

AMENDED IN ASSEMBLY APRIL 5, 2023

AMENDED IN ASSEMBLY MARCH 14, 2023

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL

No. 480

Introduced by Assembly Member Ting
(Principal coauthor: Senator Umberg)

February 7, 2023

An act to amend Sections 54221, 54222, 54222.5, 54223, 54224, 54225, 54227, and 54230.5 of, and to add Section 54221.5 to, the Government Code, relating to local government.

LEGISLATIVE COUNSEL’S DIGEST

AB 480, as amended, Ting. Surplus land.

Existing law prescribes requirements for the disposal of surplus land by a local agency, as defined, and requires, except as provided, a local agency disposing of surplus land to comply with certain notice requirements before disposing of the land or participating in negotiations to dispose of the land with a prospective transferee, particularly that the local agency send a notice of availability to specified entities that have notified the Department of Housing and Community Development of their interest in surplus land, as specified. Under existing law, if the local agency receives a notice of interest, the local agency is required to engage in good faith negotiations with the entity desiring to purchase or lease the surplus land.

Existing law requires a local agency to take formal action in a regular public meeting to declare land is surplus and is not necessary for the agency’s use and to declare land as either “surplus land” or “exempt surplus land,” as supported by written findings, before a local agency

may take any action to dispose of it consistent with an agency's policies or procedures.

This bill would recast that provision and would ~~authorize, exempt a local agency, in specified instances, that a local agency administratively declare land as from making a declaration at a public meeting for land that is~~ “exempt surplus land” if ~~the declaration and findings are the local agency identifies the land in a notice that is~~ published and available for public comment at least 30 days before the ~~declaration~~ exemption takes effect. The bill would also require a local agency to provide a written notification to the Department of Housing and Community Development of its declaration and findings 30 days before disposing of land declared “exempt surplus land.” Because this bill would require local officials to perform additional duties, it would impose a state-mandated local program.

Existing law defines “exempt surplus land,” for which a local agency is not required to follow the requirements for disposal of surplus land, except as provided, as, among other things, surplus land that is subject to valid legal restrictions that are not imposed by the local agency and that would make housing prohibited, as specified.

This bill would require that those legal restrictions be documented and verified in writing by the relevant agencies that have authority relating to the restrictions.

Existing law specifies that, for purposes of these provisions, the term “exempt surplus land,” includes, among other things, surplus land that is put out to open, competitive bid by a local agency, as specified, for purposes of a mixed-use development that is more than one acre in area, that includes not less than 300 housing units, and that restricts at least 25% of the residential units to lower income households with an affordable sales price or an affordable rent for a minimum of 55 years for rental housing and 45 years for ownership housing.

This bill would modify these provisions to require that the mixed-use development include not less than 300 residential units.

Existing law also defines exempt surplus land as, among other things, land that was transferred by the state to a local agency, as specified, that includes residential units that are restricted to persons and families of low or moderate income with an affordable sales price or rent, at least 80% of which shall be restricted to persons and families of lower income.

This bill would expand the definition of exempt surplus land to include land that is owned by a California public-use airport on which residential use is prohibited pursuant to specified federal law.

Existing law requires any local agency disposing of surplus land to send a written notice of availability of the property to specified entities. Existing law requires the Department of Housing and Community Development to maintain on its internet website a list of all notices of availability throughout the state.

This bill would require the department to also maintain on its internet website a list of all entities, including housing sponsors, that have notified the department of their interest in surplus land for the purpose of developing low- and moderate-income housing. The bill would make other nonsubstantive changes to provisions that describe the entities to which notices of availability for developing low- and moderate-income housing, for open-space purposes, and for school facilities construction are required to be sent.

Existing law requires that an entity proposing to use surplus land for developing low- and moderate-income housing agree to make available a specified percentage of the total number of units developed at affordable housing cost or affordable rent to lower income households, as specified, and that this requirement be contained in a covenant or restriction recorded against the surplus land at the time of the sale that shall run with the land and be enforceable by specified entities and persons.

This bill would make nonsubstantive changes to the provisions that describe the entities and persons that can enforce the covenant or restriction.

Existing law specifies that after the disposing agency has received a notice of interest from the entity desiring to purchase or lease the land, if price or terms cannot be agreed upon after a good faith negotiation period, the land may be disposed of, as specified.

