

AMENDED IN SENATE MARCH 18, 2024

SENATE BILL

No. 1134

Introduced by Senator Caballero

February 13, 2024

~~An act to amend Section 54222 of the Government Code, relating to surplus land.~~ *An act to amend Section 54221 of the Government Code, relating to surplus land.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1134, as amended, Caballero. Surplus land.

Existing law provides for the disposal of land owned by a local agency that is surplus and is not necessary for the agency's use. The local agency is required to declare the land either "surplus land" or "exempt surplus land," as prescribed. Existing law sets forth procedures for the disposal of surplus land and provides that these procedures do not apply to exempt surplus land. Existing law, for prescribed surplus land parcels developed with residential units, requires minimum percentages of residential units developed on the parcel to be sold or rented at affordable housing cost or affordable rent.

This bill, with regard to surplus land, would require each parcel of land to be considered a distinct unit of surplus land, with the exception of contiguous parcels that are disposed of simultaneously to the same receiving entity or any entity working in concert with another receiving entity, which parcels the bill would require to be treated as a single unit of land.

~~Existing law prescribes requirements for the disposal of surplus land by a local agency. Existing law requires a local agency to take formal action in a regular public meeting to declare that land is surplus and is not necessary for the agency's use and to declare land as either surplus~~

~~land or exempt surplus land, as supported by written findings, before a local agency may take any action to dispose of it consistent with an agency's policies or procedures. Different requirements apply to disposal, depending on the declaration as "surplus land" or "exempt surplus land" as existing law defines those terms. Existing law, except as specified, requires any local agency disposing of surplus land to send, before disposing of that property or participating in negotiations to dispose of that property with a prospective transferee, a written notice of availability of the property to entities specific to the purpose of the availability.~~

~~This bill would correct a cross-reference in that notice provision and make other nonsubstantive changes.~~

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

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

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

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

22 (b) (1) "Surplus land" means land owned in fee simple by any
23 local agency for which the local agency's governing body takes

1 formal action in a regular public meeting declaring that the land
2 is surplus and is not necessary for the agency's use. Land shall be
3 declared either "surplus land" or "exempt surplus land," as
4 supported by written findings, before a local agency may take any
5 action to dispose of it consistent with an agency's policies or
6 procedures. A local agency, on an annual basis, may declare
7 multiple parcels as "surplus land" or "exempt surplus land."

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

16 (3) Nothing in this article prevents a local agency from obtaining
17 fair market value for the disposition of surplus land consistent with
18 Section 54226.

19 (4) Notwithstanding paragraph (1), a local agency is not required
20 to make a declaration at a public meeting for land that is "exempt
21 surplus land" pursuant to subparagraph (A), (B), (E), (K), (L), or
22 (Q) of paragraph (1) of subdivision (f) if the local agency identifies
23 the land in a notice that is published and available for public
24 comment, including notice to the entities identified in subdivision
25 (a) of Section 54222, at least 30 days before the exemption takes
26 effect.

27 (5) *For the purposes of this article, each parcel of land shall*
28 *be considered a distinct unit of surplus land, except that contiguous*
29 *parcels that are disposed of simultaneously to the same receiving*
30 *entity, or any entity working in concert with another receiving*
31 *entity, shall be treated as a single unit of land.*

32 (c) (1) Except as provided in paragraph (2), "agency's use"
33 shall include, but not be limited to, land that is being used, or is
34 planned to be used pursuant to a written plan adopted by the local
35 agency's governing board, for agency work or operations,
36 including, but not limited to, utility sites, property owned by a port
37 that is used to support logistics uses, watershed property, land
38 being used for conservation purposes, land for demonstration,
39 exhibition, or educational purposes related to greenhouse gas
40 emissions, sites for broadband equipment or wireless facilities,

1 and buffer sites near sensitive governmental uses, including, but
2 not limited to, waste disposal sites, and wastewater treatment
3 plants. “Agency’s use” by a local agency that is a district shall also
4 include land disposed for uses described in subparagraph (B) of
5 paragraph (2).

6 (2) (A) “Agency’s use” shall not include commercial or
7 industrial uses or activities, including nongovernmental retail,
8 entertainment, or office development. Property disposed of for the
9 sole purpose of investment or generation of revenue shall not be
10 considered necessary for the agency’s use.

