

AMENDED IN SENATE JUNE 9, 2014
AMENDED IN ASSEMBLY MAY 5, 2014
AMENDED IN ASSEMBLY APRIL 21, 2014
AMENDED IN ASSEMBLY MARCH 28, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2135

Introduced by Assembly Member Ting

February 20, 2014

An act to amend Sections 54223, 54225, 54226, and 54227 of, *and to add Sections 54222.5 and 54233 to*, the Government Code, relating to ~~surplus property~~: *local government*.

LEGISLATIVE COUNSEL'S DIGEST

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

(1) Existing law prescribes requirements for the disposal of surplus land by ~~a local agencies, which are defined to include districts~~: *agency, as defined*. Existing law requires ~~an a local agency~~ disposing of surplus land to negotiate in good faith with ~~an entity providing notice that it desires certain entities that provided notice of a desire~~ to purchase or lease the land and, if the price or terms cannot be agreed upon within a period of not less than ~~60 days~~, *days with those entities*, the *local* agency may dispose of the *surplus* land without fulfilling further requirements, as specified. Existing law authorizes a local agency selling surplus ~~property land~~ for specified purposes *to specified entities*, including ~~for~~, *but not limited to*, 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.

~~The~~

This bill would require an entity proposing to use the surplus land for developing low- and moderate-income housing to agree to make available not less than 25% of the total number of units developed on the parcels at affordable housing cost or affordable rent for a period of at least 55 years to lower-income households, as those terms are defined in existing law. This bill would require a local agency to give first priority in disposing of the surplus land to an entity that agrees to these requirements. This bill would also require these requirements, as specified, to be contained in a covenant or restriction recorded against the surplus land at the time of sale, to run with the land, and be enforceable, against any owner who violates the covenant or restriction and each successor-in-interest who continues the violation, by a residents' association, as specified, and certain individuals, that include, but are not limited to, a resident of a unit subject to these requirements. This bill would increase the minimum time that an agency disposing of surplus land is required to conduct negotiations with certain entities desiring to purchase or lease the surplus land 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~~ This bill would require, if the local agency does not agree to price and terms with those certain entities and the surplus land is used for the development of 10 or more residential units, the entity or a successor-in-interest that received the surplus land to provide not less than 15% of the total number of units developed on the parcels at affordable housing cost or affordable rent, at terms similar to an entity that received first priority for providing not less than 25% of the total number of units at affordable housing cost or affordable rent, as specified.

This 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 give priority to the entity agreeing to use the site for housing for which 100% of the units have rents or sales prices that are affordable for low- and moderate-income persons. The~~

This 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.

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

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

1 SECTION 1. Section 54222.5 is added to the Government Code,
2 to read:
3 54222.5. An entity proposing to use the surplus land for
4 developing low- and moderate-income housing shall agree to make
5 available not less than 25 percent of the total number of units
6 developed on the parcels at affordable housing cost, as defined in
7 Section 50052.5 of the Health and Safety Code, or affordable rent,
8 as defined in Section 50053 of the Health and Safety Code, to lower
9 income households, as defined in Section 50079.5 of the Health
10 and Safety Code. Rental units shall remain affordable to, and
11 occupied by, lower income households for a period of at least 55
12 years. The initial occupants of all ownership units shall be lower
13 income households, and the units shall be subject to an equity
14 sharing agreement consistent with paragraph (2) of subdivision
15 (c) of Section 65915. These requirements shall be contained in a
16 covenant or restriction recorded against the surplus land at the
17 time of sale, which shall run with the land and shall be enforceable,
18 against any owner who violates a covenant or restriction and each

1 successor in interest who continues the violation, by any of the
 2 following:

- 3 (a) The local agency that disposed of the property.
- 4 (b) A resident of a unit subject to this section.
- 5 (c) A residents association with members who reside in units
 6 subject to this section.
- 7 (d) A former resident of a unit subject to this section who last
 8 resided in that unit.
- 9 (e) An applicant seeking to enforce the covenants or restrictions
 10 for a particular unit that is subject to this section, if the applicant
 11 conforms to all of the following:
 - 12 (1) Is of low or moderate income, as defined in Section 50093
 13 of the Health and Safety Code.
 - 14 (2) Is able and willing to occupy that particular unit.
 - 15 (3) Was denied occupancy of that particular unit due to an
 16 alleged breach of a covenant or restriction implementing this
 17 section.
 - 18 (f) A person on an affordable housing waiting list who is of low
 19 or moderate income, as defined in Section 50093 of the Health
 20 and Safety Code, and who is able and willing to occupy a unit
 21 subject to this section.

