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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

ASSEMBLY BILL

No. 1486

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**Introduced by Assembly Member Ting  
(Coauthor: Assembly Member Wicks)  
(Coauthor: Senator Skinner)**

February 22, 2019

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An act to amend Sections 11011, ~~11011.1~~, 54220, 54221, 54222, 54222.3, 54223, 54225, 54226, 54227, 54230, 54230.5, 54233, 65400, 65583.2, and 65585 of the Government Code, relating to ~~local government~~. *surplus land*.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1486, as amended, Ting. ~~Local agencies: surplus~~ *Surplus* land.

(1) Existing law prescribes requirements for the disposal of surplus land by a local agency. Existing law defines “local agency” for these purposes as every city, county, city and county, and district, including school districts of any kind or class, empowered to acquire and hold real property. Existing law defines “surplus land” for these purposes as land owned by any local agency that is determined to be no longer necessary for the agency’s use, except property being held by the agency for the purpose of exchange. Existing law defines “exempt surplus land” to mean land that is less than 5,000 square feet in area, less than the applicable minimum legal residential building lot size, or has no record access and is less than 10,000 square feet in area, and that is not contiguous

to land owned by a state or local agency and used for park, recreational, open-space, or affordable housing.

This bill would expand the definition of “local agency” to include sewer, water, utility, and local and regional park districts, joint powers authorities, successor agencies to former redevelopment agencies, housing authorities, and other political subdivisions of this state and any instrumentality thereof that is empowered to acquire and hold real property, thereby requiring these entities to comply with these requirements for the disposal of surplus land. The bill would specify that the term “district” includes all districts within the state, and that this change is declaratory of existing law. The bill would revise the definition of “surplus land” to mean land owned by any local agency that is not necessary for the agency’s governmental operations, except property being held by the agency expressly for the purpose of exchange for another property necessary for its governmental operations and would define “governmental operations” to mean land that is being used for the express purpose of agency work or operations, as specified. The bill would provide that land is presumed to be surplus land when a local agency initiates an action to dispose of it. The bill would provide that “surplus land” for these purposes includes land held in the Community Redevelopment Property Trust Fund and land that has been designated in the long-range property management plan, either for sale or for retention, for future development, as specified. The bill would also broaden the definition of “exempt surplus land” to include specified types of lands.

The bill would recast various provisions referring to the sale or lease of surplus land to instead refer to the disposal of surplus land. The bill would also delete certain obsolete references and make related conforming changes.

(2) Existing law requires a local agency disposing of surplus land to send, prior to disposing of that property, a written offer to sell or lease the property to specified entities. Existing law requires that a local agency, upon a written request, send a written offer to sell or lease surplus land to a housing sponsor, as defined, for the purpose of developing low- and moderate-income housing. Existing law also requires the local agency to send a written offer to sell or lease surplus land for the purpose of developing property located within an infill opportunity zone, designated as provided, to, among others, a community redevelopment agency.

This bill would instead require the local agency disposing of surplus land to send, prior to disposing of that property or participating in any formal or informal negotiations to dispose of that property, a written notice of availability. The bill would make various related conforming changes. With regards to a housing sponsor, the bill would require that the written notice of availability be sent if the housing sponsor has notified the applicable regional council of governments or, in the case of a local agency without a council of governments, the Department of Housing and Community Development of its interest in the land, rather than upon written request. With regards to surplus land to

be used for the purpose of developing property located within an infill opportunity zone, as described above, the bill would instead require that the written notice of availability be sent to a successor agency to a former redevelopment agency. *The bill would, with regard to disposing of surplus land for the purpose of developing low- and moderate-income housing, only require the local agency disposing of the surplus land to send a specified notice of availability if the land is located in an urbanized area.*

(3) After the disposing agency has received a notice from an entity desiring to purchase or lease the land, existing law requires the disposing agency to enter into good faith negotiations to determine a mutually satisfactory sales price or lease terms.

This bill would limit negotiations to sales price and lease terms, including the amount and timing of any payments.

(4) Existing law requires a local agency to give priority to the development of affordable housing for lower income elderly or disabled persons or households, and other lower income households when disposing of surplus land.

This bill would remove that priority.

(5) If the local agency receives offers from more than one entity that agrees to meet specified requirements related to the provision of affordable housing on the surplus land, existing law requires the local agency to give priority to the entity that proposes to provide the greatest number of units that meet those requirements. Notwithstanding that requirement, existing law requires the local agency to give first priority to an entity in specified circumstances.

This bill would define “priority” for these purposes as meaning that the local agency negotiates in good faith exclusively with the entity pursuant to specified requirements. In the event that more than one entity proposes the same number of units that meet the above-described affordable housing requirements, this bill would require that priority be given to the entity that proposes the deepest average level of affordability for the affordable units. The bill would authorize a local agency to negotiate concurrently with all entities that provide notice of interest to purchase or lease land for the purpose of developing affordable housing.

(6) Under existing law, failure by a local agency to comply with these requirements for the disposal of surplus land does not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer of value.

This bill would invalidate that transfer or conveyance unless the local agency makes an alternative site available that can accommodate an equal or greater number of housing units as the original site whose transfer or conveyance was effected.

(7) If a local agency does not agree to price and terms with an entity to which notice and an opportunity to purchase or lease are given and disposes of the surplus land to an

entity that uses the property for the development of 10 or more residential units, existing law requires the purchasing entity or a successor in interest to provide not less than 15% of the total number of units developed on the parcels at an affordable housing cost or affordable rent to lower income households.

This bill would revise this requirement to apply if the local agency does not agree to price and terms with an entity to which notice of availability of land was given, or if no entity to which a notice of availability was given responds to that notice, and 10 or more residential units are developed on the property.

The bill would permit residential uses on certain types of land that a local agency disposes of as surplus, if 100% of the residential units are sold or rented at an affordable housing cost, as specified.

(8) Existing law requires each state agency to make a review of all proprietary state lands over which it has jurisdiction, except as specified, on or before December 31 of each year to determine what, if any, land is in excess of its foreseeable needs and report thereon in writing to the Department of General Services. Existing law requires the department to annually report to the Legislature the land declared excess and to request authorization to dispose of the land by sale or otherwise, as specified. ~~Existing law requires the department to comply with specified requirements and procedures when disposing of surplus land that the department has received authorization to dispose of by the Legislature, including that the department may dispose of the land upon any terms and conditions that the department determines is in the best interest of the state.~~

This bill would, instead, require each state agency to review state lands over which it has jurisdiction to determine if any land is in excess of its foreseeable needs for governmental operations. The bill would require the department to *request authorization to* dispose of at least 10% of the land that the department has determined is not needed by any other state agency, as specified. The bill would require surplus land disposed of by the department *to* be permitted for a residential use if 100% of the residential units are sold or rented at an affordable housing cost, as defined. ~~The bill would delete the authority of the department to dispose of surplus land upon any terms and conditions that the department determines are in the best interest of the state.~~

(9) Existing law authorizes a board of supervisors of a county to establish a central inventory of all surplus governmental property located in the county.