11 (B) In the case of a local agency that is a district, excepting
12 those whose primary mission or purpose is to supply the public
13 with a transportation system, “agency’s use” may include
14 commercial or industrial uses or activities, including
15 nongovernmental retail, entertainment, or office development or
16 be for the sole purpose of investment or generation of revenue if
17 the agency’s governing body takes action in a public meeting
18 declaring that the use of the site will do one of the following:

19 (i) Directly further the express purpose of agency work or
20 operations.

21 (ii) Be expressly authorized by a statute governing the local
22 agency, provided the district complies with Section 54233.5 if
23 applicable.

24 (d) (1) “Dispose” means either of the following:

25 (A) The sale of the surplus land.

26 (B) The entering of a lease for surplus land, which is for a term
27 longer than 15 years, inclusive of any extension or renewal options
28 included in the terms of the initial lease, entered into on or after
29 January 1, 2024.

30 (2) “Dispose” shall not mean either of the following:

31 (A) The entering of a lease for surplus land, which is for a term
32 of 15 years or less, inclusive of any extension or renewal options
33 included in the terms of the initial lease.

34 (B) The entering of a lease for surplus land on which no
35 development or demolition will occur, regardless of the term of
36 the lease.

37 (e) “Open-space purposes” means the use of land for public
38 recreation, enjoyment of scenic beauty, or conservation or use of
39 natural resources.

1 (f) (1) Except as provided in paragraph (2), “exempt surplus
2 land” means any of the following:

3 (A) Surplus land that is transferred pursuant to Section 25539.4
4 or 37364.

5 (B) Surplus land that is less than one-half acre in area and is
6 not contiguous to land owned by a state or local agency that is
7 used for open-space or low- and moderate-income housing
8 purposes.

9 (C) Surplus land that a local agency is exchanging for another
10 property necessary for the agency’s use. “Property” may include
11 easements necessary for the agency’s use.

12 (D) Surplus land that a local agency is transferring to another
13 local, state, or federal agency, or to a third-party intermediary for
14 future dedication for the receiving agency’s use, or to a federally
15 recognized California Indian tribe. If the surplus land is transferred
16 to a third-party intermediary, the receiving agency’s use must be
17 contained in a legally binding agreement at the time of transfer to
18 the third-party intermediary.

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

21 (F) (i) Surplus land that is to be developed for a housing
22 development, which may have ancillary commercial ground floor
23 uses, that restricts 100 percent of the residential units to persons
24 and families of low or moderate income, with at least 75 percent
25 of the residential units restricted to lower income households, as
26 defined in Section 50079.5 of the Health and Safety Code, with
27 an affordable sales price or an affordable rent, as defined in Section
28 50052.5 or 50053 of the Health and Safety Code, for a minimum
29 of 55 years for rental housing, land use for ownership housing,
30 and 50 years for rental or ownership housing located on tribal trust
31 lands, and in no event shall the maximum affordable sales price
32 or rent level be higher than 20 percent below the median market
33 rents or sales prices for the neighborhood in which the site is
34 located.

35 (ii) The requirements of clause (i) shall be contained in a
36 covenant or restriction recorded against the surplus land at the time
37 of sale that shall run with the land and be enforceable against any
38 owner who violates the covenant or restriction and each successor
39 in interest who continues the violation.

(G) (i) Surplus land that is subject to a local agency's open, competitive solicitation or that is put to open, competitive bid by a local agency, provided that all entities identified in subdivision (a) of Section 54222 will be invited to participate in the process, for a housing or a mixed-use development that is more than one acre and less than 10 acres in area, consisting of either a single parcel, or two or more adjacent or ~~non-adjacent~~ *nonadjacent* parcels combined, that includes not less than 300 residential units, and that restricts at least 25 percent of the residential units to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for a minimum of 55 years for rental housing, land use for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands.

(ii) The requirements of clause (i) shall be contained in a covenant or restriction recorded against the surplus land at the time of sale that shall run with the land and be enforceable against any owner who violates the covenant or restriction and each successor in interest who continues the violation.

