

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2135**

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**Introduced by Assembly Member Ting**

February 20, 2014

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An act to amend ~~Section 65913~~ Sections 54221, 54223, 54225, 54226, and 54227 of the Government Code, relating to ~~housing~~ surplus property.

LEGISLATIVE COUNSEL'S DIGEST

AB 2135, as amended, Ting. ~~Affordable~~ Local agencies: surplus land: affordable housing.

(1) Existing law prescribes requirements for the disposal of surplus land by local agencies. Existing law defines surplus land for these purposes and excepts from that definition land within 1,000 yards of property that has been listed on, or determined to be eligible for, the National Register of Historic Places. Existing law requires an agency disposing of surplus land to negotiate in good faith with an entity providing notice that it desires to purchase or lease the land and, if price or terms cannot be agreed upon within a period of not less than 60 days, the agency may dispose of the land without fulfilling further requirements, as specified. Existing law authorizes a local agency selling surplus property for specified purposes, including for low-and moderate-income housing, to provide for a payment period of up to 20 years in a sales contract or trust deed. Existing law requires a local agency disposing of surplus land to give first priority in a purchase or lease to an entity agreeing to use the site for housing for persons of low or moderate income, except as specified. Existing law specifies that these and other related provisions are not to be interpreted to empower

*a local agency to sell or lease surplus land at less than fair market value.*

*This bill would bring land within 1,000 yards of property that is listed on, or eligible, for the National Register of Historic Places within the definition of surplus land by deleting the exception described above. The bill would increase the minimum time that an agency disposing of surplus land is required to conduct negotiations from 60 to 90 days. The bill would require, if the disposed land is to be used for residential development, that the sales contract or lease agreement provide that not less than 25% of the units in the development have rents or sale prices that are affordable for persons and families of low or moderate income. The bill would permit the payment period for surplus land sold for low-and moderate-income housing purposes to exceed 20 years, subject to limits related to land use requirements for low-or moderate-income housing. The bill would revise the priority given to an entity proposing to use the site for low- and moderate-income housing to require that the entity agree that 100% of the site be used for low-and moderate-income housing. The bill would delete the statement that these provisions are not to be interpreted to empower a local agency to sell or lease surplus land at less than fair market value. By increasing the duties of local officials in connection with sales and leases of surplus land, this bill would impose a state-mandated local program.*

*(2) 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 these statutory provisions.*

~~Existing law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city and requires that the plan include a land use element that addresses housing. Existing law states legislative findings and declarations regarding the need for affordable housing in connection with local authority to approve housing developments.~~

~~This bill would make nonsubstantive changes in the legislative findings and declarations regarding affordable housing, as described above.~~

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

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

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

3     54221. (a) As used in this article, the term “local agency”  
4     means every city, whether organized under general law or by  
5     charter, county, city and county, and district, including  
6     *transportation districts* and school districts of any kind or class,  
7     empowered to acquire and hold real property.

8     (b) As used in this article, the term “surplus land” means land  
9     owned by any local agency, that is determined to be no longer  
10    necessary for the agency’s use, except property being held by the  
11    agency for the purpose of exchange.

12    (c) As used in this article, the term “open-space purposes” means  
13    the use of land for public recreation, enjoyment of scenic beauty,  
14    or conservation or use of natural resources.

15    (d) As used in this article, the term “persons and families of low  
16    or moderate income” means the same as provided under Section  
17    50093 of the Health and Safety Code.

18    (e) As used in this article, the term “exempt surplus land” means  
19    either of the following:

20    (1) Surplus land that is transferred pursuant to Section 25539.4.

21    (2) Surplus land that is (A) less than 5,000 square feet in area,  
22    (B) less than the minimum legal residential building lot size for  
23    the jurisdiction in which the parcel is located, or 5,000 square feet  
24    in area, whichever is less, or (C) has no record access and is less  
25    than 10,000 square feet in area; and is not contiguous to land owned  
26    by a state or local agency that is used for park, recreational,  
27    open-space, or low- and moderate-income housing purposes and  
28    is located neither within an enterprise zone pursuant to Section  
29    7073 nor a designated program area as defined in Section 7082.  
30    If the surplus land is not sold to an owner of contiguous land, it is  
31    not considered exempt surplus land and is subject to this article.

32    (f) Notwithstanding subdivision (e), the following properties  
33    are not considered exempt surplus land and are subject to this  
34    article:

35    (1) Lands within the coastal zone.

1 (2) Lands within 1,000 yards of a historical unit of the State  
2 Parks System.

3 ~~(3) Lands within 1,000 yards of any property that has been listed  
4 on, or determined by the State Office of Historic Preservation to  
5 be eligible for, the National Register of Historic Places.~~

6 ~~(4)~~

7 (3) Lands within the Lake Tahoe region as defined in Section  
8 66905.5.

