a manner that maximizes value to the local governments that receive money as a result of the dissolution of RDAs. Revenue from properties sold goes towards repaying former RDAs' obligations or to pay affected taxing entities that would have received property tax revenue in the absence of the RDA.

- 5) **Grandfathered Deals.** The SLA grandfathers in several types of properties that can be disposed of under the old requirements of the SLA—prior to AB 1486's revisions—in recognition of the fact that certain properties were in the process of disposal at the time of the bill's passage, or that the properties met other state goals, including the expeditious wind-down of former RDAs' affairs. These include properties where:

- a) A local agency had entered into an ENA prior by September 30, 2019.
- b) A local agency entered into an ENA for the property by December 31, 2020, if the land is held in a Community Redevelopment Property Trust fund or designated in an LRPMP for sale or to be retained for future development.

Additionally, the disposition must be completed by December 31, 2022. These timelines are extended by an additional six months if litigation affected the disposition of the property.

Subsequent legislation grandfathered in new properties. AB 175 (Committee on Budget), Chapter 255, Statutes of 2021, extended these deadlines until December 31, 2024, for the Metro North Hollywood Joint Development Project. SB 51 (Durazo), Chapter 130, Statutes of 2021, similarly extended the deadlines as part of a larger effort to revise how the California Department of Transportation disposes of certain properties.

- 6) **City of Los Angeles RDA Properties.** The LRPMP for the City of Los Angeles's former RDA identifies ten properties that the City of Los Angeles had option agreements to purchase for future development. To date, the city purchased and disposed of seven of these sites. The three remaining sites include:

- a) Bunker Hill Parcel Y-1, a 2¼-acre site in Downtown Los Angeles, designated for mixed-use high-rise development in the LRPMP.
- b) Dr. Mary McLeod Bethune Regional Branch Library (Bethune Library), a ¾-acre site on the Vermont Corridor in South Los Angeles, designated for housing in the LRPMP.
- c) Marlton Square, a 5-acre site located on the Crenshaw Corridor in Baldwin Hills, designated for commercial retail in the LRPMP.

The City of Los Angeles entered into ENAs with developers for both the Bunker Hill and Bethune Library sites, and the city is negotiating development disposition agreements for those sites.

Finally, HCD determined that Marlton Square is exempt from the SLA because it was purchased using federal funds that require the site to be dedicated to economic development purposes.

- 7) **Bill Summary.** Senate Bill 1373 extends by two years (until December 31, 2024) the deadline to complete disposition of a property subject to an ENA under the existing grandfathering clauses in the SLA for a local agency with a population of over two million people. SB 1373 also contains an urgency clause.

SB 1373 is sponsored by the City of Los Angeles.

- 8) **Technical Amendments.** The Committee may wish to consider the following technical amendments.
- a) The language in print adds a new paragraph (4) to Subdivision (a) of Section 54234. The existing paragraphs in Subdivision (a) specify distinct categories of land that are subject to the SLA as it read on December 31, 2021, whereas the new paragraph (4) modifies paragraph (1), creating inconsistent construction in the statute. *The Committee may wish amend the bill* to recast the proposed paragraph (4) as a clause under paragraph (1).
 - b) The language in print adds a new clause (ii) to Subdivision (b) of Section 54234 that modifies the existing clause (i) in that subdivision. The operative language in the proposed clause (i) and the proposed clause (ii) identify distinct categories of land that are subject to the SLA as it read on December 31, 2019. *The Committee may wish to amend the bill* to recast the clauses as separate distinct subclauses.
- 9) **Related Legislation.** AB 1784 (Seyarto) exempts low density parcels located in jurisdictions that meet or exceed their 6th cycle regional housing needs allocation production targets for very low income and low income housing on an annual basis from the SLA. AB 1784 was held in the Housing and Community Development Committee.

AB 2319 (Bonta) creates an exemption from the SLA for the Alameda Naval Air Station. AB 2319 is pending in the Senate Governance and Finance Committee.

AB 2357 (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 2357 is pending in the Senate Governance and Finance Committee.

SB 361 (Umberg) deletes the penalty provisions of the SLA and prohibits local agencies from proceeding with disposal of the property if the department of HCD issues a notice of violation. SB 361 is pending in this Committee.

SB 719 (Min) provides 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 is pending in this Committee.

- 10) **Previous Legislation.** SB 51 (Durazo), Chapter 130, Statutes of 2021, among other provisions, provided that surplus land disposal procedures existing on December 31, 2019, apply to a parcel that a local agency that issued a competitive request for proposals for as of September 30, 2019, that included at least 100 residential units and at least 25 percent of the total units are restricted to lower income housing, and other specified factors.

AB 175 (Committee on Budget), Chapter 255, Statutes of 2021, among other provisions, provided that surplus land disposal procedures existing on December 31, 2019, apply to the Metro North Hollywood Joint Development Project if a local agency has entered into an ENA or legally binding agreement to dispose of related property as of September 2019. Provides that the disposition shall be completed no later than December 31, 2024.

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.

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.

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

12) **Urgency Clause.** This bill contains an urgency clause and requires a 2/3 vote of each house.

13) **Arguments in Support.** The City of Los Angeles writes in support, “SB 1373 would support the City of Los Angeles’ effort to advance thoughtful, community-focused development both in South Los Angeles and Downtown Los Angeles where these sites are located. For these reasons, the City of Los Angeles strongly supports SB 1373 (Kamlager) and asks for your favorable consideration of this measure...”

14) **Arguments in Opposition.** Public Counsel writes in opposition, “The state legislature should be focused on pushing local jurisdictions to address the affordable housing crisis with the resources at their disposal, instead of supporting development projects that bring little community serving value to low-income communities of color. As a result, we respectfully oppose SB 1373.”

REGISTERED SUPPORT / OPPOSITION:

Support

City of Los Angeles [SPONSOR]

Central City Association of Los Angeles

Greater Los Angeles African American Chamber of Commerce

Unite Here Local 11

Opposition

Physicians for Social Responsibility – Los Angeles

Public Counsel

Strategic Actions for A Just Economy

United Neighbors in Defense Against Displacement

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