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

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

(I) Not less than three hundred residential units.

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

(iii) At least 25 percent of the residential units shall be restricted to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent pursuant to Sections 50052.5 and 50053 of the

1 Health and Safety Code, for a minimum of 55 years for rental
2 housing, land use for ownership housing, and 50 years for rental
3 or ownership housing located on tribal trust lands.

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

11 (v) A violation of this subparagraph is subject to the penalties
12 described in Section 54230.5. Those penalties are in addition to
13 any remedy a court may order for violation of this subparagraph.
14 A local agency shall only dispose of land pursuant to this
15 subparagraph through a disposition and development agreement
16 that includes an indemnification clause that provides that if an
17 action occurs after disposition violates this subparagraph, the
18 person or entity that acquired the property shall be liable for the
19 penalties.

20 (vi) The requirements of clauses (i) to (v), inclusive, shall be
21 contained in a covenant or restriction recorded against the surplus
22 land at the time of sale that shall run with the land and be
23 enforceable against any owner who violates the covenant or
24 restriction and each successor in interest who continues the
25 violation.

26 (I) A mixed-use development, which may include more than
27 one publicly owned parcel, that meets all of the following
28 conditions:

29 (i) The development restricts at least 25 percent of the residential
30 units to lower income households, as defined in Section 50079.5
31 of the Health and Safety Code, with an affordable sales price or
32 an affordable rent, as defined in Sections 50052.5 and 50053 of
33 the Health and Safety Code, for a minimum of 55 years for rental
34 housing, land use for ownership housing, and 50 years for rental
35 or ownership housing located on tribal trust lands.

36 (ii) At least 50 percent of the square footage of the new
37 construction associated with the development is designated for
38 residential use.

39 (iii) The development is not located in an urbanized area, as
40 defined in Section 21094.5 of the Public Resources Code.

1 (J) (i) Surplus land that is subject to a valid legal restriction
2 that is not imposed by the local agency and that makes housing
3 prohibited, unless there is a feasible method to satisfactorily
4 mitigate or avoid the prohibition on the site. A declaration of
5 exemption pursuant to this subparagraph shall be supported by
6 documentary evidence establishing the valid legal restriction. For
7 the purposes of this section, “documentary evidence” includes,
8 but is not limited to, a contract, agreement, deed restriction, statute,
9 regulation or other writing that documents the valid legal
10 restriction.

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

13 (I) Existing constraints under ownership rights or contractual
14 rights or obligations that prevent the use of the property for
15 housing, if the rights or obligations were agreed to prior to
16 September 30, 2019.

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

19 (III) Existing leases, or other contractual obligations or
20 restrictions, if the terms were agreed to prior to September 30,
21 2019.

22 (IV) Restrictions imposed by the source of funding that a local
23 agency used to purchase a property, provided that both of the
24 following requirements are met:

25 (ia) The restrictions limit the use of those funds to purposes
26 other than housing.

27 (ib) The proposed disposal of surplus land meets a use consistent
28 with that purpose.

29 (ii) Valid legal restrictions that would make housing prohibited
30 do not include either of the following:

31 (I) An existing nonresidential land use designation on the surplus
32 land.

33 (II) Covenants, restrictions, or other conditions on the property
34 rendered void and unenforceable by any other law, including, but
35 not limited to, Section 714.6 of the Civil Code.

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

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

5 (L) Land that is subject to either of the following, unless
6 compliance with this article is expressly required:

7 (i) Section 17388, 17515, 17536, 81192, 81397, 81399, 81420,
8 or 81422 of the Education Code.

9 (ii) Part 14 (commencing with Section 53570) of Division 31
10 of the Health and Safety Code.

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

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

21 (ii) The affordability requirements for residential units shall be
22 governed by a settlement agreement entered into prior to September
23 1, 2020. Furthermore, at least 25 percent of the initial 1,400
24 residential units developed shall be restricted to lower income
25 households, as defined in Section 50079.5 of the Health and Safety
26 Code, with an affordable sales price or an affordable rent, as
27 defined in Sections 50052.5 and 50053 of the Health and Safety
28 Code, for a minimum of 55 years for rental housing, land use for
29 ownership housing, and 50 years for rental or ownership housing
30 located on tribal trust lands.

