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## SB-747 Land use: economic development: surplus land. (2023-2024)

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CALIFORNIA LEGISLATURE—2023–2024 REGULAR SESSION

### SENATE BILL

**NO. 747**

Introduced by Senator Caballero  
(Principal coauthor: Senator Seyarto)

February 17, 2023

An act to amend Sections 52200, 52200.6, 52201, 54221, 54222, 54226, 54230, 54230.5, and 54234 of the Government Code, relating to local government.

### LEGISLATIVE COUNSEL'S DIGEST

SB 747, as amended, Caballero. Land use: economic development: surplus land.

(1) Existing law authorizes a city, county, or city and county, with the approval of its legislative body by resolution after a public hearing, to acquire, sell, or lease property in furtherance of the creation of an economic opportunity, as defined. Existing law specifies the Legislature's intent regarding those provisions.

This bill would authorize a city, county, or city and county, in addition to a sale or lease, to otherwise transfer property to create an economic opportunity. The bill would make related, conforming changes. The bill would additionally state the Legislature's intent is to ensure that residents of the state have access to jobs that allow them to afford housing without the need for public subsidies.

Existing law ~~provides that the~~ *subjects the* creation of an economic opportunity ~~under that law is subject~~ to certain notice and disclosure provisions. These provisions require each local agency, before approving an economic development subsidy within its jurisdiction, to provide specified information in written form to the public and through its internet website, if available, about the business entities that are the beneficiary of the economic development subsidy, the start and end dates and schedule of the subsidy, other related information, and to hold public hearings and report on those subsidies at specified intervals.

This bill would subject the creation of an economic opportunity to only the above-described requirements regarding providing information to the public on that economic opportunity. The bill would specify that these provisions are an alternative to any other authority or procedures for cities and counties to acquire, sell, lease, or otherwise transfer real property owned by a city or county.

(2) Existing law prescribes requirements for the disposal of surplus land by a local agency. Existing law defines terms for these purposes. Existing law defines "surplus land" to generally mean land owned in fee simple by a local agency for which the local agency's governing body takes formal action in a public meeting declaring that the land is surplus and not necessary for the agency's use. Existing law defines "agency's use" to include land that is being used, is planned to be used pursuant to a written plan adopted by the local agency's governing board, or is disposed of to support agency work or operations. Existing law excludes from "agency's use" commercial or industrial uses or activities, or property disposed of for the sole purpose of investment or generation of revenue, unless the local agency is a district, except as specified, and the agency's governing body takes specified actions in a public meeting. Existing law excludes from these requirements the disposal of exempt surplus land by an agency of the state or any local government. Existing law requires a local agency 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. Under existing law, exempt surplus land includes, among other types of land, property that is used by a district for an "agency's use" as expressly authorized, land for specified developments, including a mixed-use development, if put out to open, competitive bid by a local agency, as specified, and surplus land that is subject to specified valid legal restrictions.

This bill would define the term "dispose" for these purposes to mean the sale of the surplus property or a lease of any surplus property entered into on or after January 1, 2024, for a term longer than 15 years, including renewal options, as specified. The bill would also redefine the term "agency's use" to include use for transit or transit-oriented development, property owned by a port that is used to support logistics uses, airports, state tidelands, sites for broadband equipment or wireless facilities, and waste disposal sites. The bill would define a district relative to an "agency's use" to include infrastructure financing districts, enhanced infrastructure financing districts, community revitalization and investment authorities, affordable housing authorities, transit village development districts, and climate resilience ~~districts. For districts to qualify commercial or industrial uses or activities, or property disposed of for the sole purpose of investment or generation of revenue as an agency's use, the bill would additionally require that the site be located within the jurisdiction of a local agency that has a legally compliant housing element and has been designated prohousing.~~ *districts if the land is located within a city, county, or city and county that has been found to have a substantially compliant housing element and has been designated prohousing by the Department of Housing and Community Development, as specified.*

This bill would revise and recast certain of the provisions related to exempt surplus land, including surplus land that 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 and meets specified conditions, surplus land that is a former parking lot that is conveyed to an owner of an adjacent property, and provisions related to mixed-use developments, among others. The bill would also specify that certain legal restrictions are valid legal restrictions and would require that for surplus land that is subject to valid legal restrictions to be considered exempt surplus land, the valid restrictions must be included as part of the local agency's above-described written findings. The bill would also include as exempt surplus land, land that is jointly developed or used for a joint development, land that was purchased using federal funds, land transferred to a community land trust, as specified, and additional categories of land determined by the department, including sites that are not suitable for housing.

