
A Series of New Laws Revise Surplus Land Act Procedures for Local Agencies

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In October 2023, Governor Newsom signed a collection of bills making significant changes to the Surplus Land Act. These new laws go into effect on January 1, 2024.

Written by:

Laurie Avedisian -Favini
Partner
lfavini@lozanosmith.com
Fresno Office

The Surplus Land Act requires local agencies to complete certain procedures before disposing of surplus land, either by sale or lease. These procedures include (among a host of others) taking formal action in a public meeting to declare the land surplus, and providing notice to certain entities prior to the disposal of surplus land. There are several statutory exemptions to these surplus land procedures. We note that school and community college districts are generally able to exempt themselves from the requirements of the Surplus Land Act, and must adhere to their own separate procedures for surplus property set forth in the Education Code.

Jennifer P. Thompson
Senior Counsel
jthompson@lozanosmith.com
San Luis Obispo Office

Among other things, these recently passed laws: (1) modify the definition of “dispose” for purposes of surplus land; (2) modify the surplus land exemption for cities with a population over 2.5 million; (3) add new categories of exempt surplus land; and (4) require local agencies that receive a notice of violation from the Department of Housing and Community Development (HCD) to hold a publicly noticed meeting to consider the notice of violation.

Below is a summary of four of the bills that went into effect with the start of 2024, highlighting some of the more significant changes to the Surplus Land Act.

Assembly Bill (AB) 480 and Senate Bill (SB) 747

Current law requires local agencies disposing of surplus land under the Surplus Land Act to take specified actions prior to disposal, including complying with certain notice requirements, particularly that the local agency send a notice of availability to specified entities that have notified the HCD of their interest in surplus land. If the local agency receives a notice of interest, the local agency is required to engage in good faith negotiations with the entity desiring to purchase or lease the surplus land. AB 480 and SB 747 define “dispose” to mean the sale of surplus property, or a lease of surplus property entered into on or after January 1, 2024, for a term longer than 15 years including renewal options. This means that entering into a lease for a term of 15 years or less is not considered “disposal” of the leased property under the Surplus Land Act. “Dispose” also does not include entering into a lease for surplus land on which no development or demolition will occur, regardless of the term of the lease.

AB 480 and SB 747 also add new categories of exempt surplus land including, but not limited to, land transferred to a community land trust and land owned by a California public-use airport on which residential uses are prohibited. In addition, AB 480 exempts a local agency, in specified circumstances, from declaring land “exempt surplus land” if the local agency identifies the land in a published notice and accepts public comment for at least thirty days before the exemption takes effect. This provides public agencies, including school and community college districts, an alternative to adopting a resolution or taking other action in order to exempt themselves from the Surplus Land Act.

Currently, surplus land is defined as land owned by a local agency, for which the local agency’s governing body takes formal action in a public meeting to declare the land surplus and not necessary for the agency’s use. “Agency’s use” includes land that is being used, is planned to be used pursuant to a written plan adopted by the local agency’s governing board or is disposed of to support agency work or operations. AB 480 and SB 747 expand the types of properties exempt for “agency’s use” to include sites for broadband equipment or other wireless facilities and buffer sites near waste disposal properties, among others.

AB 1734

AB 1734 specifies that for cities with a population of over 2.5 million, certain kinds of land, such as low barrier navigation centers, supportive housing, youth transitional housing, and affordable housing are not subject to the disposal procedures set forth in the Surplus Land Act, provided certain requirements are met. AB 1734 also prescribes annual reporting when a city disposes of land pursuant to this law, and civil penalties for agencies in violation.

SB 229

SB 229 applies where a local agency is disposing of surplus land and has received a notification of violation from HCD. The new law requires local agencies to hold an open and public meeting to review and consider the substance of the violation and prohibits ratification or approval of the proposed disposal of surplus land until a public meeting is held. SB 229 does not apply to agencies that decide not to dispose of surplus land after receiving notice from HCD.

Takeaways

Significant changes to the Surplus Land Act took effect January 1, 2024. Local agencies should pay close attention to changes in the law prior to considering disposal of surplus land. The procedures for disposal of surplus property, even when exemptions apply, can be rather cumbersome. Local agencies are encouraged to reach out to counsel when selling or otherwise disposing of real property. As noted above, school and community college districts will typically be able to exempt themselves from Surplus Land Act requirements but must comply with separate Education Code requirements related to surplus property.

If you have any questions about these changes to the law or the Surplus Land Act in general, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcasts](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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