

Introduced by Senator LiuFebruary 20, 2013

An act to amend Sections 54236, 54237, and 54237.5 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 416, as introduced, Liu. Local government: surplus residential property.

Existing law declares the intent of the Legislature to preserve, upgrade, and expand the supply of housing to persons and families of low or moderate income, through the sale of surplus residential property owned by public agencies. Existing law establishes priorities and procedures that any local public agency disposing of surplus residential property is required to follow, and defines relevant terms for these purposes, including "fair market value."

This bill would revise the definition of "fair market value" for purposes of the sale of surplus residential property, to reflect the existing "as is" condition of the property, taking into account any needed repairs.

Existing law requires single-family residences to be first offered to their present occupants, at an affordable price, as defined. Under existing law, the selling agency has the option of making repairs to the property required by lenders or government assistance programs, or providing the occupants with a replacement dwelling, pursuant to a specified provision of law.

This bill instead would give the selling agency general authority to offer a replacement dwelling, and would delete the option of making repairs to the premises.

This bill would revise the procedures applicable to the sale of surplus residential properties not otherwise sold pursuant to existing procedures,

to be offered to current and former tenants in good standing, respectively, and to purchasers who will be owner occupants. The bill additionally would require the selling agency to offer tenants in good standing of nonresidential properties to be offered the right of first refusal to purchase the property they occupy.

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

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

1 SECTION 1. Section 54236 of the Government Code is
 2 amended to read:
 3 54236. (a) As used in this article, the term “offer” means to
 4 solicit proposals prior to sale in a manner calculated to achieve a
 5 sale under the conditions specified, and to hold the offer open for
 6 a reasonable period of time, which shall be no more than one year,
 7 unless the time is extended by the selling agency at its discretion,
 8 for a period to be specified by the selling agency.
 9 (b) As used in this article, the term “affordable price” means,
 10 in the case of a purchaser, other than a lower income household,
 11 the price for residential property for which the purchaser’s monthly
 12 payments will not exceed that portion of the purchasing
 13 household’s adjusted income as determined in accordance with
 14 the regulations of the United States Department of Housing and
 15 Urban Development, issued pursuant to Section 235 of the National
 16 Housing Act; and, in the case of a purchaser that is a lower income
 17 household, the price for residential property for which the
 18 purchaser’s monthly payments will not exceed that portion of the
 19 purchasing household’s adjusted income as determined in
 20 accordance with the regulations of the United States Department
 21 of Housing and Urban Development issued pursuant to Section 8
 22 of the United States Housing Act of 1937.
 23 (c) As used in this article, the term “single-family residence”
 24 means a real property improvement used, or intended to be used,
 25 as a dwelling unit for one family.
 26 (d) As used in this article, the term “surplus residential property”
 27 means land and structures owned by any agency of the state that
 28 is determined to be no longer necessary for the agency’s use, and
 29 that is developed as single-family or multifamily housing, except
 30 property being held by the agency for the purpose of exchange.

1 Surplus residential properties shall only include land and
2 structures that, at the time of purchase by the state, the state had
3 intended to remove the residences thereon and to use the land for
4 state purposes.

5 (e) As used in this article, the term “displacement” includes,
6 but is not limited to, persons who will have to move from surplus
7 residential property that they occupy when it is sold by a state
8 agency because they are unable to afford to pay the price that the
9 state agency is asking for the residential property.

10 (f) As used in this article, the term “fair market value” shall
11 mean fair market value as of the date the offer of sale is made by
12 the selling agency pursuant to the provisions of this article, *and*
13 *shall reflect the existing “as is” condition of the property, taking*
14 *into account any repairs required to make the property safe and*
15 *habitable*. This definition shall not apply to terms of sale that are
16 described as mitigation measures in an environmental study
17 prepared pursuant to the Public Resources Code if the study was
18 initiated before this measure was enacted.