This bill would authorize a local agency to administratively declare that land is exempt surplus land, if ~~the local agency meets specified requirements, including, among other things, receiving a prohousing designation, posting the land is located within a city, county, or city and county that has been found to have a substantially compliant housing element and has been designated prohousing by the Department of Housing and Community Development, as specified, and if the local agency posted~~ the declaration and findings on the local agency's internet website, and ~~giving~~ *gave* notice to specified entities at least 30 days before the declarations ~~take~~ *took* effect. The bill would specify that the law governing surplus land does not require a local agency to dispose of land that is determined to be surplus. The bill would specify that the requirements for the disposal of surplus land by a local agency do not apply to properties that a local agency proposes to sell, lease, or otherwise transfer under the above-described economic opportunity provisions.

Existing law generally requires a local agency disposing of surplus land to send a written notice of availability of the property to specified entities prior to disposing of that property or participating in negotiations to dispose of that property with a prospective transferee.

This bill would create an exception from that notice requirement if the prospective transferee is an affordable housing developer proposing to develop an affordable housing project on the site that will meet or exceed a 25% affordability threshold, as described.

Under existing law, a local agency that disposes of surplus land after receiving a notification from the Department of Housing and Community Development that the agency is in violation of the law is liable for 30% of the final sale price of the land. Existing law authorizes certain entities and interested persons to bring an action to enforce these provisions. Existing law grants a local agency 60 days to cure or correct an alleged violation before an action may be brought to enforce this provision, except as specified.

This bill would require a local agency, upon receiving a notice of a violation from the department, to consider the matter at a public meeting within 30 days if the local agency proceeds with the disposal. The bill would specify that following the public hearing, the local agency has 60 days to cure or correct an alleged violation before an action may be brought to enforce this provision.

Existing law further requires the department to review, adopt, amend, or repeal guidelines to establish uniform standards to implement this provision and specifies that those guidelines are not subject to the Administrative Procedure Act.

This bill would additionally require the department to solicit public comments for 30 days and consider and respond in writing to the public comments prior to adopting, amending, or repealing the guidelines. The bill would additionally require the department to provide the local agency an appeals process to overturn an adverse action by the department affecting the local agency overseen by an independent trier of fact.

Existing law provides that certain dispositions of real property by local agencies are subject to surplus land disposal procedures as they existed on December 31, 2019, if those dispositions are pursuant to specified legal agreements and the disposition is completed by December 31, 2022, or by December 31, 2024, if the property is located in a charter city with a population of over 2,000,000 persons and a local agency has an option agreement duly authorized by the governing body to purchase the property from a former redevelopment agency.

This bill would expand the applicability of those disposition procedures to December 31, 2025, as to property located in a city or county that entered into a legally binding agreement to dispose of the property prior to September 30, 2019, and the transferee has exercised one or more unilateral extension options which were a component of the original agreement.

With respect to land held in the Community Redevelopment Property Trust Fund or designated in a long-range property management plan either for sale or retained for future development, existing law provides that certain dispositions of real property by local agencies are subject to surplus land disposal procedures as they existed on December 31, 2019, if those dispositions are pursuant to specified legal agreements entered into not later than December 31, 2020, and the disposition is completed by December 31, 2022, or by December 31, 2024, if the property is located in a charter city with a population of over 2,000,000 persons and a local agency has an option agreement authorized by the local agency's governing body to purchase the property from the former redevelopment agency.

This bill would expand the applicability of those disposition procedures for which an agreement has been entered into by December 31, 2020, if the disposition is completed by December 31, 2025, and the property is located in a city or county that entered into a legally binding agreement to dispose of the property before September 30, 2019, and the transferee has exercised one or more unilateral extension options which were a component of the original agreement.