22 **SECTION 1.**

23 *SEC. 2.* Section 54223 of the Government Code is amended
 24 to read:

25 54223. After the disposing agency has received notice from
 26 the entity desiring to purchase or lease the land, the disposing
 27 agency and the entity shall enter into good faith negotiations to
 28 determine a mutually satisfactory sales price or lease terms. If the
 29 price or terms cannot be agreed upon after a good faith negotiation
 30 period of not less than 90 days, the land may be disposed of without
 31 further regard to this article. ~~If the disposed land is to be used for
 32 residential development, including residential development with
 33 rents or sale prices that are affordable for persons or families of
 34 low or moderate income, the sales contract or lease agreement
 35 shall provide that not less than 25 percent of the total number of
 36 units in the development have rents or sale prices that are affordable
 37 for persons and families of low or moderate income. article, except
 38 that Section 54233 shall apply.~~

1 ~~SEC. 2.~~

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

4 54225. Any public agency selling surplus land to an entity
5 described in Section 54222 for park or recreation purposes, for
6 open-space purposes, for school purposes, or for low- and
7 moderate- income housing purposes may provide for a payment
8 period of up to 20 years in any contract of sale or sale by trust deed
9 for the land. The payment period for surplus land sold for housing
10 for persons and families of low and moderate income may exceed
11 20 years, but the payment period shall not exceed the term that the
12 land is required to be used for low- or moderate-income housing.

13 ~~SEC. 3.~~

14 *SEC. 4.* Section 54226 of the Government Code is amended
15 to read:

16 54226. ~~Nothing in this~~ *This* article shall *not* be interpreted to
17 limit the power of any local agency to sell or lease surplus land at
18 fair market value or at less than fair market value. No provision
19 of this article shall be applied when it conflicts with any other
20 provision of statutory law.

21 ~~SEC. 4.~~

22 *SEC. 5.* Section 54227 of the Government Code is amended
23 to read:

24 54227. (a) In the event that any local agency disposing of
25 surplus land receives offers for the purchase or lease of that land
26 from more than one of the entities to which notice and an
27 opportunity to purchase or lease shall be given pursuant to this
28 article, the local agency shall give first priority to the entity that
29 agrees to use the site for housing ~~for which 100 percent of the units~~
30 ~~are to have rents or sale prices that are affordable for persons and~~
31 ~~families of low or moderate income, except that first that meets~~
32 *the requirements of Section 54222.5. If the local agency receives*
33 *offers from more than one entity that agrees to meet the*
34 *requirements of Section 54222.5, then the local agency shall give*
35 *priority to the entity that proposes to provide the greatest number*
36 *of units that meet the requirements of Section 54222.5 at the*
37 *deepest level of affordability.*

38 (b) *Notwithstanding subdivision (a), first priority shall be given*
39 *to an entity that agrees to use the site for park or recreational*
40 *purposes if the land being offered is already being used and will*

1 continue to be used for park or recreational purposes, or if the land
2 is designated for park and recreational use in the local general plan
3 and will be developed for that purpose.

4 *SEC. 6. Section 54233 is added to the Government Code, to*
5 *read:*

6 *54233. If the local agency does not agree to price and terms*
7 *with an entity to which notice and an opportunity to purchase or*
8 *lease are given pursuant to this article and disposes of the surplus*
9 *land to an entity that uses the property for the development of 10*
10 *or more residential units, the entity or a successor-in-interest shall*
11 *provide not less than 15 percent of the total number of units*
12 *developed on the parcels at affordable housing cost, as defined in*
13 *Section 50052.5 of the Health and Safety Code, or affordable rent,*
14 *as defined in Section 50053 of the Health and Safety Code, to lower*
15 *income households, as defined in Section 50079.5 of the Health*
16 *and Safety Code. Rental units shall remain affordable to, and*
17 *occupied by, lower income households for a period of at least 55*
18 *years. The initial occupants of all ownership units shall be lower*
19 *income households, and the units shall be subject to an equity*
20 *sharing agreement consistent with the provisions of paragraph*
21 *(2) of subdivision (c) of Section 65915. These requirements shall*
22 *be contained in a covenant or restriction recorded against the*
23 *surplus land prior to land use entitlement of the project, and the*
24 *covenant or restriction shall run with the land and shall be*
25 *enforceable, against any owner who violates a covenant or*
26 *restriction and each successor in interest who continues the*
27 *violation, by any of the entities described in subdivisions (a) to (f),*
28 *inclusive, of Section 54222.5.*

29 ~~SEC. 5.~~

30 *SEC. 7. If the Commission on State Mandates determines that*
31 *this act contains costs mandated by the state, reimbursement to*
32 *local agencies and school districts for those costs shall be made*
33 *pursuant to Part 7 (commencing with Section 17500) of Division*
34 *4 of Title 2 of the Government Code.*