This bill, instead, would require a local agency to make a central inventory of specified surplus governmental property on or before December 31 of each year, and would require the local agency to make a description of each parcel and its present uses a matter of public record and to report this information to the Department of Housing and Community Development no later than April 1 of each year, beginning April 1, 2021. The bill would require a local agency, upon request, to provide a list of its surplus

governmental properties to a citizen, limited dividend corporation, housing corporation, or nonprofit corporation without charge. The bill would require, by September 30, 2021, the Department of Housing and Community Development to create and maintain a searchable and downloadable public inventory of all publicly owned or controlled lands and their present uses.

~~(10) Existing law authorizes the Director of General Services to dispose of surplus state real property if that property is not needed by another state agency and the Legislature has authorized disposal of the property. Existing law also specifies the manner in which the department is to dispose of surplus state real property first to a local agency and then to nonprofit affordable housing sponsors.~~

~~This bill would revise the manner in which the department is to dispose of surplus state real property. The bill would require the department to provide notice of surplus property to specified entities including, among others, public entities and housing sponsors for the purpose of constructing low and moderate income housing. The bill would require the department enter good faith negotiations with any entity that provides written notice of their desire to purchase the property. The bill would require that an entity that proposes to construct affordable housing on the surplus property provide at least 25% of the total number of units developed at affordable housing cost. The bill would provide that if the department does not receive a written notice from any entity to purchase the property or negotiations are unsuccessful, and 10 or more residential units are constructed on the property, at least 15% of the total number of residential units developed on the parcels be sold or rented at affordable housing cost.~~

~~(11)~~

*(10)* The Planning and Zoning Law requires a city or county to adopt a general plan for land use development within its boundaries that includes, among other things, a housing element. That law requires the planning agency of a city or county to provide by April 1 of each year an annual report to, among other entities, the Department of Housing and Community Development that includes, among other specified information, the number of net new units of housing that have been issued a completed entitlement, a building permit, or a certificate of occupancy thus far in the housing element cycle, as provided.

This bill would require a city or county to include as a part of that report a listing of sites owned or leased by the city or county that have been sold, leased, or otherwise disposed of in the prior year, and sites with leases that expired in the prior year.

The Planning and Zoning Law requires that the housing element include, among other things, an inventory of land suitable for residential development to be used to identify sites that can be developed for housing within the planning period and that are sufficient

to provide for the jurisdiction's share of the regional housing need determined pursuant to specified law.

This bill would require the housing element to provide a description of nonvacant sites owned by the city or county and provide whether there are any plans to dispose of the property during the planning period and how the city or county will comply with specified provisions relating to the disposal of surplus land by a local agency.

~~(12)~~

*(11)* Existing law requires the Department of Housing and Community Development to notify a city or county and authorize notice to the Attorney General when a city or county has taken an action that violates the Housing Accountability Act, specified provisions relating to local housing elements, and the Density Bonus Law.

This bill would also require the Department of Housing and Community Development to notify the city or county and authorizes notice to the Attorney General when the city or county has taken an action that violates these provisions relating to surplus property.

~~(13)~~

*(12)* Existing law makes various findings and declarations as to the need for affordable housing and the use of surplus government land for that purpose.

This bill would revise these findings.

This bill would express the intent of the Legislature to enact legislation that addresses the need for affordable housing by utilizing surplus land within the state, as specified.

~~(14)~~

*(13)* By adding to the duties of local officials with respect to the disposal of surplus land, and expanding the scope of local agencies subject to the bill's requirements, this 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.

## **Digest Key**

## Bill Text

# THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

### SECTION 1.

Section 11011 of the Government Code is amended to read:

11011.

(a) On or before December 31 of each year, each state agency shall make a review of all proprietary state lands, other than tax-deeded land, land held for highway purposes, lands under the jurisdiction of the State Lands Commission, land that has escheated to the state or that has been distributed to the state by court decree in estates of deceased persons, and lands under the jurisdiction of the State Coastal Conservancy, over which it has jurisdiction to determine what, if any, land is in excess of its foreseeable needs for governmental operations and report thereon in writing to the Department of General Services. These lands shall include, but not be limited to, the following:

(1) Land not currently being utilized, or currently being underutilized, by the state agency for any existing or ongoing state program.

(2) Land for which the state agency has not identified any specific utilization relative to future programmatic needs.

(3) Land not identified by the state agency within its master plans for facility development.

(b) Jurisdiction of all land reported as excess shall be transferred to the Department of General Services, when requested by the director of that department, for sale or disposition under this section or as may be otherwise authorized by law.

(c) The Department of General Services shall report to the Legislature annually, the land declared excess and request authorization to dispose of the land by sale or otherwise.

(d) The Department of General Services shall review and consider reports submitted to the Director of General Services pursuant to Section 66907.12 of this code and Section

31104.3 of the Public Resources Code prior to recommending or taking any action on surplus land, and shall also circulate the reports to all agencies that are required to report excess land pursuant to this section. In recommending or determining the disposition of surplus lands, the Director of General Services may give priority to proposals by the state that involve the exchange of surplus lands for lands listed in those reports.

(e) Except as otherwise provided by any other law, whenever any land is reported as excess pursuant to this section, the Department of General Services shall determine whether or not the use of the land is needed by any other state agency. If the Department of General Services determines that any land is needed by any other state agency it may transfer the jurisdiction of this land to the other state agency upon the terms and conditions as it may deem to be for the best interests of the state.

(f) When authority is granted for the sale or other disposition of lands declared excess, and the Department of General Services has determined that the use of the land is not needed by any other state agency, the Department of General Services shall sell the land or otherwise dispose of the same pursuant to Section 11011.1. The Department of General Services shall report to the Legislature annually, with respect to each parcel of land authorized to be sold under this section, giving the following information:

(1) A description or other identification of the property.

(2) The date of authorization.

(3) With regard to each parcel sold after the next preceding report, the date of sale and price received, or the value of the land received in exchange.

(4) The present status of the property, if not sold or otherwise disposed of at the time of the report.

(g) (1) Except as otherwise specified by law, the net proceeds received from any real property disposition, including the sale, lease, exchange, or other means, that is received pursuant to this section shall be paid into the Deficit Recovery Bond Retirement Sinking Fund Subaccount, established pursuant to subdivision (f) of Section 20 of Article XVI of the California Constitution, until the time that the bonds issued pursuant to the Economic Recovery Bond Act (Title 18 (commencing with Section 99050)), approved by the voters at the March 2, 2004, statewide primary election, are retired. Thereafter, the net proceeds received pursuant to this section shall be deposited in the Special Fund for Economic Uncertainties.

(2) For purposes of this subdivision, net proceeds means proceeds less any outstanding loans from the General Fund, or outstanding reimbursements due to the Property Acquisition Law Money Account for costs incurred prior to June 30, 2005, related to the management of the state's real property assets, including, but not limited to, surplus



property identification, legal research, feasibility statistics, activities associated with land use, and due diligence.

(h) The Director of Finance may approve loans from the General Fund to the Property Acquisition Law Money Account, which is hereby created in the State Treasury, for the purposes of supporting the management of the state's real property assets.

(i) Any rentals or other revenues received by the department from real properties, the jurisdiction of which has been transferred to the Department of General Services under this section, shall be deposited in the Property Acquisition Law Money Account and shall be available for expenditure by the Department of General Services upon appropriation by the Legislature.