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

34 (iv) Before disposition of the surplus land, the recipient has
35 negotiated a project labor agreement consistent with the local
36 agency's project stabilization agreement resolution, as adopted on
37 February 2, 2021, and any succeeding ordinance, resolution, or
38 policy, regardless of the length of the agreement between the local
39 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, 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.

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

(O) Land that has been transferred before June 30, 2019, by the state to a local agency pursuant to Section 32667 of the Streets and Highways Code and has a minimum planned residential density of at least 100 dwelling units per acre, and includes 100 or more residential units that are restricted to persons and families of low or moderate income, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for a minimum of 55 years for rental housing, land use for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands. 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 lower income households as defined in Section 50079.5 of the Health and Safety Code.

(P) (i) Land that meets the following conditions:

(I) Land that is subject to a sectional planning area document that meets both of the following:

(ia) The sectional planning area was adopted prior to January 1, 2019.

(ib) The sectional planning area document is consistent with county and city general plans applicable to the land.

(II) The land identified in the adopted sectional planning area document was dedicated prior to January 1, 2019

(III) On January 1, 2019, the parcels on the land met at least one of the following conditions:

1 (ia) The land was subject to an irrevocable offer of dedication
2 of fee interest requiring the land to be used for a specified purpose.

3 (ib) The land was acquired through a land exchange subject to
4 a land offer agreement that grants the land's original owner the
5 right to repurchase the land acquired by the local agency pursuant
6 to the agreement if the land will not be developed in a manner
7 consistent with the agreement.

8 (ic) The land was subject to a grant deed specifying that the
9 property shall be used for educational uses and limiting other types
10 of uses allowed on the property.

11 (IV) At least 25 percent of the units are dedicated to lower
12 income households, as defined in Section 50079.5 of the Health
13 and Safety Code, at an affordable rent, as defined by Section 50053
14 of the Health and Safety Code, or an affordable housing cost, as
15 defined by Section 50052.5 of the Health and Safety Code, and
16 subject to a recorded deed restriction for a period of 55 years for
17 rental units and land use for owner-occupied units.

18 (V) The land is developed at an average density of at least 10
19 units per acre, calculated with respect to the entire sectional
20 planning area.

21 (VI) No more than 25 percent of the nonresidential square
22 footage identified in the sectional planning area document receives
23 its first certificate of occupancy before at least 25 percent of the
24 residential square footage identified in the sectional planning area
25 document has received its first certificate of occupancy.

26 (VII) No more than 50 percent of the nonresidential square
27 footage identified in the sectional planning area document receives
28 its first certificate of occupancy before at least 50 percent of the
29 residential square footage identified in the sectional planning area
30 document has received its first certificate of occupancy.

31 (VIII) No more than 75 percent of the nonresidential square
32 footage identified in the sectional planning area document shall
33 receive its first certificate of occupancy before at least 75 percent
34 of the residential square footage identified in the sectional planning
35 area document has received its first certificate of occupancy.

36 (ii) The local agency includes in the annual report required by
37 paragraph (2) of subdivision (a) of Section 65400 the status of
38 development, including the total square footage of the residential
39 and nonresidential development, the number of residential units
40 that have been permitted, and what percentage of those residential

1 units are restricted for persons and families of low or moderate
2 income, or lower income households, as defined in Section 50079.5
3 of the Health and Safety Code.

4 (iii) The Department of Housing and Community Development
5 may request additional information from the agency regarding
6 land disposed of pursuant to this subparagraph.

7 (iv) At least 30 days prior to disposing of land declared “exempt
8 surplus land,” a local agency shall provide the Department of
9 Housing and Community Development a written notification of
10 its declaration and findings in a form prescribed by the Department
11 of Housing and Community Development. Within 30 days of
12 receipt of the written notification and findings, the department
13 shall notify the local agency if the department has determined that
14 the local agency is in violation of this article. A local agency that
15 fails to submit the written notification and findings shall be liable
16 for a civil penalty pursuant to this subparagraph. A local agency
17 shall not be liable for the civil penalty if the Department of Housing
18 and Community Development does not notify the agency that the
19 agency is in violation of this article within 30 days of receiving
20 the written notification and findings. Once the department
21 determines that the declarations and findings comply with
22 subclauses (I) to (IV), inclusive, of clause (i), the local agency
23 may proceed with disposal of land pursuant to this subparagraph.
24 This clause is declaratory of, and not a change in, existing law.