This bill would recast that provision to state that after the specified good faith negotiation, the local agency may dispose of the surplus land, as specified.

Existing law proclaims that nothing in these provisions relating to the disposition of surplus property shall preclude a local agency, housing authority, or redevelopment agency that purchases land from a disposing agency from reconveying the land to a nonprofit or for-profit housing developer for development of low- and moderate-income housing.

This bill would modify that provision to remove reference to housing authorities and redevelopment agencies and make other nonsubstantive changes.

Existing law specifies that any public agency disposing of surplus land to a specified entity that intends to use the land 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 for the land.

This bill would modify those provisions to refer, instead, to a local agency disposing of surplus land.

Existing law authorizes a local agency to negotiate concurrently with all entities that provide notice of interest for the purpose of developing affordable housing that meets specified requirements.

This bill would modify that provision to reference low- and moderate-income housing that meets specified requirements. The bill would make other nonsubstantive changes to this provision.

Existing law makes a local agency that disposes of land in violation of these provisions after receiving notice from the Department of Housing and Community Development liable for a penalty, of 30% of the final sale price of the surplus land sold for a first violation and 50% for any subsequent violation.

This bill would, instead, make a local agency that disposes of surplus land in violation of these provisions after receiving a notification from the Department of Housing and Community Development, as specified, that the local agency is in violation of these provisions liable for a penalty of 30% of the greater of the final sale price, or of the fair market value at the time of disposition, as determined by an independent appraisal, of the surplus land for a first violation, and 50% of the greater of the 2 sums, for any subsequent violation. The bill would make nonsubstantive changes to, and correct an erroneous cross-reference in, those provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 54221 of the Government Code is
2 amended to read:

3 54221. As used in this article, the following definitions shall
4 apply:

5 (a) (1) “Local agency” means every city, whether organized
6 under general law or by charter, county, city and county, district,
7 including school, sewer, water, utility, and local and regional park
8 districts of any kind or class, joint powers authority, successor
9 agency to a former redevelopment agency, housing authority, or
10 other political subdivision of this state and any instrumentality
11 thereof that is empowered to acquire and hold real property.

12 (2) The Legislature finds and declares that the term “district”
13 as used in this article includes all districts within the state,
14 including, but not limited to, all special districts, sewer, water,
15 utility, and local and regional park districts, and any other political
16 subdivision of this state that is a district, and therefore the changes
17 in paragraph (1) made by the act adding this paragraph that specify
18 that the provisions of this article apply to all districts, including
19 school, sewer, water, utility, and local and regional park districts
20 of any kind or class, are declaratory of, and not a change in,
21 existing law.

22 (b) (1) “Surplus land” means land owned in fee simple by any
23 local agency that is not necessary for the agency’s use as declared
24 by the local agency pursuant to Section 54221.5.

25 (2) “Surplus land” includes land held in the Community
26 Redevelopment Property Trust Fund pursuant to Section 34191.4
27 of the Health and Safety Code and land that has been designated
28 in the long-range property management plan approved by the
29 Department of Finance pursuant to Section 34191.5 of the Health
30 and Safety Code, either for sale or for future development, but
31 does not include any specific disposal of land to an identified entity
32 described in the plan.

33 (3) Nothing in this article prevents a local agency from obtaining
34 fair market value for the disposition of surplus land consistent with
35 Section 54226.

(c) (1) Except as provided in paragraph (2), “agency’s use” shall include, but not be limited to, land that is being used, or is planned to be used pursuant to a written plan adopted by the local agency’s governing board, for agency work or operations, including, but not limited to, utility sites, watershed property, land being used for conservation purposes, land for demonstration, exhibition, or educational purposes related to greenhouse gas emissions, and buffer sites near sensitive governmental uses, including, but not limited to, wastewater treatment plants.

(2) (A) “Agency’s use” shall not include commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development. Property disposed of for the sole purpose of investment or generation of revenue shall not be considered necessary for the agency’s use.

(B) In the case of a local agency that is a district, excepting those whose primary mission or purpose is to supply the public with a transportation system, “agency’s use” may include commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development or be for the sole purpose of investment or generation of revenue if the agency’s governing body takes action in a public meeting declaring that the use of the site will do one of the following:

(i) Directly further the express purpose of agency work or operations.