(j) Nothing contained in this section shall be construed to prohibit the sale, letting, or other disposition of any state lands pursuant to any law now or hereafter enacted authorizing the sale, letting, or disposition.

(k) (1) The disposition of a parcel of surplus state real property, pursuant to Section 11011.1, made on an "as is" basis shall be exempt from Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code. Upon title to the parcel vesting in the purchaser or transferee of the property, the purchaser or transferee shall be subject to any local governmental land use entitlement approval requirements and to Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code, except as provided in Section 11011.1.

(2) If the disposition of a parcel of surplus state real property, pursuant to Section 11011.1, is not made on an "as is" basis and close of escrow is contingent on the satisfaction of a local governmental land use entitlement approval requirement or compliance by the local government with Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code, the execution of the purchase and sale agreement or of the exchange agreement by all parties to the agreement shall be exempt from Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code.

(3) For the purposes of this subdivision, "disposition" means the sale, exchange, sale combined with an exchange, or transfer of a parcel of surplus state property.

(l) For land that the Department of General Services has determined is not needed by any other state agency pursuant to subdivision (e), the department shall request authorization to dispose of no less than 10 percent of the land on an annual basis pursuant to Section 11011.1.

(m) Notwithstanding local zoning designations, surplus land that the department has disposed of shall be permitted for a residential use if 100 percent of the residential units, except for the units occupied by onsite management staff, are sold or rented at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or affordable rent, as defined in Section 50053 of the Health and Safety Code, to lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(n) The department shall make every effort to conclude the pending disposition of surplus land that it has received authorization to dispose of within 24 months of the date the sale, exchange, or transfer of land was approved by the department.

(o) As used in this section, “governmental operations” means land that is being used for the express purpose of agency work or operations, including utility sites, watershed property, land being used for conservation purposes, and buffer sites near sensitive governmental uses, including, but not limited to, wastewater treatment plants.

~~SEC. 2. Section 11011.1 of the Government Code is amended to read:  
11011.1.~~

~~(a) Notwithstanding any other provision of law, except Article 8.5 (commencing with Section 54235) of Chapter 5 of Part 1 of Division 2 of Title 5, the disposal of surplus state real property by the Department of General Services shall be subject to the requirements of this section. For purposes of this section, “surplus state real property” means real property declared surplus by the Legislature and directed to be disposed of by the Department of General Services, including any real property previously declared surplus by the Legislature but not yet disposed of by the Department of General Services prior to the enactment of this section.~~

~~(b)(1) The department may dispose of surplus state real property by sale, lease, exchange, a sale combined with an exchange, or other manner of disposition of property, as authorized by the Legislature, subject to this section.~~

~~(2) The Legislature finds and declares that the provision of decent housing for all Californians is a state goal of the highest priority. The disposal of surplus state real property is a direct and substantial public purpose of statewide concern and will serve an important public purpose, including mitigating the environmental effects of state activities. Therefore, it is the intent of the Legislature that priority be given, as specified in this section, to the disposal of surplus state real property to housing for persons and families of low or moderate income, where land is suitable for housing and there is a need for housing in the community.~~

~~(3)The department shall send, before disposing of surplus property or participating in negotiations to dispose of surplus property, a written notice of availability of the property to all of the following entities:~~

~~(A)A written notice of availability for the purpose of developing low and moderate-income housing, as defined in Section 50079 of the Health and Safety Code, to both of the following:~~

~~(i)Any local public entity within whose jurisdiction the surplus land is located.~~

~~(ii)A housing sponsor, as defined by Section 50074 of the Health and Safety Code, that has notified the department of its interest in surplus land for the purpose of developing low and moderate income housing.~~

~~(B)A written notice of availability for open space purposes to all of the following:~~

~~(i)Any park or recreation department of any city within which the land may be situated.~~

~~(ii)Any park or recreation department of the county within which the land is situated.~~

~~(iii)Any regional park authority having jurisdiction within the area in which the land is situated.~~

~~(iv)The Natural 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 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) to any county, city, city and county, successor agency to a former redevelopment agency, public transportation agency, or housing authority within whose jurisdiction the surplus land is located.~~

~~(4)The entity or association desiring to purchase or lease the surplus land for any of the purposes authorized by this section shall notify the department in writing of its interest in purchasing or leasing the land within 60 days after receipt of the notice of availability of the land pursuant to paragraph (3).~~

~~(5)The department shall send all notices of availability by first class mail and, if possible, by electronic mail, and shall include in that notice the location and a description of the property.~~

~~(6)An entity proposing to use the surplus land for developing low and moderate income housing shall agree to make available not less than 25 percent of the total number of units developed on the parcels at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or affordable rent, as defined in Section 50053 of the Health and Safety Code, to lower income households, as defined in Section 50079.5 of the Health and Safety Code. Rental units shall remain affordable to, and occupied by, lower income households for a period of at least 55 years. The initial occupants of all ownership units shall be lower income households, and the units shall be subject to an equity sharing agreement consistent with paragraph (2) of subdivision (c) of Section 65915. These requirements shall be contained in a covenant or restriction recorded against the surplus land at the time of sale, which shall run with the land and shall be enforceable, against any owner who violates a covenant or restriction and each successor in interest who continues the violation, by any of the following:~~

~~(A)The department.~~

~~(B)A resident of a unit subject to this subdivision.~~

~~(C)A resident association with members who reside in units subject to this subdivision.~~

~~(D)A former resident of a unit subject to this section who last resided in that unit.~~

~~(E)An applicant seeking to enforce the covenants or restrictions for a particular unit that is subject to this subdivision, if the applicant conforms to all of the following:~~

~~(i)Is of low or moderate income, as defined in Section 50093 of the Health and Safety Code.~~

~~(ii)Is able and willing to occupy that particular unit.~~

~~(iii)Was denied occupancy of that particular unit due to an alleged breach of a covenant or restriction implementing this subdivision.~~

~~(F)A person on an affordable housing waiting list who is of low or moderate income, as defined in Section 50093 of the Health and Safety Code, and who is able and willing to occupy a unit subject to this subdivision.~~

~~(7)After the department has received notice from the entity desiring to purchase or lease the land on terms that comply with this subdivision, the department and the entity shall enter into good faith negotiations to determine a mutually satisfactory sales price and terms or lease terms. If the price or terms cannot be agreed upon after a good faith negotiation period of not less than 90 days, the land may be disposed of without further regard to this subdivision, except that paragraph (10) shall apply.~~

~~(8)Nothing in this subdivision shall preclude a local agency, housing authority, or redevelopment agency that purchases land from a disposing agency pursuant to this article from reconveying the land to a nonprofit or for-profit housing developer for development of low and moderate income housing as authorized under other provisions of law.~~

~~(9)(A)In the event that the department receives a notice of interest to purchase or lease of that land from more than one of the entities to which notice of available surplus land was given pursuant to this subdivision, the department shall give first priority to the entity that agrees to use the site for housing that meets the requirements of paragraph (6). If the department receives offers from more than one entity that agrees to meet the requirements of paragraph (6), then the department shall give priority to the entity that proposes to provide the greatest number of units that meet the requirements of paragraph (6). In the event that more than one entity proposes the same number of units that meet the requirements of paragraph (6), priority shall be given to the entity that proposes the deepest average level of affordability for the affordable units. The department may negotiate concurrently with all entities that provide notice of interest to purchase or lease land for the purpose of developing affordable housing that meets the requirements of paragraph (6).~~

