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AB-480 Surplus land. (2023-2024)

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CALIFORNIA LEGISLATURE—2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 480

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

February 07, 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 that 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 exempt a local agency, in specified instances, from making a declaration at a public meeting for land that is "exempt surplus land" if the local agency identifies the land in a notice that is published and available for public comment at least 30 days before the 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 put out to open, competitive bid by a local agency for specified housing and mixed-use development purposes, and 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 recast the definition of "exempt surplus land" with respect to surplus land for specified housing purposes, to remove the requirement that it be put out to open, competitive bid. The bill would also include within the definition of "exempt surplus land" surplus land totaling 10 or more acres, consisting of a single parcel, or of 2 or more adjacent or nonadjacent parcels totaling 10 or more acres, combined for disposition to one or more buyers pursuant to a plan or ordinance adopted by the legislative body of the local agency, or a state statute, as specified. The bill would require that land to be subject to an open, competitive bid process, as specified, and that the development satisfy certain requirements. The bill would make a violation of these provisions subject to specified penalties. The bill would also require, with respect to other surplus land, that the legal restrictions described above 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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

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

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

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

(b) (1) "Surplus land" means land owned in fee simple by any local agency that is not necessary for the agency's ~~use~~ use, except as defined in subparagraph (B) of paragraph (2) of subdivision (c), as declared by the local

agency pursuant to Section 54221.5.

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

(3) Nothing in this article prevents a local agency from obtaining fair market value for the disposition of surplus land consistent with 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. *"Agency's use" by a local agency that is a district shall also include land disposed for uses described in subparagraph (B) of paragraph (2).*

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

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

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

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

(F) Surplus land that is a housing development, that may have ancillary commercial ground floor uses, that restricts 100 percent of the residential units to persons and families of low or moderate income, with at least 75 percent of the residential units restricted to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 or 50053 of the Health and Safety Code, for a minimum of 55 years for rental housing and 45 years for ownership housing, and in no event shall the maximum affordable sales price or rent level

be higher than 20 percent below the median market rents or sales prices for the neighborhood in which the site is located.

(G) Surplus land that is subject to a local agency's open, competitive solicitation or that is put to open, competitive bid by a local agency, provided that all entities identified in subdivision (a) of Section 54222 will be invited to participate in the process, for a housing or mixed-use development that is more than one acre and less than 10 acres in area, that includes not less than 300 residential units, and that restricts at least 25 percent of the residential units to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for a minimum of 55 years for rental housing and 45 years for ownership housing.

(H) (i) Surplus land totaling 10 or more acres, consisting of either a single parcel, or two or more adjacent or non-adjacent parcels combined for disposition to one or more buyers pursuant to a plan or ordinance adopted by the legislative body of the local agency, or a state statute. That surplus land shall be subject to a local agency's open, competitive solicitation process or put out to open, competitive bid by a local agency, provided that all entities identified in subdivision (a) of Section 54222 will be invited to participate in the process for a housing or mixed-use development.

(ii) The aggregate development shall include the greater of the following:

(I) Three hundred residential units.

(II) A number of residential units equal to 10 times the number of acres of the surplus land or 10,000 residential units, whichever is less.

(iii) At least 25 percent of the residential units shall be restricted to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent pursuant to Sections 50052.5 and 50053 of the Health and Safety Code, for a minimum of 55 years for rental housing and 45 years for ownership housing.

(iv) If nonresidential development is included in the development pursuant to this subparagraph, at least 25 percent of the total planned units affordable to lower income households shall be made available for lease or sale and permitted for use and occupancy before or at the same time with every 25 percent of nonresidential development made available for lease or sale and permitted for use and occupancy.

(v) A violation of this subparagraph is subject to the penalties described in Section 54230.5. Those penalties are in addition to any remedy a court may order for violation of this subparagraph.

(I) Surplus land that is subject to valid legal restrictions that are not imposed by the local agency and that would make housing prohibited, unless there is a feasible method to satisfactorily mitigate or avoid the prohibition on the site. The legal restriction shall be documented and verified in writing by the relevant agencies that have authority relating to the restrictions. An existing nonresidential land use designation on the surplus land is not a legal restriction that would make housing prohibited for purposes of this subparagraph. Nothing in this article limits a local jurisdiction's authority or discretion to approve land use, zoning, or entitlement decisions in connection with the surplus land.

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

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

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

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

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

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

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

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

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

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

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

(O) Land that is owned by a California public-use airport on which residential use is prohibited pursuant to Federal Aviation Administration Order 5190.6B, Airport Compliance Program, 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 is not required to make a declaration at a public meeting for land that is "exempt surplus land" pursuant to ~~subparagraphs~~ *subparagraph* (A), (B), (E), ~~(H), (I), or (M)~~ (J), (K), or (O) of paragraph (1) of subdivision (f) of Section 54221 if the 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 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."

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

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

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

(2) The Department of Housing and Community Development shall maintain on its internet website an up-to-date listing of, and a link to, all notices of availability throughout the state and a listing 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.

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

- (1) To any park or recreation department of any city within which the surplus land is located.
- (2) To any park or recreation department of the county within which the surplus land is located.
- (3) To any regional park authority having jurisdiction within the area in which the surplus land is located.
- (4) To the State Resources Agency or any agency that may succeed to its powers.

(c) A written notice of availability of land suitable for school facilities construction or use by a school district for open-space purposes shall be sent to any school district that has jurisdiction where the surplus land is located.