(ii) Be expressly authorized by a statute governing the local agency, provided the district complies with Section 54233.5 if applicable.

(d) “Open-space purposes” means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(e) “Persons and families of low or moderate income” has the same meaning as provided in Section 50093 of the Health and Safety Code.

(f) (1) Except as provided in paragraph (2), “exempt surplus land” means any of the following:

(A) Surplus land that is transferred pursuant to Section 25539.4 or 37364.

(B) Surplus land that is (i) less than 5,000 square feet in area,

(ii) less than the minimum legal residential building lot size for the jurisdiction in which the parcel is located, or 5,000 square feet

1 in area, whichever is less, or (iii) has no record access and is less
2 than 10,000 square feet in area; and is not contiguous to land owned
3 by a state or local agency that is used for open-space or low- and
4 moderate-income housing purposes. If the surplus land is not sold
5 to an owner of contiguous land, it is not considered exempt surplus
6 land and is subject to this article.

7 (C) Surplus land that a local agency is exchanging for another
8 property necessary for the agency's use.

9 (D) Surplus land that a local agency is transferring to another
10 local, state, or federal agency for the agency's use, or to a federally
11 recognized California Indian tribe.

12 (E) Surplus land that is a former street, right of way, or
13 easement, and is conveyed to an owner of an adjacent property.

14 (F) Surplus land that is put out to open, competitive bid by a
15 local agency, provided all entities identified in subdivision (a) of
16 Section 54222 will be invited to participate in the competitive bid
17 process, for either of the following purposes:

18 (i) A housing development, that may have ancillary commercial
19 ground floor uses, that restricts 100 percent of the residential units
20 to persons and families of low or moderate income, with at least
21 75 percent of the residential units restricted to lower income
22 households, as defined in Section 50079.5 of the Health and Safety
23 Code, with an affordable sales price or an affordable rent, as
24 defined in Sections 50052.5 or 50053 of the Health and Safety
25 Code, for a minimum of 55 years for rental housing and 45 years
26 for ownership housing, and in no event shall the maximum
27 affordable sales price or rent level be higher than 20 percent below
28 the median market rents or sales prices for the neighborhood in
29 which the site is located.

30 (ii) A mixed-use development that is more than one acre in area,
31 that includes not less than 300 residential units, and that restricts
32 at least 25 percent of the residential units to lower income
33 households, as defined in Section 50079.5 of the Health and Safety
34 Code, with an affordable sales price or an affordable rent, as
35 defined in Sections 50052.5 and 50053 of the Health and Safety
36 Code, for a minimum of 55 years for rental housing and 45 years
37 for ownership housing.

38 (G) Surplus land that is subject to valid legal restrictions that
39 are not imposed by the local agency and that would make housing
40 prohibited, unless there is a feasible method to satisfactorily

1 mitigate or avoid the prohibition on the site. The legal restriction
2 shall be documented and verified in writing by the relevant
3 agencies that have authority relating to the restrictions. An existing
4 nonresidential land use designation on the surplus land is not a
5 legal restriction that would make housing prohibited for purposes
6 of this subparagraph. Nothing in this article limits a local
7 jurisdiction's authority or discretion to approve land use, zoning,
8 or entitlement decisions in connection with the surplus land.

9 (H) Surplus land that was granted by the state in trust to a local
10 agency or that was acquired by the local agency for trust purposes
11 by purchase or exchange, and for which disposal of the land is
12 authorized or required subject to conditions established by statute.

13 (I) Land that is subject to Sections 17388, 17515, 17536, 81192,
14 81397, 81399, 81420, and 81422 of the Education Code and Part
15 14 (commencing with Section 53570) of Division 31 of the Health
16 and Safety Code, unless compliance with this article is expressly
17 required.

18 (J) Surplus land that is a former military base that was conveyed
19 by the federal government to a local agency, and is subject to
20 Article 8 (commencing with Section 33492.125) of Chapter 4.5
21 of Part 1 of Division 24 of the Health and Safety Code, provided
22 that all of the following conditions are met:

23 (i) The former military base has an aggregate area greater than
24 five acres, is expected to include a mix of residential and
25 nonresidential uses, and is expected to include no fewer than 1,400
26 residential units upon completion of development or redevelopment
27 of the former military base.