25 (v) If the local agency disposes of land in violation of this
26 subparagraph, the local agency shall be liable for a civil penalty
27 calculated as follows:

28 (I) For a first violation, 30 percent of the greater of the final
29 sale price or the fair market value of the land at the time of
30 disposition.

31 (II) For a second or subsequent violation, 50 percent of the
32 greater of the final sale price or the fair market value of the land
33 at the time of disposition.

34 (III) For purposes of this subparagraph, fair market value shall
35 be determined by an independent appraisal of the land.

36 (IV) An action to enforce this subparagraph may be brought by
37 any of the following:

38 (ia) An entity identified in subdivisions (a) to (e), inclusive, of
39 Section 54222.

1 (ib) A person who would have been eligible to apply for
2 residency in affordable housing had the agency not violated this
3 section.

4 (ic) A housing organization, as that term is defined in Section
5 65589.5.

6 (id) A beneficially interested person or entity.

7 (ie) The Department of Housing and Community Development.

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

23 (VI) Five years after deposit of the penalty moneys into the
24 local housing trust fund, if the funds have not been expended, the
25 funds shall revert to the state and be deposited in the Building
26 Homes and Jobs Trust Fund or the Housing Rehabilitation Loan
27 Fund for the sole purpose of financing newly constructed housing
28 units located in the same jurisdiction as the surplus land and that
29 are affordable to extremely low, very low, or low-income
30 households. Expenditure of any penalty moneys deposited into the
31 Building Homes and Jobs Trust Fund or the Housing Rehabilitation
32 Loan Fund pursuant to this subdivision shall be subject to
33 appropriation by the Legislature.

34 (vi) For purposes of this subparagraph, the following definitions
35 apply:

36 (I) “Sectional planning area” means an area composed of
37 identifiable planning units, within which common services and
38 facilities, a strong internal unity, and an integrated pattern of land
39 use, circulation, and townscape planning are readily achievable.

(II) “Sectional planning area document” means a document or plan that sets forth, at minimum, a site utilization plan of the sectional planning area and development standards for each land use area and designation.

(vii) This subparagraph shall become inoperative on January 1, 2034.

(Q) Land that is owned by a California public-use airport on which residential uses are prohibited pursuant to Federal Aviation Administration Order 5190.6B, Airport Compliance Program, Chapter 20 -- Compatible Land Use and Airspace Protection.

(R) 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 the purpose 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.

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

3 (S) (i) For local agencies whose primary mission or purpose is
4 to supply the public with a transportation system, surplus land that
5 is developed for commercial, or industrial uses or activities,
6 including nongovernmental retail, entertainment, or office
7 development or for the sole purpose of investment or generation
8 of revenue, if the agency meets all of the following conditions:

9 (I) The agency has an adopted land use plan or policy that
10 designates at least 50 percent of the of the gross acreage covered
11 by the adopted land use plan or policy for residential purposes.
12 The adopted land use plan or policy shall also require the
13 development of at least 300 residential units, or at least 10
14 residential units per gross acre, averaged across all land covered
15 by the land use plan or policy, whichever is greater.

16 (II) The agency has an adopted land use plan or policy that
17 requires at least 25 percent of all residential units to be developed
18 on the parcels covered by the adopted land use plan or policy made
19 available to lower income households, as defined in Section 50079
20 of the Health and Safety Code, at an affordable sales price or rented
21 at an affordable rent, as defined in Sections 50052.5 and 50053 of
22 the Health and Safety Code, for a minimum of 55 years for rental
23 housing and 45 years for ownership housing. These terms shall be
24 included in the land use plan or policy and dictate that they will
25 be contained in a covenant or restriction recorded against the
26 surplus land at the time of disposition that shall run with the land
27 and be enforceable against any owner or lessee who violates the
28 covenant or restriction and each successor in interest who continues
29 the violation.