By imposing new duties on local agencies, the bill would impose a state-mandated local program.

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 52200 of the Government Code is amended to read:

**52200.** It is the intent of the Legislature to do all of the following:

- (a) Promote economic development on a local level so that communities can enact local strategies to increase jobs, create economic opportunity, and generate tax revenue for all levels of government.
- (b) Give local governments tools, at no cost to the state, that allow local governments to use their funds in a manner that promotes economic opportunity.
- (c) With the loss of redevelopment funds, cities, counties, and cities and counties need to continue certain powers afforded to redevelopment agencies that were critical to economic development, yet do not have an impact on schools and the state budget.
- (d) Ensure that residents of the state have access to jobs that allow them to afford housing without the need for public subsidies.

**SEC. 2.** Section 52200.6 of the Government Code is amended to read:

**52200.6.** (a) (1) This part shall not be interpreted to authorize the use of eminent domain for economic development purposes.

(2) For the purposes of this part, a city, county, or city and county shall not sell, lease, or otherwise transfer, at a price that is less than the fair market value, any real property that was acquired through eminent domain. This prohibition shall not apply to either of the following:

(A) Any real property governed by a long-range property management plan pursuant to Section 34191.5 of the Health and Safety Code.

(B) Any housing asset transferred to a city, county, or city and county pursuant to paragraph (1) of subdivision (a) of Section 34176 of the Health and Safety Code or subdivision (c) of Section 34181 of the Health and Safety Code, provided that the successor agency or the designated local authority in the affected jurisdiction has received a finding of completion from the Department of Finance pursuant to Section 34179.7 of the Health and Safety Code.

(b) The creation of an economic opportunity pursuant to this part shall be subject only to the provisions of Section 53083.

(c) The provisions of this part are an alternative to any other authority granted to, or procedures required by law for, cities or counties to acquire, sell, lease, or otherwise transfer property owned by a city or county.

**SEC. 3.** Section 52201 of the Government Code is amended to read:

**52201.** (a) (1) A city, county, or city and county may acquire property in furtherance of the creation of an economic opportunity. A city, county, or city and county may sell, lease, or otherwise transfer property to create an economic opportunity. The acquisition, sale, lease, or transfer shall first be approved by the legislative body by resolution after a public hearing. Notice of the time and place of the hearing shall be published in a newspaper of general circulation in the community at least once per week for at least two successive weeks, as specified in Section 6066, prior to the hearing.

(2) The city, county, or city and county shall make available, for public inspection and copying at a cost not to exceed the cost of duplication, a report no later than the time of publication of the first notice of the hearing mandated by this section. This report shall contain both of the following:

(A) A copy of the proposed acquisition, sale, lease, or transfer.

(B) A summary that describes and specifies all of the following:

(i) The cost of the agreement to the city, county, or city and county, including land acquisition costs, clearance costs, relocation costs, the costs of any improvements to be provided by the city, county, or city and county, plus the expected interest on any loans or bonds to finance the agreements.

(ii) For the sale, lease, or transfer of property, the estimated value of the interest to be conveyed or leased, determined at the highest and best uses permitted under the general plan or zoning.

(iii) For the sale, lease, or transfer of property, the estimated value of the interest to be conveyed or leased, determined at the use and with the conditions, covenants, and development costs required by

the sale, lease, or transfer. The purchase price or present value of the lease payments which the lessor will be required to make during the term of the lease. If the sale price or total rental amount is less than the fair market value of the interest to be conveyed or leased, determined at the highest and best use, then the city, county, or city and county shall provide as part of the summary an explanation of the reasons for the difference.

(iv) An explanation of why the acquisition, sale, lease, or transfer of the property will assist in the creation of economic opportunity, with reference to all supporting facts and materials relied upon in making this explanation.

(b) The resolution approving the acquisition, sale, lease, or transfer shall be adopted by a majority vote unless the legislative body has provided by ordinance for a two-thirds vote for that purpose and shall contain a finding that the acquisition, sale, lease, or transfer of the property will assist in the creation of economic opportunity. For the sale, lease, or transfer of property, the resolution shall also contain one of the following findings:

(1) The consideration is not less than the fair market value at its highest and best use.