28 (ii) The affordability requirements for residential units shall be
29 governed by a settlement agreement entered into prior to September
30 1, 2020. Furthermore, at least 25 percent of the initial 1,400
31 residential units developed shall be restricted to lower income
32 households, as defined in Section 50079.5 of the Health and Safety
33 Code, with an affordable sales price or an affordable rent, as
34 defined in Sections 50052.5 and 50053 of the Health and Safety
35 Code, for a minimum of 55 years for rental housing and 45 years
36 for ownership housing.

37 (iii) Before disposition of the surplus land, the agency adopts
38 written findings that the land is exempt surplus land pursuant to
39 this subparagraph.

1 (iv) Before disposition of the surplus land, the recipient has
2 negotiated a project labor agreement consistent with the local
3 agency's project stabilization agreement resolution, as adopted on
4 February 2, 2021, and any succeeding ordinance, resolution, or
5 policy, regardless of the length of the agreement between the local
6 agency and the recipient.

7 (v) The agency includes in the annual report required by
8 paragraph (2) of subdivision (a) of Section 65400 the status of
9 development of residential units on the former military base,
10 including the total number of residential units that have been
11 permitted and what percentage of those residential units are
12 restricted for persons and families of low or moderate income, as
13 defined in Section 50093 of the Health and Safety Code, or lower
14 income households, as defined in Section 50079.5 of the Health
15 and Safety Code.

16 A violation of this subparagraph is subject to the penalties
17 described in Section 54230.5. Those penalties are in addition to
18 any remedy a court may order for violation of this subparagraph
19 or the settlement agreement.

20 (K) Real property that is used by a district for agency's use
21 expressly authorized in subdivision (c).

22 (L) Land that has been transferred before June 30, 2019, by the
23 state to a local agency pursuant to Section 32667 of the Streets
24 and Highways Code and has a minimum planned residential density
25 of at least 100 dwelling units per acre, and includes 100 or more
26 residential units that are restricted to persons and families of low
27 or moderate income, with an affordable sales price or an affordable
28 rent, as defined in Sections 50052.5 and 50053 of the Health and
29 Safety Code, for a minimum of 55 years for rental housing and 45
30 years for ownership housing. For purposes of this paragraph, not
31 more than 20 percent of the affordable units may be restricted to
32 persons and families of moderate income and at least 80 percent
33 of the affordable units must be restricted to lower income
34 households as defined in Section 50079.5 of the Health and Safety
35 Code.

36 (M) Land that is owned by a California public-use airport on
37 which residential use is prohibited pursuant to Federal Aviation
38 Administration Order 5190.6B, Airport Compliance Program,
39 Chapter 20 — Compatible Land Use and Airspace Protection.

(2) Notwithstanding paragraph (1), a written notice of the availability of surplus land for open-space purposes shall be sent to the entities described in subdivision (b) of Section 54222 before disposing of the surplus land, provided the land does not meet the criteria in subparagraph (H) of paragraph (1), if the land is any of the following:

(A) Within a coastal zone.

(B) Adjacent to a historical unit of the State Parks System.

(C) Listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places.

(D) Within the Lake Tahoe region as defined in Section 66905.5.

SEC. 2. Section 54221.5 is added to the Government Code, to read:

54221.5. (a) Before taking any action to dispose of land, a local agency shall declare that the land is either “surplus land” or “exempt surplus land” as specified in this section. The declaration shall be supported by written findings before the local agency may dispose of the land in a manner that is consistent with this section and the local agency’s policies.

(b) Except as provided in subdivision (c), a local agency shall take formal action at a regular public meeting to declare that land is either “surplus land” or “exempt surplus land.”

(c) Notwithstanding subdivision (b), a local agency ~~may declare~~ *administratively that land is not required to make a declaration at a public meeting for land that is “exempt surplus land” pursuant to subparagraphs (A), (B), (E), (H), or (I) of paragraph (1) of subdivision (f) of Section 54221 if the declaration and findings are local agency identifies the land in a notice that is published and available for public comment, including notice to the entities identified in subdivision (a) of Section 54222, at least 30 days before the declaration exemption takes effect.*

(d) Notwithstanding Section 54222.3, 30 days before disposing of land declared “exempt surplus land,” a local agency shall provide the Department of Housing and Community Development a written notification of its declaration and findings in a form and manner prescribed by the department.