30 (III) Land disposed of for residential purposes shall issue a
31 competitive request for proposals subject to the local agency's
32 open, competitive solicitation process or put out to open,
33 competitive bid by the local agency, provided that all entities
34 identified in subdivision (a) of Section 54222 are invited to
35 participate.

36 (IV) Prior to entering into an agreement to dispose of a parcel
37 for ~~non-residential~~ *nonresidential* development on land designated
38 for the purposes authorized pursuant to this subparagraph in an
39 agency's adopted land use plan or policy, the agency, since January
40 1, 2020, must have entered into an agreement to dispose of a

1 minimum of 25 percent of the land designated for affordable
2 housing pursuant to subclause (II).

3 (ii) The agency may exempt at one time all parcels covered by
4 the adopted land use plan or policy pursuant to this subparagraph.

5 (2) Notwithstanding paragraph (1), a written notice of the
6 availability of surplus land for open-space purposes shall be sent
7 to the entities described in subdivision (b) of Section 54222 before
8 disposing of the surplus land, provided the land does not meet the
9 criteria in subparagraph (H) of paragraph (1), if the land is any of
10 the following:

11 (A) Within a coastal zone.

12 (B) Adjacent to a historical unit of the State Parks System.

13 (C) Listed on, or determined by the State Office of Historic
14 Preservation to be eligible for, the National Register of Historic
15 Places.

16 (D) Within the Lake Tahoe region as defined in Section 66905.5.

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

20 ~~SECTION 1. Section 54222 of the Government Code is~~
21 ~~amended to read:~~

22 ~~54222. Except as provided in Division 23 (commencing with~~
23 ~~Section 33000) of the Public Resources Code, any local agency~~
24 ~~disposing of surplus land, declared pursuant to subdivision (b) of~~
25 ~~Section 54221, shall send, before disposing of that property or~~
26 ~~participating in negotiations to dispose of that property with a~~
27 ~~prospective transferee, a written notice of availability of the~~
28 ~~property to all of the following:~~

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

1 ~~(2) The Department of Housing and Community Development~~
2 ~~shall maintain on its internet website an up-to-date listing of, and~~
3 ~~a link to, all notices of availability throughout the state and a listing~~
4 ~~of all entities, including housing sponsors, that have notified the~~
5 ~~department of their interest in surplus land for the purpose of~~
6 ~~developing low- and moderate-income housing.~~

7 ~~(b) A written notice of availability for open-space purposes shall~~
8 ~~be sent as follows:~~

9 ~~(1) To any park or recreation department of any city within~~
10 ~~which the surplus land is located.~~

11 ~~(2) To any park or recreation department of the county within~~
12 ~~which the surplus land is located.~~

13 ~~(3) To any regional park authority having jurisdiction within~~
14 ~~the area in which the surplus land is located.~~

15 ~~(4) To the Natural Resources Agency or any agency that may~~
16 ~~succeed to its powers.~~

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

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

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

35 ~~(f) For the purposes of this section, "participating in~~
36 ~~negotiations" does not include the any of the following:~~

37 ~~(1) The commissioning of appraisals, due diligence prior to~~
38 ~~disposition, discussions with brokers or real estate agents not~~
39 ~~representing a potential buyer, or other studies to determine value~~
40 ~~or best use of land, issuance of a request for qualifications;~~

- 1 ~~development of marketing materials, or discussions conducted~~
2 ~~exclusively among local agency employees and elected officials.~~
3 ~~(2) Issuing a request for proposals or request for qualifications~~
4 ~~to the entities in subdivision (a) of this section for the purposes of~~
5 ~~complying with subparagraphs (A), (F), (G), (H), or (I) of~~
6 ~~paragraph (1) of subdivision (f) of Section 54221.~~
7 ~~(3) Negotiating a lease, exclusive negotiating agreement, or~~
8 ~~option agreement for the purposes of complying with~~
9 ~~subparagraphs (A), (F), (G), (H), or (I) of paragraph (1) of~~
10 ~~subdivision (f) of Section 54221.~~
11 ~~(4) Negotiating with a developer to determine if the local agency~~
12 ~~can satisfy the disposal exemption requirements described in~~
13 ~~paragraph (2) of subdivision (d) of Section 54221.~~