19 (g) As used in this article, the term “affordable rent” means, in
20 the case of an occupant person or family, other than a person or
21 family of low or moderate income, rent for residential property
22 that is not more than 25 percent of the occupant household’s gross
23 monthly income, and in the case of an occupant person or family
24 of low or moderate income, rent for residential property that is not
25 more than the percentage of the adjusted income of the occupant
26 person or family as permitted under regulations of the United States
27 Department of Housing and Urban Development issued pursuant
28 to Section 8 of the United States Housing Act of 1937, but not in
29 excess of the market rental value for comparable property.

30 (h) As used in this article, the term “area median income” means
31 median household income, adjusted for family size as determined
32 in accordance with the regulations of the United States Department
33 of Housing and Urban Development issued pursuant to Section
34 235 of the National Housing Act, as amended (P.L. 90-448), for
35 the Standard Metropolitan Statistical Area (S.M.S.A.), in which
36 surplus residential property to be disposed of pursuant to this article
37 is located, or the county in which the property is located, if it is
38 outside an S.M.S.A.

1 (i) As used in this article, the term “persons and families of low
2 or moderate income” means persons and families who meet both
3 of the following conditions:

4 (1) Meet the definition of persons and families of low or
5 moderate income set forth in Section 50093 of the Health and
6 Safety Code.

7 (2) Have not had an ownership interest in real property in the
8 last three years.

9 (j) As used in this article, the term “lower income households”
10 means lower income households as defined in Section 50079.5 of
11 the Health and Safety Code.

12 SEC. 2. Section 54237 of the Government Code is amended
13 to read:

14 54237. (a) Notwithstanding Section 11011.1, any agency of
15 the state disposing of surplus residential property shall do so in
16 accordance with the following priorities and procedures:

17 (1) First, all single family residences presently occupied by their
18 former owners shall be offered to those former owners at the
19 appraised fair market value.

20 (2) Second, all single-family residences shall be offered,
21 pursuant to this article, to their present occupants who have
22 occupied the property two years or more and who are persons and
23 families of low or moderate income.

24 (3) Third, all single-family residences shall be offered, pursuant
25 to this article, to their present occupants who have occupied the
26 property five years or more and whose household income does not
27 exceed 150 percent of the area median income.

28 (4) Fourth, a single-family residence shall not be offered,
29 pursuant to this article, to present occupants who are not the former
30 owners of the property if the present occupants have had an
31 ownership interest in real property in the last three years.

32 (b) Single-family residences offered to their present occupants
33 pursuant to paragraphs (2) and (3) of subdivision (a) shall be
34 offered to those present occupants at an affordable price, which
35 price shall not be less than the price paid by the agency for original
36 acquisition, unless the acquisition price was greater than the current
37 fair market value, and shall not be greater than fair market value.
38 When single-family residences are offered to present occupants
39 at a price that is less than fair market value, the selling agency
40 shall impose terms, conditions, and restrictions to assure that the

1 housing will remain available to persons and families of low or
2 moderate income and households with incomes no greater than
3 the incomes of the present occupants in proportion to the area
4 median income. The Department of Housing and Community
5 Development shall provide to the selling agency recommendations
6 of standards and criteria for these prices, terms, conditions and
7 restrictions. ~~The selling agency shall provide repairs required by~~
8 ~~lenders and government housing assistance programs, or, at the~~
9 ~~option of the agency, provide the present occupants with a~~
10 ~~replacement dwelling pursuant to Section 54237.5.~~

11 (c) If single-family residences are offered to their present
12 occupants pursuant to paragraphs (2) and (3) of subdivision (a),
13 the occupants shall certify their income and assets to the selling
14 agency. When single-family residences are offered to present
15 occupants at a price that is less than fair market value, the selling
16 agency may verify the certifications, in accordance with procedures
17 utilized for verification of incomes of purchasers and occupants
18 of housing financed by the California Housing Finance Agency
19 and with regulations adopted for the verification of assets by the
20 United States Department of Housing and Urban Development.
21 The income and asset limitations and term of residency
22 requirements of paragraphs (2) and (3) of subdivision (a) shall not
23 apply to sales that are described as mitigation measures in an
24 environmental study prepared pursuant to the Public Resources
25 Code, if the study was initiated before this measure was enacted.