9 *SEC. 2. Section 54223 of the Government Code is amended to*  
10 *read:*

11 54223. After the disposing agency has received notice from  
12 the entity desiring to purchase or lease the land, the disposing  
13 agency and the entity shall enter into good faith negotiations to  
14 determine a mutually satisfactory sales price or lease terms. If the  
15 price or terms cannot be agreed upon after a good faith negotiation  
16 period of not less than ~~60~~ 90 days, the land may be disposed of  
17 without further regard to this article. *If the disposed land is to be*  
18 *used for residential development, the sales contract or lease*  
19 *agreement shall provide that not less than 25 percent of the total*  
20 *number of units in the development have rents or sale prices that*  
21 *are affordable for persons and families of low or moderate income.*

22 *SEC. 3. Section 54225 of the Government Code is amended to*  
23 *read:*

24 54225. Any public agency selling surplus land to an entity  
25 described in Section 54222 for park or recreation purposes, for  
26 open-space purposes, for school purposes, or for low- and  
27 moderate- income housing purposes may provide for a payment  
28 period of up to 20 years in any contract of sale or sale by trust deed  
29 ~~of such~~ for the land. *The payment period for surplus land sold for*  
30 *housing for person and families of low and moderate income may*  
31 *exceed 20 years, but the payment period shall not exceed the term*  
32 *that the land is required to be used for low-or moderate-income*  
33 *housing.*

34 *SEC. 4. Section 54226 of the Government Code is amended to*  
35 *read:*

36 54226. Nothing in this article shall be interpreted to limit the  
37 power of any local agency to sell or lease surplus land at fair market  
38 value or at less than fair market value, ~~and nothing in this article~~  
39 ~~shall be interpreted to empower any local agency to sell or lease~~  
40 ~~surplus land at less than fair market value.~~ No provision of this

1 article shall be applied when it conflicts with any other provision  
2 of statutory law.

3 *SEC. 5. Section 54227 of the Government Code is amended to*  
4 *read:*

5 54227. In the event that any local agency disposing of surplus  
6 land receives offers for the purchase or lease of that land from  
7 more than one of the entities to which notice and an opportunity  
8 to purchase or lease shall be given pursuant to this article, the local  
9 agency shall give first priority to the entity that agrees to use the  
10 site for housing *for which 100 percent of the units are to have rents*  
11 *or sale prices that are affordable* for persons and families of low  
12 or moderate income, except that first priority shall be given to an  
13 entity that agrees to use the site for park or recreational purposes  
14 if the land being offered is already being used and will continue  
15 to be used for park or recreational purposes, or if the land is  
16 designated for park and recreational use in the local general plan  
17 and will be developed for that purpose.

18 *SEC. 6. If the Commission on State Mandates determines that*  
19 *this act contains costs mandated by the state, reimbursement to*  
20 *local agencies and school districts for those costs shall be made*  
21 *pursuant to Part 7 (commencing with Section 17500) of Division*  
22 *4 of Title 2 of the Government Code.*

23 ~~SECTION 1. Section 65913 of the Government Code is~~  
24 ~~amended to read:~~

25 ~~65913. (a) The Legislature finds and declares that a severe~~  
26 ~~shortage of affordable housing exists, especially for persons and~~  
27 ~~families of low and moderate income, and that an immediate need~~  
28 ~~exists to encourage the development of new housing, not only~~  
29 ~~through the provision of financial assistance, but also through~~  
30 ~~changes in law designed to do all of the following:~~

31 ~~(1) Expedite the local and state residential development process.~~

32 ~~(2) Assure that local governments zone sufficient land at~~  
33 ~~densities high enough for production of affordable housing.~~

34 ~~(3) Assure that local governments make a diligent effort through~~  
35 ~~the administration of land use and development controls and the~~  
36 ~~provision of regulatory concessions and incentives to significantly~~  
37 ~~reduce housing development costs and thereby facilitate the~~  
38 ~~development of affordable housing, including housing for elderly~~  
39 ~~persons and families, as defined by Section 50067 of the Health~~  
40 ~~and Safety Code.~~

1     ~~These changes in the law are consistent with the responsibility~~  
2 ~~of local government to adopt the program required by subdivision~~  
3 ~~(e) of Section 65583.~~  
4     ~~(b) The Legislature further finds and declares that the costs of~~  
5 ~~new housing developments have been increased, in part, by the~~  
6 ~~existing permit process and by existing land use regulations and~~  
7 ~~that vitally needed housing developments have been halted or~~  
8 ~~rendered infeasible despite the benefits to the public health, safety,~~  
9 ~~and welfare of those developments and despite the absence of~~  
10 ~~adverse environmental impacts. It is, therefore, necessary to enact~~  
11 ~~this chapter and to amend existing statutes which govern housing~~  
12 ~~development so as to provide greater encouragement for local and~~  
13 ~~state governments to approve needed and sound housing~~  
14 ~~developments.~~  
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