~~(B)Notwithstanding subparagraph (A), the department shall give first priority to an entity that agrees to use the site for park or recreational purposes if the land being offered is already being used and will continue to be used for park or recreational purposes, or if the land is designated for park and recreational use in the local general plan and will be developed for that purpose.~~

~~(C)For purposes of this paragraph, “priority” means that the department shall negotiate in good faith exclusively with the entity in accordance with paragraph (7).~~

~~(10)If the department does not agree to price and terms with an entity to which notice of availability of land was given pursuant to this subdivision, or if no entity to which a notice of availability was given responds to that notice, and 10 or more residential units are developed on the property, not less than 15 percent of the total number of residential units developed on the parcels shall be sold or rented at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or affordable rent, as defined~~

~~in Section 50053 of the Health and Safety Code, to lower income households, as defined in Section 50079.5 of the Health and Safety Code. Rental units shall remain affordable to, and occupied by, lower income households for a period of at least 55 years. The initial occupants of all ownership units shall be lower income households, and the units shall be subject to an equity sharing agreement consistent with the provisions of paragraph (2) of subdivision (c) of Section 65915. The department shall include these requirements in a covenant or restriction recorded against the surplus land before land use entitlement of the project, and the covenant or restriction shall run with the land and shall be enforceable, against any owner who violates a covenant or restriction and each successor in interest who continues the violation, by any of the entities described in subparagraphs (A) to (F), inclusive, of paragraph (4).~~

~~(c)Thirty days prior to executing a transaction for a sale, lease, exchange, a sale combined with an exchange, or other manner of disposition of the surplus state real property for less than fair market value or for affordable housing, or as authorized by the Legislature, the Director of General Services shall report to the chairpersons of the fiscal committees of the Legislature all of the following:~~

~~(1)The financial terms of the transaction.~~

~~(2)A comparison of fair market value for the surplus state real property and the terms listed in paragraph (1).~~

~~(3)The basis for agreeing to terms and conditions other than fair market value.~~

~~(d)As to surplus state real property sold or exchanged pursuant to this section, the director shall except and reserve to the state all mineral deposits, as described in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove the deposits. If, however, the director determines that there is little or no potential for mineral deposits, the reservation may be without surface right of entry above a depth of 500 feet, or the rights to prospect for, mine, and remove the deposits shall be limited to those areas of the surplus state real property conveyed that the director determines to be reasonably necessary for the removal of the deposits.~~

~~(e)The failure to comply with this section, except for subdivision (d), shall not invalidate the transfer or conveyance of surplus state real property to a purchaser for value.~~

~~(f)For purposes of this section, fair market value is established by an appraisal and economic evaluation conducted by the department or approved by the department.~~

~~SEC. 3.~~**SEC. 2.**

Section 54220 of the Government Code is amended to read:

54220.

(a) The Legislature reaffirms its declaration that housing is of vital statewide importance to the health, safety, and welfare of the residents of this state and that provision of a decent home and a suitable living environment for every Californian is a priority of the highest order. The Legislature further declares that a shortage of sites available for housing for persons and families of low and moderate income is a barrier to addressing urgent statewide housing needs and that surplus government land, prior to disposition, should be made available for that purpose.

(b) The Legislature reaffirms its belief that there is an identifiable deficiency in the amount of land available for recreational purposes and that surplus land, prior to disposition, should be made available for park and recreation purposes or for open-space purposes. This article shall not apply to surplus residential property as defined in Section 54236.

(c) The Legislature reaffirms its declaration of the importance of appropriate planning and development near transit stations, to encourage the clustering of housing and commercial development around such stations. Studies of transit ridership in California indicate that a higher percentage of persons who live or work within walking distance of major transit stations utilize the transit system more than those living elsewhere, and that lower income households are more likely to use transit when living near a major transit station than higher income households. The sale or lease of surplus land at less than fair market value to facilitate the creation of affordable housing near transit is consistent with goals and objectives to achieve optimal transportation use. The Legislature also notes that the Federal Transit Administration gives priority for funding of rail transit proposals to areas that are implementing higher density, mixed-use, and affordable development near major transit stations.

~~SEC. 4.~~ **SEC. 3.**

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 paragraph (7) 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) “Surplus land” means land owned by any local agency that is not necessary for the agency’s governmental operations. Land shall be presumed to be “surplus land” when a local agency initiates an action to dispose of it. “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 pursuant to Section 34191.5 of the Health and Safety Code, either for sale or for retention, for future development and that was not subject to an exclusive negotiating agreement or legally binding agreement to dispose of the land. Exclusive negotiating agreements or other agreements or contracts for land held in the Community Redevelopment Property Trust Fund shall be subject to this article.

(c) “Governmental operations” means land that is being used for the express purpose of agency work or operations, including utility sites, watershed property, land being used for conservation purposes, and buffer sites near sensitive governmental uses, including, but not limited to, waste water treatment plants.

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

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

(f) (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.

(B) Surplus land that is (i) less than 5,000 square feet in area, (ii) 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, or (iii) has no record access and is less than 10,000 square feet in area; and 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. If the surplus land is not sold to an owner of contiguous land, it is not considered exempt surplus land and is subject to this article.



(C) Surplus land held by the local agency for the express purpose of exchange for another property necessary for its governmental operations.

(D) Surplus land held by the local agency for the express purpose of transfer to another local agency for its governmental operations.

(E) Surplus land that is put out to open, competitive bid by a local agency, provided all entities identified in subdivision (a) of Section 54222 will be invited to participate in the competitive bid process, for either of the following purposes:

(i) 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, 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.

(ii) A mixed-use development that is more than one acre in area, that includes not less than 300 housing 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.

(F) Surplus land that is subject to legal restrictions that would make housing prohibited or incompatible on the site due to state or federal statutes, voter-approved measures, or other legal restrictions that are not imposed by the local agency. Existing zoning alone is not a legal restriction that would make housing prohibited or incompatible. Nothing in this article limits a local agency's jurisdiction or discretion regarding land use, zoning, or entitlement decisions in connection with surplus land.

(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 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.

**~~SEC. 5.~~SEC. 4.**

Section 54222 of the Government Code is amended to read:

54222.

Any local agency disposing of surplus land shall send, prior to disposing of that property or participating in negotiations to dispose of that property, a written notice of availability of the property to all of the following entities:

(a) ~~A~~ *If the surplus land is located in an urbanized area, 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 applicable regional council of governments or, in the case of a local agency without a council of governments, the Department of Housing and Community Development, of their interest in surplus land shall be sent a written notice of availability of surplus land for the purpose of developing low- and moderate-income housing. All notices shall be sent by first-class mail and, if possible, by electronic mail, and shall include the location and a description of the property.

(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, 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 receipt of the agency's notice of availability of the land.