(e) A local agency may, on an annual basis, declare multiple parcels as “surplus land” or “exempt surplus land.”

1 SEC. 3. Section 54222 of the Government Code is amended
2 to read:

3 54222. Except as provided in Division 23 (commencing with
4 Section 33000) of the Public Resources Code, any local agency
5 disposing of surplus land, declared pursuant to subdivision (b) of
6 Section 54221.5, shall send, before disposing of that property or
7 participating in negotiations to dispose of that property with a
8 prospective transferee, a written notice of availability of the
9 property to all of the following:

10 (a) (1) A written notice of availability for developing low- and
11 moderate-income housing, in a form prescribed by the Department
12 of Housing and Community Development, shall be sent to any
13 local public entity, as defined in Section 50079 of the Health and
14 Safety Code, that has jurisdiction where the surplus land is located.
15 Housing sponsors, as defined by Section 50074 of the Health and
16 Safety Code, that have notified the Department of Housing and
17 Community Development of their interest in surplus land shall be
18 sent a notice of availability for the purpose of developing low- and
19 moderate-income housing. All notices shall be sent by electronic
20 mail, or by certified mail, and shall include the location and a
21 description of the property.

22 (2) The Department of Housing and Community Development
23 shall maintain on its internet website an up-to-date listing of, and
24 a link to, all notices of availability throughout the state and a listing
25 of all entities, including housing sponsors, that have notified the
26 department of their interest in surplus land for the purpose of
27 developing low- and moderate-income housing.

28 (b) A written notice of availability for open-space purposes shall
29 be sent:

30 (1) To any park or recreation department of any city within
31 which the surplus land is located.

32 (2) To any park or recreation department of the county within
33 which the surplus land is located.

34 (3) To any regional park authority having jurisdiction within
35 the area in which the surplus land is located.

36 (4) To the State Resources Agency or any agency that may
37 succeed to its powers.

38 (c) A written notice of availability of land suitable for school
39 facilities construction or use by a school district for open-space

1 purposes shall be sent to any school district that has jurisdiction
2 where the surplus land is located.

3 (d) A written notice of availability for developing property
4 located within an infill opportunity zone designated pursuant to
5 Section 65088.4 or within an area covered by a transit village plan
6 adopted pursuant to the Transit Village Development Planning
7 Act of 1994 (Article 8.5 (commencing with Section 65460) of
8 Chapter 3 of Division 1 of Title 7) shall be sent to any county,
9 city, city and county, successor agency to a former redevelopment
10 agency, public transportation agency, or housing authority within
11 whose jurisdiction the surplus land is located.

12 (e) The entity desiring to purchase or lease the surplus land for
13 any of the purposes authorized by this section shall notify in writing
14 the disposing agency of its interest in purchasing or leasing the
15 land within 60 days after the agency's notice of availability is sent
16 via certified mail or provided via electronic mail.

17 (f) For the purposes of this section, "participating in
18 negotiations" does not include the commissioning of appraisals,
19 due diligence prior to disposition, discussions with brokers or real
20 estate agents not representing a potential buyer, or other studies
21 to determine value or best use of land, issuance of a request for
22 qualifications, development of marketing materials, or discussions
23 conducted exclusively among local agency employees and elected
24 officials.

25 SEC. 4. Section 54222.5 of the Government Code is amended
26 to read:

27 54222.5. An entity proposing to use the surplus land for
28 developing low- and moderate-income housing shall agree to make
29 available not less than 25 percent of the total number of units
30 developed on the parcels at affordable housing cost, as defined in
31 Section 50052.5 of the Health and Safety Code, or affordable rent,
32 as defined in Section 50053 of the Health and Safety Code, to
33 lower income households, as defined in Section 50079.5 of the
34 Health and Safety Code. Rental units shall remain affordable to,
35 and occupied by, lower income households for a period of at least
36 55 years. The initial occupants of all ownership units shall be lower
37 income households, and the units shall be subject to an equity
38 sharing agreement consistent with paragraph (2) of subdivision
39 (c) of Section 65915. These requirements shall be contained in a
40 covenant or restriction recorded against the surplus land at the time

1 of sale, that shall run with the land and shall be enforceable, against
2 any owner who violates a covenant or restriction and each
3 successor in interest who continues the violation, by any of the
4 following:

5 (a) The local agency that disposed of the surplus land.
6 (b) A resident of a unit subject to this section.
7 (c) A residents' association with members who reside in units
8 subject to this section.