(2) The consideration is not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized by the sale, lease, or transfer.

(c) The provisions of this section are an alternative to any other procedures required by law or authority granted by law to a city, county, or city and county, to sell, lease, or otherwise transfer property owned by a city, county, or city and county.

**SEC. 4.** 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) (A) "Surplus land" means land owned in fee simple by any local agency for which the local agency's governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency's use. Land shall be declared 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. A local agency, on an annual basis, may declare multiple parcels as "surplus land" or "exempt surplus land."

(B) Notwithstanding subparagraph (A), a local agency may administratively declare land as "exempt surplus land" pursuant to subdivision ~~(e) if the local agency meets all of the following criteria:~~ *(e), subject to the both of the following requirements:*

*(i) The land is located within a city, county, or city and county that meets both of the following criteria:*

~~(i)The local agency has~~

*(I) Has adopted a housing element for the current planning period that ~~is compliant with law, including, but not limited to, Chapter 3 (commencing with Section 65100) of Division 1 of Title 7. has been found to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 by the Department of Housing and Community Development pursuant to Section 65585.~~*

~~(ii)The local agency is~~

*(II) Is designated prohousing pursuant to Section 65589.9.*

~~(iii)~~

*(ii)* The local agency has posted, on ~~the local agency's~~ *its* internet website, or published the declaration and written findings, described in subparagraph (A), and made the declaration and findings available for public comment, and provided notice to the entities identified in subdivision (a) of Section 54222 at least 30 days before the declaration takes effect.

(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.

(c) (1) Except as provided in paragraph (2), "agency's use" shall include, but not be limited to, land that is being used, is planned to be used pursuant to a written plan adopted by the local agency's governing board for, or is disposed of to support, pursuant to subparagraph (B) of paragraph (2), agency work or operations, including, but not limited to, utility sites, parcels used or planned to be used for transit or transit-oriented development, property owned by a port that is used to support logistics uses, airports, state tidelands, watershed property, land being used for conservation purposes, land for demonstration, exhibition, or educational purposes related to greenhouse gas emissions, sites for broadband equipment or wireless facilities, and buffer sites near sensitive governmental uses, including, but not limited to, waste disposal sites, and waste water 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, including, but not limited to, those described in clause ~~(iii)~~, *(ii)*, "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, subject to all of the following:

~~(i) The site shall be located within the jurisdiction of a local agency that meets both criteria described in clauses (i) and (ii) of subparagraph (B) of paragraph (1) of subdivision (b).~~

~~(ii)~~

*(i)* The agency's governing body shall take action in a public meeting declaring that the use of the site will do either 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 where applicable.

~~(iii)~~

*(ii)* For the purposes of this subparagraph, a district ~~includes, but is not limited to, any of the following:~~ *includes the following only if the land is located within the jurisdiction of a city, county, or city and county that meets the criteria described in clause (i) of subparagraph (B) of paragraph (1) of subdivision (b):*

~~(I) A district, as referenced in paragraph (2) of subdivision (a).~~

~~(II)~~

*(I)* An infrastructure finance district established pursuant to Chapter 2.8 (commencing with Section 53395) of Part 1 of Division 2 of Title 5.

~~(III)~~

*(II)* An enhanced infrastructure financing district established pursuant to Chapter 2.99 (commencing with Section 53398.50) of Part 1 of Division 2 of Title 5.

~~(IV)~~

(III) A community revitalization and investment authority established pursuant to Division 4 (commencing with Section 62000) of Title 6.

~~(V)~~

(IV) An affordable housing authority established pursuant to Division 5 (commencing with Section 62250) of Title 6.

~~(VI)~~

(V) A transit village development district established pursuant to Article 8.5 (commencing with Section 65460) of Chapter 3 of Division 1 of Title 7.

~~(VII)~~

(VI) A climate resilience district established pursuant to Division 6 (commencing with Section 62300) of Title 6.

(d) "Dispose" means either of the following:

(1) The sale of the surplus land.

(2) The entering of a lease for surplus land, which is for a term longer than 15 years, including renewal options included in the terms of the initial lease, entered into on or after January 1, 2024.