~~SEC. 6.~~ **SEC. 5.**

Section 54222.3 of the Government Code is amended to read:

54222.3.

This article shall not apply to the disposal of exempt surplus land as defined in Section 54221 by an agency of the state or any local agency.

~~SEC. 7.~~ **SEC. 6.**

Section 54223 of the Government Code is amended to read:

54223.

After the disposing agency has received notice from the entity desiring to purchase or lease the land on terms that comply with this article, the disposing agency and the entity shall enter into good faith negotiations to determine a mutually satisfactory sales price and terms or lease terms. If the price or terms cannot be agreed upon after a good faith negotiation period of not less than 90 days, the land may be disposed of without further regard to this article, except that Section 54233 shall apply. Negotiations shall be limited to sales price and lease terms, including the amount and timing of any payments.

~~SEC. 8.~~ **SEC. 7.**

Section 54225 of the Government Code is amended to read:

54225.

(a) Any public agency disposing of surplus land to an entity described in Section 54222 for park or recreation purposes, for open-space purposes, for school purposes, or for low- and moderate-income housing purposes may provide for a payment period of up to 20 years in any contract of sale or sale by trust deed for the land. The payment period for surplus land disposed of for housing for persons and families of low and moderate income may exceed 20 years, but the payment period shall not exceed the term that the land is required to be used for low- or moderate-income housing.

(b) Notwithstanding local zoning designations, any surplus land disposed of by a public agency shall be permitted for residential use if 100 percent of the units, except for units occupied by onsite management staff, are sold or rented at an affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or affordable rent, as

defined in Section 50053 of the Health and Safety Code, to lower income households, as defined in Section 50079.5 of the Health and Safety Code. This subdivision shall not apply to exempt surplus land or surplus land that is ineligible for any public financing for affordable housing.

~~SEC. 9.~~ **SEC. 8.**

Section 54226 of the Government Code is amended to read:

54226.

This article shall not be interpreted to limit the power of any local agency to dispose of surplus land at fair market value or at less than fair market value, and any disposal at or less than fair market value consistent with this article shall not be construed as inconsistent with an agency's purpose. No provision of this article shall be applied when it conflicts with any other provision of statutory law.

~~SEC. 10.~~ **SEC. 9.**

Section 54227 of the Government Code is amended to read:

54227.

(a) In the event that any local agency disposing of surplus land receives a notice of interest to purchase or lease of that land from more than one of the entities to which notice of available surplus land was given pursuant to this article, the local agency shall give first priority to the entity that agrees to use the site for housing that meets the requirements of Section 54222.5. If the local agency receives offers from more than one entity that agrees to meet the requirements of Section 54222.5, then the local agency shall give priority to the entity that proposes to provide the greatest number of units that meet the requirements of Section 54222.5. In the event that more than one entity proposes the same number of units that meet the requirements of Section 54222.5, priority shall be given to the entity that proposes the deepest average level of affordability for the affordable units. A local agency may negotiate concurrently with all entities that provide notice of interest to purchase or lease land for the purpose of developing affordable housing that meets the requirements of Section 54222.5.

(b) Notwithstanding subdivision (a), first priority shall be given to an entity that agrees to use the site for park or recreational purposes if the land being offered is already being used and will continue to be used for park or recreational purposes, or if the land is designated for park and recreational use in the local general plan and will be developed for that purpose.

(c) For purposes of this section, “priority” means that the local agency shall negotiate in good faith exclusively with the entity in accordance with Section 54223.

~~SEC. 11.~~ **SEC. 10.**

Section 54230 of the Government Code is amended to read:

54230.

(a) (1) On or before December 31 of each year, each local agency shall make a central inventory of all surplus governmental property located in *all urbanized areas within* the jurisdiction of the local agency that the local agency or any of its departments, agencies, or authorities owns or controls to determine what land, if any, is in excess of its foreseeable needs for its governmental operations.

(2) A local agency shall make a description of each parcel found to be in excess of the needs 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.

(3) A local agency, upon request, shall provide a list of its surplus governmental properties to a citizen, limited dividend corporation, housing corporation, or nonprofit corporation without charge.

(b) The Department of Housing and Community Development shall create and maintain a searchable and downloadable public inventory of all publicly owned or controlled lands and their present uses in the state on its internet website, which shall be updated on an annual basis. The inventory shall be available no later than September 30, 2021.

~~SEC. 12.~~ **SEC. 11.**

Section 54230.5 of the Government Code is amended to read:

54230.5.

The failure by a local agency to comply with this article shall invalidate the transfer or conveyance of real property to a purchaser or encumbrancer for value, unless the local agency makes an alternative site available subject to Section 54227 that can accommodate an equal or greater number of housing units as the original site whose transfer or conveyance was effected.

~~SEC. 13.~~ **SEC. 12.**

Section 54233 of the Government Code is amended to read:

54233.

If the local agency does not agree to price and terms with an entity to which notice of availability of land was given pursuant to this article, or if no entity to which a notice of availability was given pursuant to this article responds to that notice, and 10 or more residential units are developed on the property, not less than 15 percent of the total number of residential units developed on the parcels shall be sold or rented at affordable housing cost, as defined in Section 50052.5 of the Health and Safety Code, or affordable rent, as defined in Section 50053 of the Health and Safety Code, to lower income households, as defined in Section 50079.5 of the Health and Safety Code. Rental units shall remain affordable to, and occupied by, lower income households for a period of at least 55 years. The initial occupants of all ownership units shall be lower income households, and the units shall be subject to an equity sharing agreement consistent with the provisions of paragraph (2) of subdivision (c) of Section 65915. These requirements shall be contained in a covenant or restriction recorded against the surplus land prior to land use entitlement of the project, and the covenant or restriction shall run with the land and shall be enforceable, against any owner who violates a covenant or restriction and each successor in interest who continues the violation, by any of the entities described in subdivisions (a) to (f), inclusive, of Section 54222.5.

~~SEC. 14.~~ **SEC. 13.**

Section 65400 of the Government Code is amended to read:

65400.

(a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance,

improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of standards, forms, and definitions adopted by the Department of Housing and Community Development. The department may review, adopt, amend, and repeal the standards, forms, or definitions, to implement this article. Any standards, forms, or definitions adopted to implement this article shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. Before and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

The report may include the number of units that have been substantially rehabilitated, converted from nonaffordable to affordable by acquisition, and preserved consistent with the standards set forth in paragraph (2) of subdivision (c) of Section 65583.1. The report shall document how the units meet the standards set forth in that subdivision.

(C) The number of housing development applications received in the prior year.

(D) The number of units included in all development applications in the prior year.

(E) The number of units approved and disapproved in the prior year.

(F) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(G) A listing of sites rezoned to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory required by paragraph (1) of subdivision (c) of Section 65583 and Section 65584.09. The listing of sites shall also include any additional sites that may have been required to be identified by Section 65863.

(H) A listing of sites owned or leased by the city or county that have been sold, leased, or otherwise disposed of in the prior year, and a listing of sites with leases that expired in the prior year. The list shall include the entity to whom each site was transferred and the intended use for the site.