9 (d) A former resident of a unit subject to this section who last
10 resided in that unit.

11 (e) An applicant seeking to enforce the covenants or restrictions
12 for a particular unit that is subject to this section, if the applicant
13 conforms to all of the following:

14 (1) Is of low or moderate income, pursuant to Section 50093 of
15 the Health and Safety Code.

16 (2) Is able and willing to occupy that particular unit.

17 (3) Was denied occupancy of that particular unit due to an
18 alleged breach of a covenant or restriction implementing this
19 section.

20 (f) A person on an affordable housing waiting list who is of low
21 or moderate income, pursuant to Section 50093 of the Health and
22 Safety Code, and who is able and willing to occupy a unit subject
23 to this section.

24 SEC. 5. Section 54223 of the Government Code is amended
25 to read:

26 54223. (a) After the disposing agency has received a notice
27 of interest from the entity desiring to purchase or lease the surplus
28 land on terms that comply with this article, the disposing agency
29 and the entity shall enter into good faith negotiations to determine
30 a mutually satisfactory sales price and terms or lease terms. If the
31 price or terms cannot be agreed upon after a good faith negotiation
32 period of not less than 90 days, the local agency may dispose of
33 the surplus land without further regard to this article, except that
34 Section 54233 shall apply.

35 (b) Residential use shall be deemed an acceptable use for the
36 surplus land for the purposes of good faith negotiations with a
37 local agency conducted pursuant to this article. Nothing in this
38 subdivision shall restrict a local jurisdiction's authority or
39 discretion to approve land use, zoning, or entitlement decisions in
40 connection with the surplus land. Except as provided in subdivision

1 (c), terms agreed to pursuant to the negotiations shall not do any
2 of the following:

3 (1) Disallow residential use of the site as a condition of the
4 disposal.

5 (2) Reduce the allowable number of residential units or the
6 maximum lot coverage below what may be allowed by zoning or
7 general plan requirements.

8 (3) Require as a condition of disposal, any design standards or
9 architectural requirements that would have a substantial adverse
10 effect on the viability or affordability of a housing development
11 for very low, low-, or moderate-income households, other than the
12 minimum standards required by general plan, zoning, and
13 subdivision standards and criteria.

14 (c) Terms agreed to pursuant to the negotiations required by
15 subdivision (a) may include limitations on residential use or density
16 if, without the limitations, the residential use or density would
17 have a specific, adverse impact, supported by written findings,
18 upon the public health or safety or upon the operation or facilities
19 of a local agency, and there is no feasible method to satisfactorily
20 mitigate the impact.

21 SEC. 6. Section 54224 of the Government Code is amended
22 to read:

23 54224. Nothing in this article shall preclude a local agency
24 that purchases surplus land from a disposing agency pursuant to
25 this article from reconveying the surplus land to a nonprofit or
26 for-profit housing developer for development of low- and
27 moderate-income housing as authorized under other provisions of
28 law.

29 SEC. 7. Section 54225 of the Government Code is amended
30 to read:

31 54225. Any local agency disposing of surplus land to an entity
32 described in Section 54222 that intends to use the land for park or
33 recreation purposes, for open-space purposes, for school purposes,
34 or for low- and moderate-income housing purposes may provide
35 for a payment period of up to 20 years in any contract of sale or
36 sale by trust deed for the land. The payment period for surplus
37 land disposed of for housing for persons and families of low and
38 moderate income may exceed 20 years, but the payment period
39 shall not exceed the term that the land is required to be used for
40 low- or moderate-income housing.