26 (d) All other surplus residential properties and all properties
27 described in paragraphs (1), (2), and (3) of subdivision (a) that are
28 not purchased by the former owners or the present occupants shall
29 be then offered to housing-related private and public entities at a
30 reasonable price, which is best suited to economically feasible use
31 of the property as decent, safe, and sanitary housing at affordable
32 rents and affordable prices for persons and families of low or
33 moderate income, on the condition that the purchasing entity shall
34 cause the property to be rehabilitated and developed as limited
35 equity cooperative housing with first right of occupancy to present
36 occupants, except that where the development of cooperative or
37 cooperatives is not feasible, the purchasing agency shall cause the
38 property to be used for low and moderate income rental or
39 owner-occupied housing, with first right of occupancy to the
40 present tenants. The price of the property in no case shall be less

1 than the price paid by the agency for original acquisition unless
 2 the acquisition price was greater than current fair market value
 3 and shall not be greater than fair market value. Subject to the
 4 foregoing, it shall be set at the level necessary to provide housing
 5 at affordable rents and affordable prices for present tenants and
 6 persons and families of low or moderate income. When residential
 7 property is offered at a price that is less than fair market value, the
 8 selling agency shall impose terms, conditions, and restrictions as
 9 will assure that the housing will remain available to persons and
 10 families of low or moderate income. The Department of Housing
 11 and Community Development shall provide to the selling agency
 12 recommendations of standards and criteria for prices, terms,
 13 conditions, and restrictions.

14 (e) Any surplus residential properties not sold pursuant to
 15 subdivisions (a) to (d), inclusive, shall then be sold at fair market
 16 value, with priority given first to purchasers who are present
 17 ~~occupants~~ *tenants in good standing with all rent obligations current*
 18 *and paid in full, second to former tenants who were in good*
 19 *standing at the time they vacated the premises, and then to*
 20 purchasers who will be owner occupants.

21 (f) *Tenants in good standing of nonresidential properties shall*
 22 *be offered a right of first refusal to purchase, at fair market value,*
 23 *the property they rent, lease, or otherwise legally occupy.*

24 SEC. 3. Section 54237.5 of the Government Code is amended
 25 to read:

26 54237.5. ~~Notwithstanding the requirement to provide repairs~~
 27 ~~in subdivision (b) of Section 54237, the selling agency may, at its~~
 28 ~~option, provide~~ *The selling agency may, at its option, offer the*
 29 ~~present occupants with a replacement dwelling if at both of the~~
 30 following conditions exist:

31 ~~(a) Providing a replacement dwelling is less expensive than~~
 32 ~~providing the repairs required by subdivision (b) of Section 54237.~~

33 ~~(b)~~

34 (a) The replacement dwelling is determined to have all of the
 35 following characteristics:

36 (1) Is decent, safe, and sanitary.

37 (2) Is suitable to the occupancy needs of the household as
 38 provided under regulations of the United States Department of
 39 Housing and Urban Development issued pursuant to Section 8 of
 40 the United States Housing Act of 1937.

- 1 (3) Is open to all persons regardless of race, color, religion, sex,
2 or national origin and consistent with requirements of Title 8 of
3 the Civil Rights Act of 1978.
- 4 (4) Is in an area not generally less desirable than the dwelling
5 to be acquired in regard to public utilities and public and
6 commercial facilities.
- 7 (5) Is reasonably accessible to the displaced person's place of
8 employment.
- 9 (6) Is in an equal or better neighborhood.
- 10 (7) Is affordable, as defined in subdivision (a) of Section 54236,
11 to the displaced person.
- 12 ~~(e)~~
- 13 (b) The offer is made at an affordable price that is not less than
14 the price paid by the agency for original acquisition of the unit
15 now occupied by the displaced person or the replacement unit,
16 whichever is less, and is not more than market value.
- 17 ~~(d)~~
- 18 (c) The replacement dwelling is a newly constructed or a vacant
19 residential unit. No resident shall be displaced pursuant to Section
20 7260 for the purpose of creating a replacement unit.