(e) (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 not contiguous to land owned by a state or local agency that is used for open space or low- and moderate-income housing purposes and meets any of the following conditions:

(i) Is less than 5,000 square feet in area.

(ii) Is 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.

(iii) Has no record access and is less than 10,000 square feet in area.

(iv) Is sold or leased to an owner of contiguous land.

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

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

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

(F) A housing development, which 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) A mixed-use development, which may include more than one publicly owned parcel, 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) 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.

(i) Valid legal restrictions include, but are not limited to, all of the following:

(I) Existing constraints under ownership rights or contractual obligations that prevent the use of the property for housing.

(II) Conservation or other easements or encumbrances that prevent housing development.

(III) Existing leases, or other contractual obligations or restrictions.

(IV) A requirement for voter approval to transfer the property.

(ii) Feasible methods to mitigate or avoid a valid legal restriction on the site do not include a requirement that the local agency acquire additional property rights or property interests belonging to third parties.

(iii) 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.

(iv) Prior to disposition of the surplus land, the local agency shall include in its written findings adopted pursuant to subdivision (b) the relevant legal restrictions as described in this subparagraph.

(I) 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.

(J) 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.

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

(iv) Prior to the 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.

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

(M) 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, as defined in Section 50093 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. For purposes of this subparagraph, 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 persons and families of lower income as defined in Section 50079.5 of the Health and Safety Code.

(N) Land that is jointly developed or used for a joint development as authorized in Section 99420 of the Public Utilities Code.

(O) Land that was purchased using federal funds and for which a federal agency has authorized the use of the land for specific purposes.

(P) Land that is transferred to a community land trust, and all of the following conditions are met:

(i) The property is being or will be developed or rehabilitated as any of the following:

(I) An owner-occupied single-family dwelling.

(II) An owner-occupied unit in a multifamily dwelling.

(III) A member-occupied unit in a limited equity housing cooperative.

(IV) A rental housing development.

(ii) Improvements on the property are or will be available for use and ownership or for rent by qualified persons, as defined in paragraph (6) of subdivision (c) of Section 214.18 of the Revenue and Taxation Code.

(iii) (I) A deed restriction or other instrument, requiring a contract or contracts serving as an enforceable restriction on the sale or resale value of owner-occupied units or on the affordability of rental units is recorded on or before the lien date following the acquisition of the property by the community land trust.

(II) For purposes of this clause, the following definitions apply:

(ia) "A contract or contracts serving as an enforceable restriction on the sale or resale value of owner-occupied units" means a contract described in paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(ib) "A contract or contracts serving as an enforceable restriction on the affordability of rental units" means an enforceable and verifiable agreement with a public agency, a recorded deed restriction, or other legal document described in subparagraph (A) of paragraph (2) of subdivision (g) of Section 214 of the Revenue and Taxation Code.

(iv) A copy of the deed restriction or other instrument shall be provided to the assessor.

(Q) Additional categories of exempt surplus land as determined by the department, including, but not limited to, sites that are not suitable for housing.

(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 prior to disposing of the surplus land, provided the land does not meet the criteria in subparagraph (I) 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.

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

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

**SEC. 5.** 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 shall send, prior to disposing of that property or participating in negotiations to dispose of that property with a prospective transferee other than an affordable housing developer proposing to develop an affordable housing project on the site that meets or exceeds the 25-percent affordability threshold described in Section 54222.5, a written notice of availability of the property to all of the following:

(a) (1) A written notice of availability for the purpose of developing low- and moderate-income housing shall be sent to any local public entity, as defined in Section 50079 of the Health and Safety Code, within whose jurisdiction 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 of surplus land 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 all notices of availability throughout the state.

(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 land may be situated.

(2) To any park or recreation department of the county within which the land is situated.

(3) To any regional park authority having jurisdiction within the area in which the land is situated.

(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 in whose jurisdiction the land is located.

(d) A written notice of availability for the purpose of 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, ~~county~~, 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 or association 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 of the land 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. 6.** Section 54226 of the Government Code is amended to read:

**54226.** (a) This article shall not be interpreted to limit the power of any local agency to sell or lease surplus land at fair market value or at less than fair market value, and any sale or lease at or less than fair market value consistent with this article shall not be construed as inconsistent with an agency's purpose.