1 SEC. 8. Section 54227 of the Government Code is amended
2 to read:

3 54227. (a) In the event that any local agency disposing of
4 surplus land receives a notice of interest to purchase or lease that
5 land from more than one of the entities to which notice of
6 availability was given pursuant to this article, the local agency
7 shall give first priority to the entity or entities that agree to use the
8 site for housing that meets the requirements of Section 54222.5.
9 If the local agency receives offers from more than one entity that
10 agrees to meet the requirements of Section 54222.5, then the local
11 agency shall give priority to the entity that proposes to provide the
12 greatest number of units that meet the requirements of Section
13 54222.5. In the event that more than one entity proposes the same
14 number of units that meet the requirements of Section 54222.5,
15 priority shall be given to the entity that proposes the deepest
16 average level of affordability for the affordable units. A local
17 agency may negotiate concurrently with all entities that provide
18 notice of interest for the purpose of developing low- and
19 moderate-income housing that meets the requirements of Section
20 54222.5.

21 (b) Notwithstanding subdivision (a), first priority shall be given
22 to an entity that agrees to use the site for park or recreational
23 purposes if the land being offered is already being used and will
24 continue to be used for park or recreational purposes, or if the land
25 is designated for park and recreational use in the local general plan
26 and will be developed for that purpose.

27 SEC. 9. Section 54230.5 of the Government Code is amended
28 to read:

29 54230.5. (a) (1) A local agency that disposes of surplus land
30 in violation of this article after receiving a notification from the
31 Department of Housing and Community Development pursuant
32 to subdivision (b) that the local agency is in violation of this article
33 shall be liable for a penalty of 30 percent of the greater of the final
34 sale price, or of the fair market value of the surplus land at the
35 time of disposition, as determined by an independent appraisal,
36 ~~appraisal~~ of the surplus land sold in violation of this article for a
37 ~~first-violation violation~~, and 50 percent of the greater of the two
38 sums, for any subsequent violation. An entity identified in Section
39 54222 or a person who would have been eligible to apply for
40 residency in any affordable housing developed or a housing

1 organization as defined in Section 65589.5, or any beneficially
2 interested person or entity may bring an action to enforce this
3 section. A local agency shall have 60 days to cure or correct an
4 alleged violation before an action may be brought to enforce this
5 section, unless the local agency disposes of the surplus land before
6 curing or correcting the alleged violation, or the department deems
7 the alleged violation not to be a violation in less than 60 days.

8 (2) A penalty assessed pursuant to this subdivision shall, except
9 as otherwise provided, be deposited into a local housing trust fund.
10 The local agency may elect to instead deposit the penalty moneys
11 into the Building Homes and Jobs Trust Fund or the Housing
12 Rehabilitation Loan Fund. Penalties shall not be paid out of funds
13 already dedicated to affordable housing, including, but not limited
14 to, Low and Moderate Income Housing Asset Funds, funds
15 dedicated to housing for very low, low-, and moderate-income
16 households, and federal HOME Investment Partnerships Program
17 and Community Development Block Grant Program funds. The
18 local agency shall commit and expend the penalty moneys
19 deposited into the local housing trust fund within five years of
20 deposit for the sole purpose of financing newly constructed housing
21 units that are affordable to extremely low, very low, or low-income
22 households.

23 (3) Five years after deposit of the penalty moneys into the local
24 housing trust fund, if the funds have not been expended, the funds
25 shall revert to the state and be deposited in the Building Homes
26 and Jobs Trust Fund or the Housing Rehabilitation Loan Fund for
27 the sole purpose of financing newly constructed housing units
28 located in the same jurisdiction as the surplus land and that are
29 affordable to extremely low, very low, or low-income households.
30 Expenditure of any penalty moneys deposited into the Building
31 Homes and Jobs Trust Fund or the Housing Rehabilitation Loan
32 Fund pursuant to this subdivision shall be subject to appropriation
33 by the Legislature.

34 (b) (1) Before agreeing to terms for the disposition of surplus
35 land, a local agency shall provide to the Department of Housing
36 and Community Development a description of the notices of
37 availability sent, and negotiations conducted with any responding
38 entities, in regard to the disposal of the parcel of surplus land and
39 a copy of any restrictions to be recorded against the property
40 pursuant to Section 54222.5, 54233, or 54233.5, whichever is

1 applicable, in a form prescribed by the Department of Housing
2 and Community Development. A local agency may submit this
3 information after it has sent notices of availability required by
4 Section 54222 and concluded negotiations with any responding
5 agencies. A local agency shall not be liable for the penalty imposed
6 by subdivision (a) if the Department of Housing and Community
7 Development does not notify the agency that the agency is in
8 violation of this article within 30 days of receiving the description.