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

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

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

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

54222.5. An entity proposing to use the surplus land for developing low- and moderate-income housing shall agree to make available not less than 25 percent of the total number of units developed on the parcels at

affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or affordable rent, as defined in Section 50053 of the Health and Safety Code, to lower income households, as defined in Section 50079.5 of the Health and Safety Code. Rental units shall remain affordable to, and occupied by, lower income households for a period of at least 55 years. The initial occupants of all ownership units shall be lower income households, and the units shall be subject to an equity sharing agreement consistent with paragraph (2) of subdivision (c) of Section 65915. These requirements shall be contained in a covenant or restriction recorded against the surplus land at the time of sale, that shall run with the land and shall be enforceable, against any owner who violates a covenant or restriction and each successor in interest who continues the violation, by any of the following:

- (a) The local agency that disposed of the surplus land.
- (b) A resident of a unit subject to this section.
- (c) A residents' association with members who reside in units subject to this section.
- (d) A former resident of a unit subject to this section who last resided in that unit.
- (e) An applicant seeking to enforce the covenants or restrictions for a particular unit that is subject to this section, if the applicant conforms to all of the following:
 - (1) Is of low or moderate income, pursuant to Section 50093 of the Health and Safety Code.
 - (2) Is able and willing to occupy that particular unit.
 - (3) Was denied occupancy of that particular unit due to an alleged breach of a covenant or restriction implementing this section.
- (f) A person on an affordable housing waiting list who is of low or moderate income, pursuant to Section 50093 of the Health and Safety Code, and who is able and willing to occupy a unit subject to this section.

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

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

(b) Residential use shall be deemed an acceptable use for the surplus land for the purposes of good faith negotiations with a local agency conducted pursuant to this article. Nothing in this subdivision shall restrict a local jurisdiction's authority or discretion to approve land use, zoning, or entitlement decisions in connection with the surplus land. Except as provided in subdivision (c), terms agreed to pursuant to the negotiations shall not do any of the following:

- (1) Disallow residential use of the site as a condition of the disposal.
 - (2) Reduce the allowable number of residential units or the maximum lot coverage below what may be allowed by zoning or general plan requirements.
 - (3) Require as a condition of disposal, any design standards or architectural requirements that would have a substantial adverse effect on the viability or affordability of a housing development for very low, low-, or moderate-income households, other than the minimum standards required by general plan, zoning, and subdivision standards and criteria.
- (c) Terms agreed to pursuant to the negotiations required by subdivision (a) may include limitations on residential use or density if, without the limitations, the residential use or density would have a specific, adverse impact, supported by written findings, upon the public health or safety or upon the operation or facilities of a local agency, and there is no feasible method to satisfactorily mitigate the impact.

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

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

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

54225. Any local agency disposing of surplus land to an entity described in Section 54222 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. The payment period for surplus land disposed of for housing for persons and families of low and moderate income may exceed 20 years, but the payment period shall not exceed the term that the land is required to be used for low- or moderate-income housing.

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

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

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

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

54230.5. (a) (1) A local agency that disposes of surplus land in violation of this article after receiving a notification from the Department of Housing and Community Development pursuant to subdivision (b) that the local agency is in violation of this article shall be liable for a penalty of 30 percent of the greater of the final sale price, or of the fair market value of the surplus land at the time of disposition, as determined by an independent appraisal of the surplus land sold in violation of this article for a first violation, and 50 percent of the greater of the two sums, for any subsequent violation. An entity identified in Section 54222 or a person who would have been eligible to apply for residency in any affordable housing developed or a housing organization as defined in Section 65589.5, or any beneficially interested person or entity may bring an action to enforce this section. A local agency shall have 60 days to cure or correct an alleged violation before an action may be brought to enforce this section, unless the local agency disposes of the surplus land before curing or correcting the alleged violation, or the department deems the alleged violation not to be a violation in less than 60 days.

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

(3) Five years after deposit of the penalty moneys into the local housing trust fund, if the funds have not been expended, the funds shall revert to the state and 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 surplus land and that are affordable to extremely low, very low, or low-income households. Expenditure of any penalty moneys deposited into the Building Homes and Jobs Trust Fund or the Housing Rehabilitation Loan Fund pursuant to this subdivision shall be subject to appropriation by the Legislature.

(b) (1) Before agreeing to terms for the disposition of surplus land, a local agency shall provide to the Department of Housing and Community Development a description of the notices of availability sent, and

negotiations conducted with any responding entities, in regard to the disposal of the parcel of surplus land and a copy of any restrictions to be recorded against the property pursuant to Section 54222.5, 54233, or 54233.5, whichever is applicable, in a form prescribed by the Department of Housing and Community Development. A local agency may submit this information after it has sent notices of availability required by Section 54222 and concluded negotiations with any responding agencies. A local agency shall not be liable for the penalty imposed by subdivision (a) if the Department of Housing and Community Development does not notify the agency that the agency is in violation of this article within 30 days of receiving the description.

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

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

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

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

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

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

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

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

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

(B) If the local agency does not correct issues identified by the Department of Housing and Community Development, does not provide findings explaining the reason its process for disposing of surplus land complies with this article and addressing the Department of Housing and Community Development's findings, or if the Department of Housing and Community Development finds that the local agency's findings are deficient in addressing the issues identified by the Department of Housing and Community Development, the Department of Housing and Community Development shall notify the local agency, and may notify the Attorney General, that the local agency is in violation of this article.

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

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

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