(b) This article shall not prevent a local agency from obtaining fair market value for the disposition of surplus land consistent with this section.

(c) This article shall not be interpreted to limit a local agency's authority or discretion to approve land use, zoning, or entitlement decisions in connection with the surplus land.

(d) This article shall not be interpreted to require a local agency to dispose of land that is determined to be surplus.

(e) This article shall not apply to properties that a local agency proposes to sell, lease, or otherwise transfer pursuant to Part 4 (commencing with Section 52200) of Division 1 of Title 5.

(f) This article shall not apply when it conflicts with any other provision or authority of statutory law.

**SEC. 7.** Section 54230 of the Government Code is amended to read:

**54230.** (a) (1) On or before December 31 of each year, each county and each city shall make a central inventory of all surplus land, as defined in subdivision (b) of Section 54221, and all lands in excess of its foreseeable needs, if any, identified pursuant to Section 50569, located in all urbanized areas and urban clusters, as designated by the United States Census Bureau, within the jurisdiction of the county or city that the county or city or any of its departments, agencies, or authorities owns or controls.

(2) (A) Subject to subparagraph (C), each county and each city shall make a description of each parcel described in paragraph (1) and the present use of the parcel a matter of public record and shall report this information to the Department of Housing and Community Development no later than April 1 of each year, beginning April 1, 2021, in a form prescribed by the department, as part of its annual progress report submitted pursuant to paragraph (2) of subdivision (a) of Section 65400.

(B) The information reported pursuant to this paragraph shall include, but not be limited to, the following information with respect to each site:

- (i) Street address, or similar location information.
- (ii) Assessor's parcel number.
- (iii) Existing use.
- (iv) Whether the site is surplus land or exempt surplus land.
- (v) Size in acres.

(C) The Department of Housing and Community Development may, in its discretion, delay implementation of this paragraph until April 1, 2022.

(3) Each county and each city, upon request, shall provide a list of its surplus land and excess surplus land to an individual, limited dividend corporation, housing corporation, or nonprofit corporation without charge.

(b) The Department of Housing and Community Development shall provide the information reported to it by a city or county pursuant to paragraph (2) of subdivision (a) to the Department of General Services for inclusion in a digitized inventory of all state-owned parcels that are in excess of state needs.

(c) The Department of Housing and Community Development may review, adopt, amend, and repeal standards, forms, and definitions in order to implement this section. Any standards, forms, or definitions adopted, amended, or repealed pursuant to this subdivision are hereby exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2).

**SEC. 8.** Section 54230.5 of the Government Code is amended to read:

**54230.5.** (a) (1) A local agency that disposes of 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 final sale price of the land sold in violation of this article for a first violation and 50 percent 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. Upon receiving a notice of violation from the department, a local agency that

proceeds with the disposal shall consider the matter at a public meeting within 30 days. Following the public meeting, 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 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) Prior to 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 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. Prior to adopting, amending, or repealing guidelines, the department shall do both of the following:

(i) Solicit public comments on the proposed guidelines for at least 30 days.

(ii) Consider and respond to public comments in writing.

(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.

(F) Provide the local agency an appeals process that is overseen by an independent trier of fact to overturn an adverse action taken by the department authorized by this section affecting the local agency.

(3) (A) The local agency shall consider findings made by the Department of Housing and Community Development pursuant to subparagraph (B) 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. 9.** Section 54234 of the Government Code is amended to read:

**54234.** (a) (1) If a local agency, as of September 30, 2019, has entered into an exclusive negotiating agreement or legally binding agreement to dispose of property, the provisions of this article as it existed on December 31, 2019, shall apply, without regard to the changes made to this article by Chapter 664 of the Statutes of 2019, and all subsequent amendments to this article, to the disposition of the property to the party that had entered into such agreement or its successors or assigns, provided the disposition is completed by either of the following dates, as applicable:

(A) December 31, 2022, unless either of the conditions described in subparagraph (B) apply.