9 (2) The Department of Housing and Community Development
10 shall do all of the following:

11 (A) Make available educational resources and materials that
12 inform each agency of its obligations under this article and that
13 provide guidance on how to comply with its provisions.

14 (B) Review information submitted pursuant to paragraph (1).

15 (C) Submit written findings to the local agency within 30 days
16 of receipt of the description required by paragraph (1) from the
17 local agency if the proposed disposal of the land will violate this
18 article.

19 (D) Review, adopt, amend, or repeal guidelines to establish
20 uniform standards to implement this section. The guidelines
21 adopted pursuant to this subdivision are not subject to Chapter 3.5
22 (commencing with Section 11340) of Part 1 of Division 3 of Title
23 2.

24 (E) Provide the local agency reasonable time, but not less than
25 60 days, to respond to the findings before taking any other action
26 authorized by this section.

27 (3) (A) The local agency shall consider findings made by the
28 Department of Housing and Community Development pursuant
29 to subparagraph (C) of paragraph (2) and shall do one of the
30 following:

31 (i) Correct any issues identified by the Department of Housing
32 and Community Development.

33 (ii) Provide written findings explaining the reason its process
34 for disposing of surplus land complies with this article and
35 addressing the Department of Housing and Community
36 Development's findings.

37 (B) If the local agency does not correct issues identified by the
38 Department of Housing and Community Development, does not
39 provide findings explaining the reason its process for disposing of
40 surplus land complies with this article and addressing the

1 Department of Housing and Community Development's findings,
2 or if the Department of Housing and Community Development
3 finds that the local agency's findings are deficient in addressing
4 the issues identified by the Department of Housing and Community
5 Development, the Department of Housing and Community
6 Development shall notify the local agency, and may notify the
7 Attorney General, that the local agency is in violation of this article.

8 (c) The Department of Housing and Community Development
9 shall implement the changes in this section made by the act adding
10 this subdivision commencing on January 1, 2021.

11 (d) Notwithstanding subdivision (c), this section shall not be
12 construed to limit any other remedies authorized under law to
13 enforce this article including public records act requests pursuant
14 to Division 10 (commencing with Section 7920.000) of Title 1.

15 SEC. 10. If the Commission on State Mandates determines
16 that this act contains costs mandated by the state, reimbursement
17 to local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.



CITY OF HUNTINGTON BEACH
2000 MAIN STREET, HUNTINGTON BEACH, CALIFORNIA 92648-2702

TONY STRICKLAND
MAYOR

May 2, 2023

The Honorable Philip Ting
State Capitol, Ste. 8230
Sacramento, CA 95814

Dear Assembly Member Ting:

The City of Huntington Beach regrets that it must **OPPOSE** Assembly Bill 480. This bill undermines the ability of local agencies to conduct appropriate economic development activities on properties they acquire or otherwise own. It would also expand the scope of authority for the Department of Housing and Community Development (HCD) to review "*any action to dispose of land*," which would include properties retained for agency use, properties declared "exempt surplus," and properties that local agencies are authorized by other laws to acquire and dispose of for economic development purposes.

The implementation of the Surplus Lands Act (SLA), including HCD's recent guidelines, have created immense delays and difficulties for local government agencies dealing with the control and disposal of their local properties. Regrettably, AB 480 would compound those difficulties by expanding state reviews and delays affecting properties retained for agency use and declared exempt surplus.

Rather than expanding the scope of the SLA, we should seek significant reform. The Legislature should thoroughly evaluate the difficulties, bureaucratic delays and unintended consequences caused by implementation of the existing law on local agency activities, including addressing unresolved conflicts with other laws and state policy priorities the Legislature has enacted that affect the disposal of local agency property.

For these reasons, the City of Huntington Beach regrets that it must respectfully **Oppose** AB 480. Please feel free to contact me at (714) 536-5553, or Tony.Strickland@surfcity-hb.org whenever needed.

Sincerely,

Tony Strickland
Mayor

Cc: Cecilia Aguiar Curry, Chair, Assembly Local Government Committee
Buffy Wicks, Chair, Assembly Committee on Housing and Community Development
Members, Assembly Committee on Local Government
Members, Assembly Committee on Housing and Local Government
Gurbax Sahota, Chief Executive Officer, CALED