(I) The number of net new units of housing, including both rental housing and for-sale housing, that have been issued a completed entitlement, a building permit, or a certificate of occupancy, thus far in the housing element cycle, and the income category,



by area median income category, that each unit of housing satisfies. That production report shall, for each income category described in this subparagraph, distinguish between the number of rental housing units and the number of for-sale units that satisfy each income category. The production report shall include, for each entitlement, building permit, or certificate of occupancy, a unique site identifier which must include the assessor's parcel number, but may include street address, or other identifiers.

(J) The number of applications submitted pursuant to subdivision (a) of Section 65913.4, the location and the total number of developments approved pursuant to subdivision (b) of Section 65913.4, the total number of building permits issued pursuant to subdivision (b) of Section 65913.4, the total number of units including both rental housing and for-sale housing by area median income category constructed using the process provided for in subdivision (b) of Section 65913.4.

(K) The Department of Housing and Community Development shall post a report submitted pursuant to this paragraph on its internet website within a reasonable time of receiving the report.

(b) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

#### ~~SEC. 15.~~ SEC. 14.

Section 65583.2 of the Government Code, as amended by Section 3 of Chapter 958 of the Statutes of 2018, is amended to read:

65583.2.

(a) A city's or county's inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites throughout the community, consistent with paragraph (9) of subdivision (c) of Section



65583, that can be developed for housing within the planning period and that are sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the sites that meet the standards set forth in subdivisions (c) and (g):

- (1) Vacant sites zoned for residential use.
  - (2) Vacant sites zoned for nonresidential use that allows residential development.
  - (3) Residentially zoned sites that are capable of being developed at a higher density, including the airspace above sites owned or leased by a city, county, or city and county.
  - (4) Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the site, as necessary, rezoned for, to permit residential use, including sites owned or leased by a city, county, or city and county.
- (b) The inventory of land shall include all of the following:
- (1) A listing of properties by assessor parcel number.
  - (2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.
  - (3) For nonvacant sites, a description of the existing use of each property. If a site subject to this paragraph is owned by the city or county, the description shall also include whether there are any plans to dispose of the property during the planning period and how the city or county will comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.
  - (4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.
  - (5) (A) A description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities.  
(B) Parcels included in the inventory must have sufficient water, sewer, and dry utilities supply available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity providing water or sewer service, to secure sufficient water, sewer, and dry utilities supply to support housing development. This paragraph does not impose any additional duty on the city or county to construct, finance, or otherwise provide water, sewer, or dry utilities to parcels included in the inventory.

(6) Sites identified as available for housing for above moderate-income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan, for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate the development of some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The inventory shall specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate ~~lower-income~~ *lower income* housing, moderate-income housing, or above moderate-income housing. A nonvacant site identified pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing element and a vacant site that has been included in two or more consecutive planning periods that was not approved to develop a portion of the locality's housing need shall not be deemed adequate to accommodate a portion of the housing need for lower income households that must be accommodated in the current housing element planning period unless the site is zoned at residential densities consistent with paragraph (3) of this subdivision and the site is subject to a program in the housing element requiring rezoning within three years of the beginning of the planning period to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households. A city that is an unincorporated area in a nonmetropolitan county pursuant to clause (ii) of subparagraph (B) of paragraph (3) shall not be subject to the requirements of this subdivision to allow residential use by right. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulation requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583, the realistic development capacity

for the site, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

(A) A site smaller than half an acre shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site is adequate to accommodate lower income housing.

(B) A site larger than 10 acres shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site can be developed as lower income housing. For purposes of this subparagraph, “site” means that portion of a parcel or parcels designated to accommodate lower income housing needs pursuant to this subdivision.

(C) A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.

(ii) For an unincorporated area in a nonmetropolitan county not included in clause (i): sites allowing at least 10 units per acre.

(iii) For a suburban jurisdiction: sites allowing at least 20 units per acre.

(iv) For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.

(d) For purposes of this section, a metropolitan county, nonmetropolitan county, and nonmetropolitan county with a micropolitan area shall be as determined by the United States Census Bureau. A nonmetropolitan county with a micropolitan area includes the following counties: Del Norte, Humboldt, Lake, Mendocino, Nevada, Tehama, and Tuolumne and other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) (1) Except as provided in paragraph (2), a jurisdiction shall be considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it shall be considered metropolitan. A county, not including the City and County of San Francisco, shall be considered suburban unless the county is in an MSA of 2,000,000 or greater in population in which case the county shall be considered metropolitan.

(2) (A) (i) Notwithstanding paragraph (1), if a county that is in the San Francisco-Oakland-Fremont California MSA has a population of less than 400,000, that county shall be considered suburban. If this county includes an incorporated city that has a population of less than 100,000, this city shall also be considered suburban. This paragraph shall apply to a housing element revision cycle, as described in subparagraph (A) of paragraph (3) of subdivision (e) of Section 65588, that is in effect from July 1, 2014, to December 31, 2028, inclusive.

(ii) A county subject to this subparagraph shall utilize the sum existing in the county's housing trust fund as of June 30, 2013, for the development and preservation of housing affordable to low- and very low income households.

(B) A jurisdiction that is classified as suburban pursuant to this paragraph shall report to the Assembly Committee on Housing and Community Development, the Senate Committee on ~~Transportation and~~ Housing, and the Department of Housing and Community Development regarding its progress in developing low- and very low income housing consistent with the requirements of Section 65400. The report shall be provided three times: once, on or before December 31, 2019, which report shall address the initial four years of the housing element cycle, a second time, on or before December 31, 2023, which report shall address the subsequent four years of the housing element cycle, and a third time, on or before December 31, 2027, which report shall address the subsequent four years of the housing element cycle and the cycle as a whole. The reports shall be provided consistent with the requirements of Section 9795.

(f) A jurisdiction shall be considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in an MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it shall be considered suburban.

(g) (1) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the city's or county's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(2) In addition to the analysis required in paragraph (1), when a city or county is relying on nonvacant sites described in paragraph (3) of subdivision (b) to accommodate 50 percent or more of its housing need for lower income households, the methodology used to determine additional development potential shall demonstrate that the existing use identified pursuant to paragraph (3) of subdivision (b) does not constitute an impediment to additional residential development during the period covered by the housing element. An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued during the planning period.

(3) Notwithstanding any other law, and in addition to the requirements in paragraphs (1) and (2), sites that currently have residential uses, or within the past five years have had residential uses that have been vacated or demolished, that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low income, subject to any other form of rent or price control through a public entity's valid exercise of its police power, or occupied by low or very low income households, shall be subject to a policy requiring the replacement of all those units affordable to the same or lower income level as a condition of any development on the site. Replacement requirements shall be consistent with those set forth in paragraph (3) of subdivision (c) of Section 65915.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right for developments in which at least 20 percent of the units are affordable to lower income households during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c), shall be at least 20 units per acre

in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c) and shall meet the standards set forth in subparagraph (B) of paragraph (5) of subdivision (b). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed uses are not permitted, except that a city or county may accommodate all of the very low and low-income housing need on sites designated for mixed uses if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed-use project.