(B) (i) December 31, 2024, if the property is located in a charter city with a population of over 2,000,000 persons and a local agency has an option agreement duly authorized by the local agency's governing body to purchase the property from the former redevelopment agency.

(ii) December 31, 2025, if the property is located in a city or county which entered into a legally binding agreement to dispose of the property prior to September 30, 2019, and the transferee has exercised one or more unilateral extension options which were a component of the original agreement.

(2) If a local agency, as of September 30, 2019, has entered into an exclusive negotiating agreement or legally binding agreement to dispose of property related to the Metro North Hollywood Joint Development Project, the provisions of this article as it existed on December 31, 2019, shall apply, without regard to the changes made to this article by Chapter 664 of the Statutes of 2019, and all subsequent amendments to this article, to the disposition of the property to the party that had entered into such agreement or its successors or assigns, provided the disposition is completed not later than December 31, 2024.

(3) If a local agency, as of September 30, 2019, has issued a competitive request for proposals for the development of property that includes at least 100 residential units and at least 25 percent of the total residential units are restricted to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable housing cost 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, the provisions of this article as it existed on December 31, 2019, shall apply, without regard to the changes made to this article by Chapter 664 of the Statutes of 2019, and all subsequent amendments to this article, to the disposition of the property to the party that participated in the competitive request for proposals process, or the party's successors or assigns, provided a disposition and development agreement for the property is entered into not later than December 31, 2024. A joint development involving multiple parcels shall meet the requirements of this paragraph so long as there was a single competitive request for proposals process and the joint development otherwise meets all the requirements listed in this paragraph. A "disposition and development agreement" means an agreement between the developer and the local agency that binds the developer to construct a specific development and the local agency to dispose of the property if permits and other entitlements for the project are obtained. This paragraph shall not apply to land held in the Community Redevelopment Property Trust Fund pursuant to Section 34191.4 of the Health and Safety Code, or that has been designated in a long-range property management plan pursuant to Section 34191.5 of the Health and Safety Code. If the property is not disposed of pursuant to a qualifying disposition and development agreement before March 31, 2026, or if no disposition and development agreement is entered into before December 31,

2024, then future negotiations for and disposition of the property shall be subject to the provisions of this article.

(4) The dates specified in paragraphs (1) to (3), inclusive, by which the disposition of property must be completed shall be extended if the disposition of property, the local agency's right or ability to dispose of the property, or a development project for which the property is proposed to be transferred, is the subject of judicial challenge, by petition for writ of mandate, complaint for declaratory relief or otherwise, to the date that is six months following the final conclusion of such litigation.

(b) (1) With respect to land held in the Community Redevelopment Property Trust Fund pursuant to Section 34191.4 of the Health and Safety Code, or that has been designated in a long-range property management plan pursuant to Section 34191.5 of the Health and Safety Code, either for sale or retained for future development, this article as it existed on December 31, 2019, without regard to the changes made to this article by Chapter 664 of the Statutes of 2019, and all subsequent amendments to this article, which take effect on January 1, 2020, shall apply to the disposition of that property if both of the following apply:

(A) An exclusive negotiating agreement or legally binding agreement for disposition is entered into not later than December 31, 2020.

(B) The disposition is completed not later than either of the following dates, as applicable:

(i) December 31, 2022, unless the conditions described in clause (ii) or (iii) apply.

(ii) December 31, 2024, if the property is located in a charter city with a population of over 2,000,000 persons and a local agency has an option agreement duly authorized by the local agency's governing body to purchase the property from the former redevelopment agency.

(iii) December 31, 2025, if the property is located in a city or county which entered into a legally binding agreement to dispose of the property prior to September 30, 2019, and the transferee has exercised one or more unilateral extension options which were a component of the original agreement.

(2) If land described in paragraph (1) is the subject of litigation, including, but not limited to, litigation challenging the disposition of such property, the right or ability to dispose of the property, or a development project for which such property is proposed to be transferred, the dates specified in paragraph (1) shall be extended to the date that is six months following the final conclusion of such litigation.

(c) Nothing in this section shall authorize or excuse any violation of the provisions of this article as it existed on December 31, 2019, in the disposition of any property to which such provisions apply pursuant to subdivision (a) or (b).

**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.