

# AB 1486

## Surplus Land Act

Assemblymember  
**Phil Ting**  
19TH DISTRICT



### SUMMARY

California is facing an affordable housing crisis and unused public land has the potential to promote affordable housing development throughout the state. AB 1486 clarifies and strengthens provisions in the Surplus Land Act that will promote the use of public land for affordable housing projects.

### BACKGROUND

Across California, public agencies control significant amounts of unused land that have remained dormant for decades, but are strategically located next to transit, schools, and job opportunities. California's surplus land laws already require such land to be prioritized for purposes of affordable housing, but a narrow scope and lack of clarity within the law prevents surplus land from being used more effectively.

Enacted in 1968, the Surplus Land Act requires all local agencies to prioritize affordable housing, as well as parks and open space, when disposing of surplus land. Before local agencies may dispose of surplus land, they are required to give notice to local public entities and organizations involved in affordable housing development. If a preferred entity expresses interest, the parties must enter into good faith negotiations to determine a sales price or lease terms.

In 2014, the act was amended to better define a qualified proposal for affordable housing, prioritize proposals providing the most units at the deepest affordability, and provide more realistic timeframes to make offers and negotiate, as well as require that any housing developed on surplus public land provide at least 15% of the units affordable.

While the 2014 amendments helped clarify the surplus land act, local agencies have attempted to circumvent this statute. Some cities have argued that a parcel of land was not subject to the Surplus Land Act because the land was formerly owned by a redevelopment agency. Others still have taken the stance that as a charter city, they have plenary power over their municipal affairs and are not required to follow the requirements of the Surplus Land Act, despite existing law clearly specifying that the Surplus Land Act applies to charter cities. These conflicts have delayed the sale of surplus sites and reduced the number of sites available for affordable housing development.

Surplus land can provide opportunities to create new affordable housing. AB 1486 will ensure those opportunities are fully realized.

### THIS BILL

AB 1486 will bring clarity and improve enforcement of the Surplus Land Act to increase the supply of affordable housing. AB 1486 will:

#### Clarifies Critical Provisions of the Surplus Land Act By:

- Clarifying the definition of "surplus" land as any publicly-owned land not needed for the public agency's own governmental operations that property becomes surplus when the agency initiates action to dispose of it, and to which agencies this applies.
- AB 1486 adds reasonable exemptions to account for the types of leases and sale of land that serve a legitimate public interest.

- Streamlining the process for notifying qualified affordable housing developers of available public land.
- Clarifying what it means to grant "priority" to affordable housing proposals by requiring that agencies negotiate exclusively with the entity proposing the most units at the deepest affordability.
- Clarifying that the existing 15% minimum affordability requirement applies whenever surplus public land is used for housing.

#### Provides Data and Facilitate Enforcement of the Act By:

- Directing local agencies to create a full inventory of publicly-owned sites within their jurisdiction and report the information to the Department of Housing and Community Development (HCD).
- Requiring HCD develop a statewide public lands database as well as empowering it to more effectively enforce the Surplus Land Act.

#### Builds on the Governor's Executive Order for State Involvement By:

- Requiring State agencies to prioritize and expedite the disposition of surplus land for development of affordable housing under the State Surplus Land Act by specifying a minimum percentage of surplus property be disposed annually.
- Directing the Department of General Services to review its spatial guidelines for public facilities to allow on-site affordable housing without compromising the quality of on-site public services.

#### Incentivizes Development of Affordable Housing Public Land By:

- Allowing affordable housing on surplus land and public agencies that dispose of it to be more competitive for state funding.

#### Uses Housing Element Law to Leverage Surplus Land for Housing By:

- Establishing a presumption in Housing Element law that allows residential uses on all developable public land where it is feasible, subject to certain exemptions, notwithstanding local zoning, for housing in which 100% of the units qualify as affordable housing to lower-income households.
- Requiring Housing Elements to include public land in the land inventory, the jurisdiction's plans to encourage the development of affordable housing on surplus land, and that local jurisdictions report on their progress annually.

#### Expands Trained Labor Pool for Affordable Housing Construction By:

- Supporting trained apprentices and prevailing wage on affordable housing projects built on surplus land.

### SUPPORT

Non-Profit Housing Association of Northern California (Sponsor)  
San Diego Housing Federation (Sponsor)  
California Community Builders  
North Bay Leadership Council

### STAFF CONTACT

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