(i) For purposes of this section and Section 65583, the phrase “use by right” shall mean that the local government’s review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that “use by right” does not exempt the use from design review. However, that design review shall not constitute a “project” for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

(j) Notwithstanding any other provision of this section, within one-half mile of a Sonoma-Marín Area Rail Transit station, housing density requirements in place on June 30, 2014, shall apply.

(k) For purposes of subdivisions (a) and (b), the department shall provide guidance to local governments to properly survey, detail, and account for sites listed pursuant to Section 65585.

(l) This section shall remain in effect only until December 31, 2028, and as of that date is repealed.

~~SEC. 16.~~ **SEC. 15.**

Section 65583.2 of the Government Code, as amended by Section 4 of Chapter 958 of the Statutes of 2018, is amended to read:

65583.2.

(a) A city’s or county’s inventory of land suitable for residential development pursuant to paragraph (3) of subdivision (a) of Section 65583 shall be used to identify sites throughout the community, consistent with paragraph (9) of subdivision (c) of Section 65583, that can be developed for housing within the planning period and that are

sufficient to provide for the jurisdiction's share of the regional housing need for all income levels pursuant to Section 65584. As used in this section, "land suitable for residential development" includes all of the sites that meet the standards set forth in subdivisions (c) and (g):

- (1) Vacant sites zoned for residential use.
  - (2) Vacant sites zoned for nonresidential use that allows residential development.
  - (3) Residentially zoned sites that are capable of being developed at a higher density, and sites owned or leased by a city, county, or city and county.
  - (4) Sites zoned for nonresidential use that can be redeveloped for residential use, and for which the housing element includes a program to rezone the sites, as necessary, to permit residential use, including sites owned or leased by a city, county, or city and county.
- (b) The inventory of land shall include all of the following:
- (1) A listing of properties by assessor parcel number.
  - (2) The size of each property listed pursuant to paragraph (1), and the general plan designation and zoning of each property.
  - (3) For nonvacant sites, a description of the existing use of each property. If a site subject to this paragraph is owned by the city or county, the description shall also include whether there are any plans to dispose of the property during the planning period and how the city or county will comply with Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5.
  - (4) A general description of any environmental constraints to the development of housing within the jurisdiction, the documentation for which has been made available to the jurisdiction. This information need not be identified on a site-specific basis.
  - (5) (A) A description of existing or planned water, sewer, and other dry utilities supply, including the availability and access to distribution facilities.  
(B) Parcels included in the inventory must have sufficient water, sewer, and dry utilities supply available and accessible to support housing development or be included in an existing general plan program or other mandatory program or plan, including a program or plan of a public or private entity providing water or sewer service, to secure sufficient water, sewer, and dry utilities supply to support housing development. This paragraph does not impose any additional duty on the city or county to construct, finance, or otherwise provide water, sewer, or dry utilities to parcels included in the inventory.

(6) Sites identified as available for housing for above moderate-income households in areas not served by public sewer systems. This information need not be identified on a site-specific basis.

(7) A map that shows the location of the sites included in the inventory, such as the land use map from the jurisdiction's general plan for reference purposes only.

(c) Based on the information provided in subdivision (b), a city or county shall determine whether each site in the inventory can accommodate the development of some portion of its share of the regional housing need by income level during the planning period, as determined pursuant to Section 65584. The inventory shall specify for each site the number of units that can realistically be accommodated on that site and whether the site is adequate to accommodate ~~lower-income~~ *lower income* housing, moderate-income housing, or above moderate-income housing. A nonvacant site identified pursuant to paragraph (3) or (4) of subdivision (a) in a prior housing element and a vacant site that has been included in two or more consecutive planning periods that was not approved to develop a portion of the locality's housing need shall not be deemed adequate to accommodate a portion of the housing need for lower income households that must be accommodated in the current housing element planning period unless the site is zoned at residential densities consistent with paragraph (3) of this subdivision and the site is subject to a program in the housing element requiring rezoning within three years of the beginning of the planning period to allow residential use by right for housing developments in which at least 20 percent of the units are affordable to lower income households. A city that is an unincorporated area in a nonmetropolitan county pursuant to clause (ii) of subparagraph (B) of paragraph (3) shall not be subject to the requirements of this subdivision to allow residential use by right. The analysis shall determine whether the inventory can provide for a variety of types of housing, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing. The city or county shall determine the number of housing units that can be accommodated on each site as follows:

(1) If local law or regulations require the development of a site at a minimum density, the department shall accept the planning agency's calculation of the total housing unit capacity on that site based on the established minimum density. If the city or county does not adopt a law or regulation requiring the development of a site at a minimum density, then it shall demonstrate how the number of units determined for that site pursuant to this subdivision will be accommodated.

(2) The number of units calculated pursuant to paragraph (1) shall be adjusted as necessary, based on the land use controls and site improvements requirement identified in paragraph (5) of subdivision (a) of Section 65583, the realistic development capacity



for the site, typical densities of existing or approved residential developments at a similar affordability level in that jurisdiction, and on the current or planned availability and accessibility of sufficient water, sewer, and dry utilities.

(A) A site smaller than half an acre shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site is adequate to accommodate lower income housing.

(B) A site larger than 10 acres shall not be deemed adequate to accommodate lower income housing need unless the locality can demonstrate that sites of equivalent size were successfully developed during the prior planning period for an equivalent number of lower income housing units as projected for the site or unless the locality provides other evidence to the department that the site can be developed as lower income housing. For purposes of this subparagraph, “site” means that portion of a parcel or parcels designated to accommodate lower income housing needs pursuant to this subdivision.

(C) A site may be presumed to be realistic for development to accommodate lower income housing need if, at the time of the adoption of the housing element, a development affordable to lower income households has been proposed and approved for development on the site.

(3) For the number of units calculated to accommodate its share of the regional housing need for lower income households pursuant to paragraph (2), a city or county shall do either of the following:

(A) Provide an analysis demonstrating how the adopted densities accommodate this need. The analysis shall include, but is not limited to, factors such as market demand, financial feasibility, or information based on development project experience within a zone or zones that provide housing for lower income households.

(B) The following densities shall be deemed appropriate to accommodate housing for lower income households:

(i) For an incorporated city within a nonmetropolitan county and for a nonmetropolitan county that has a micropolitan area: sites allowing at least 15 units per acre.

(ii) For an unincorporated area in a nonmetropolitan county not included in clause (i): sites allowing at least 10 units per acre.

(iii) For a suburban jurisdiction: sites allowing at least 20 units per acre.

(iv) For a jurisdiction in a metropolitan county: sites allowing at least 30 units per acre.

(d) For purposes of this section, a metropolitan county, nonmetropolitan county, and nonmetropolitan county with a micropolitan area shall be as determined by the United States Census Bureau. A nonmetropolitan county with a micropolitan area includes the following counties: Del Norte, Humboldt, Lake, Mendocino, Nevada, Tehama, and Tuolumne and other counties as may be determined by the United States Census Bureau to be nonmetropolitan counties with micropolitan areas in the future.

(e) A jurisdiction shall be considered suburban if the jurisdiction does not meet the requirements of clauses (i) and (ii) of subparagraph (B) of paragraph (3) of subdivision (c) and is located in a Metropolitan Statistical Area (MSA) of less than 2,000,000 in population, unless that jurisdiction's population is greater than 100,000, in which case it shall be considered metropolitan. A county, not including the City and County of San Francisco, shall be considered suburban unless the county is in an MSA of 2,000,000 or greater in population in which case the county shall be considered metropolitan.

(f) A jurisdiction shall be considered metropolitan if the jurisdiction does not meet the requirements for "suburban area" above and is located in an MSA of 2,000,000 or greater in population, unless that jurisdiction's population is less than 25,000 in which case it shall be considered suburban.

(g) (1) For sites described in paragraph (3) of subdivision (b), the city or county shall specify the additional development potential for each site within the planning period and shall provide an explanation of the methodology used to determine the development potential. The methodology shall consider factors including the extent to which existing uses may constitute an impediment to additional residential development, the city's or county's past experience with converting existing uses to higher density residential development, the current market demand for the existing use, an analysis of any existing leases or other contracts that would perpetuate the existing use or prevent redevelopment of the site for additional residential development, development trends, market conditions, and regulatory or other incentives or standards to encourage additional residential development on these sites.

(2) In addition to the analysis required in paragraph (1), when a city or county is relying on nonvacant sites described in paragraph (3) of subdivision (b) to accommodate 50 percent or more of its housing need for lower income households, the methodology used to determine additional development potential shall demonstrate that the existing use identified pursuant to paragraph (3) of subdivision (b) does not constitute an impediment to additional residential development during the period covered by the housing element. An existing use shall be presumed to impede additional residential development, absent findings based on substantial evidence that the use is likely to be discontinued during the planning period.

(3) Notwithstanding any other law, and in addition to the requirements in paragraphs (1) and (2), sites that currently have residential uses, or within the past five years have

had residential uses that have been vacated or demolished, that are or were subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of low or very low income, subject to any other form of rent or price control through a public entity's valid exercise of its police power, or occupied by low or very low income households, shall be subject to a policy requiring the replacement of all those units affordable to the same or lower income level as a condition of any development on the site. Replacement requirements shall be consistent with those set forth in paragraph (3) of subdivision (c) of Section 65915.

(h) The program required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 shall accommodate 100 percent of the need for housing for very low and low-income households allocated pursuant to Section 65584 for which site capacity has not been identified in the inventory of sites pursuant to paragraph (3) of subdivision (a) on sites that shall be zoned to permit owner-occupied and rental multifamily residential use by right for developments in which at least 20 percent of the units are affordable to lower income households during the planning period. These sites shall be zoned with minimum density and development standards that permit at least 16 units per site at a density of at least 16 units per acre in jurisdictions described in clause (i) of subparagraph (B) of paragraph (3) of subdivision (c), shall be at least 20 units per acre in jurisdictions described in clauses (iii) and (iv) of subparagraph (B) of paragraph (3) of subdivision (c), and shall meet the standards set forth in subparagraph (B) of paragraph (5) of subdivision (b). At least 50 percent of the very low and low-income housing need shall be accommodated on sites designated for residential use and for which nonresidential uses or mixed uses are not permitted, except that a city or county may accommodate all of the very low and low-income housing need on sites designated for mixed uses if those sites allow 100 percent residential use and require that residential use occupy 50 percent of the total floor area of a mixed uses project.

(i) For purposes of this section and Section 65583, the phrase "use by right" shall mean that the local government's review of the owner-occupied or multifamily residential use may not require a conditional use permit, planned unit development permit, or other discretionary local government review or approval that would constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Any subdivision of the sites shall be subject to all laws, including, but not limited to, the local government ordinance implementing the Subdivision Map Act. A local ordinance may provide that "use by right" does not exempt the use from design review. However, that design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code. Use by right for all rental multifamily residential housing shall be provided in accordance with subdivision (f) of Section 65589.5.

(j) For purposes of subdivisions (a) and (b), the department shall provide guidance to local governments to properly survey, detail, and account for sites listed pursuant to Section 65585.

(k) This section shall become operative on December 31, 2028.

~~SEC. 17.~~ **SEC. 16.**

Section 65585 of the Government Code is amended to read:

65585.

(a) In the preparation of its housing element, each city and county shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code. Those guidelines shall be advisory to each city or county in the preparation of its housing element.

(b) (1) At least 90 days prior to adoption of its housing element, or at least 60 days prior to the adoption of an amendment to this element, the planning agency shall submit a draft element or draft amendment to the department.

(2) The planning agency staff shall collect and compile the public comments regarding the housing element received by the city, county, or city and county, and provide these comments to each member of the legislative body before it adopts the housing element.

(3) The department shall review the draft and report its written findings to the planning agency within 90 days of its receipt of the draft in the case of an adoption or within 60 days of its receipt in the case of a draft amendment.

(c) In the preparation of its findings, the department may consult with any public agency, group, or person. The department shall receive and consider any written comments from any public agency, group, or person regarding the draft or adopted element or amendment under review.

(d) In its written findings, the department shall determine whether the draft element or draft amendment substantially complies with this article.

(e) Prior to the adoption of its draft element or draft amendment, the legislative body shall consider the findings made by the department. If the department's findings are not available within the time limits set by this section, the legislative body may act without them.

(f) If the department finds that the draft element or draft amendment does not substantially comply with this article, the legislative body shall take one of the following actions:

(1) Change the draft element or draft amendment to substantially comply with this article.

(2) Adopt the draft element or draft amendment without changes. The legislative body shall include in its resolution of adoption written findings which explain the reasons the legislative body believes that the draft element or draft amendment substantially complies with this article despite the findings of the department.

(g) Promptly following the adoption of its element or amendment, the planning agency shall submit a copy to the department.

(h) The department shall, within 90 days, review adopted housing elements or amendments and report its findings to the planning agency.

(i) (1) (A) The department shall review any action or failure to act by the city, county, or city and county that it determines is inconsistent with an adopted housing element or Section 65583, including any failure to implement any program actions included in the housing element pursuant to Section 65583. The department shall issue written findings to the city, county, or city and county as to whether the action or failure to act substantially complies with this article, and provide a reasonable time no longer than 30 days for the city, county, or city and county to respond to the findings before taking any other action authorized by this section, including the action authorized by subparagraph (B).

(B) If the department finds that the action or failure to act by the city, county, or city and county does not substantially comply with this article, and if it has issued findings pursuant to this section that an amendment to the housing element substantially complies with this article, the department may revoke its findings until it determines that the city, county, or city and county has come into compliance with this article.

(2) The department may consult with any local government, public agency, group, or person, and shall receive and consider any written comments from any public agency, group, or person, regarding the action or failure to act by the city, county, or city and county described in paragraph (1), in determining whether the housing element substantially complies with this article.

(j) The department shall notify the city, county, or city and county and may notify the Office of the Attorney General that the city, county, or city and county is in violation of state law if the department finds that the housing element or an amendment to this element, or any action or failure to act described in subdivision (i), does not substantially comply with this article or that any local government has taken an action in violation of the following:

(1) Housing Accountability Act (Section 65589.5 of the Government Code).

(2) Section 65863 of the Government Code.

(3) Chapter 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(4) Section 65008 of the Government Code.

(5) Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code.

~~SEC. 18.~~ **SEC. 17.**

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.