

- d) Allows the local agency to dispose of the property on the private market if agreement isn't reached with a housing sponsor.
 - e) Requires that, if a property sold as surplus is not sold to a housing sponsor, but housing is developed on it later, 15% of the units must be sold or rented at an affordable cost to lower income households.
 - f) Imposes specified penalties for violations of the SLA.
- 2) Provides for the redevelopment of Alameda Point, as specified.

This bill:

- 1) Adds to the SLA's definition of "exempt surplus land" surplus land that is a former military base that was conveyed by the federal government to a local agency, and is subject to existing law governing the redevelopment of Alameda Point and the Fleet Industrial Supply Center, as specified, provided that all of the following conditions are met:
- a) The former military base has an aggregate area greater than five acres, is expected to include a mix of residential and nonresidential uses, and is expected to include no fewer than 1,400 residential units upon completion of development or redevelopment of the former military base;
 - b) Development of housing affordable to low- and moderate-income households is governed by a settlement agreement entered into prior to September 1, 2020;
 - c) Prior to disposition of the surplus land, the agency adopts an initial finding of exemption, as specified; and
 - d) The agency includes in its annual report to the Department of Housing and Community Development (HCD) on its general plan the status of development of residential units on the former military base, including the total number of residential units that have been permitted and what percentage of those residential units are restricted for persons and families of low- and moderate-income, as specified.
- 2) Provides that a violation of this bill is subject to penalties for violations of the SLA.

COMMENTS:

- 1) *Author's statement.* According to the author, "AB 2319 will expedite the construction of low-, very low- and moderate-income housing at Alameda Naval Air Station (Alameda Point). These critical projects have been dramatically slowed due to the state's interpretation of how the Surplus Land

Act should apply to the project. The construction of low-, very low- and moderate-income units at this former naval base is particularly beneficial to this community. There is an existing settlement agreement between the City of Alameda and a local nonprofit, Renewed Hope, requiring 25% of all housing units at the former Naval base to be low-, very low- or moderate-income housing, which is higher than the 15% inclusionary zoning requirement in the remainder of the City of Alameda. Due to the unique circumstance the City of Alameda finds itself, AB 2319 is narrowly tailored to just apply to the former naval base in Alameda.”

- 2) *Local Surplus Lands*. The SLA spells out the steps local agencies must follow when they dispose of publicly-owned land they no longer need. Before local officials can dispose of property, they must declare that the land is no longer necessary for the agency’s use in a public meeting and declare the land either “surplus land” or “exempt surplus land.” The SLA designates certain types of land as “exempt surplus land,” which is not subject to the requirements of the SLA. All other surplus land must follow the procedures laid out in the SLA.

After a local agency declares that a parcel of land is surplus to its needs, and that it is not exempt, the agency must send a written notice of availability to various public agencies and nonprofit groups, referred to as “housing sponsors,” notifying them that land is available for any of the following purposes:

- a) Low- and moderate-income housing;
- b) Park, recreation, and open space;
- c) School facilities; and
- d) Infill opportunity zones or transit village plans.

If another agency or housing sponsor wants to purchase or lease the surplus land for one of these purposes, it must tell the disposing agency within 60 days. Except where the surplus land is currently used for park or recreational purposes, the local agency must give priority to the housing sponsor that proposes to provide the greatest level of affordable housing. If the surplus land is currently used for park or recreational purposes, the disposing agency must give first priority to an entity that agrees to continue using the site for park or recreational purposes. If the local agency and any of the prioritized entities are not able to negotiate a mutually satisfactory price after 90 days of good faith negotiations, the local agency may proceed to sell the land on the open market.

- 3) *Exemptions from the SLA*. The SLA exempts from its requirements 11 categories and several subcategories of potential land dispositions. Exempt dispositions are not required to go through the solicitation and negotiation

process outlined in the SLA. This reflects the reality that certain dispositions provide intrinsic value to residents, are necessary for an agency's use, will provide one of the desired outcomes envisioned in the SLA (such as provision of affordable housing or preservation of park lands), or that the land being disposed of is not suited for housing. For example, surplus land that will be developed with a large mixed-use development that dedicates at least 25% of the units to lower income households is considered "exempt surplus land" as the affordability levels provided are equivalent to the minimum requirements of the SLA. This exemption allows local agencies to more expeditiously dispose of land while achieving the same desired outcome of the SLA.

- 4) *Base Realignment and Closure (BRAC) and Alameda Point Settlement Agreement.* The end of the Cold War forced the Department of Defense to adjust to new geopolitical realities. Through several rounds of the BRAC process, federal officials closed or realigned nearly three dozen military bases in California. Upon their closure, the Department of Defense, along with local agencies, designated local reuse authorities to guide the future use of the base. This process resulted in the relinquishment of significant tracts of federal land to local agencies.

Alameda Point is among the nearly 30 military bases in California closed by the federal government at the end of the Cold War. The Legislature passed special legislation in 1996 and 1997 to help Alameda officials redevelop these properties to civilian uses, Alameda officials adopted their redevelopment plan on March 2, 1998. The plan calls for mixed use development that includes up to 2,300 units of housing.

In the Spring of 2000, an action commenced in Alameda Superior Court (*Renewed Hope Housing Advocates and Arc Ecology v. City of Alameda, et al.*) challenging the Environmental Impact Report (EIR) for the reuse of Alameda Point. The parties eventually settled in March of 2001 on multiple matters, including the construction of affordable housing on the base. The agreement stipulated:

"25% of all newly constructed housing units at Alameda Point shall be made permanently affordable as follows: 10% of all newly constructed housing units shall be made permanently affordable to households with incomes at or below 80% of median income; and the remaining 15% of newly constructed housing units to made affordable shall be made affordable under the criteria set forth in California Health & Safety Code section 33413(b)(2), as it may be amended, or in any successor section."

This requirement applies to each residential development project at Alameda Point, and the City of Alameda is prohibited from approving any residential development projects on the base that do not comply. According to the sponsor, this requirement presently provides affordability rates of 6% very-low, 10% low-, and 9% moderate-income housing.

- 5) *Intersection between the SLA and the redevelopment of Alameda Point.* In 2019, the Legislature substantially revised the SLA to increase the emphasis on affordable housing and address concerns that some local agencies were bypassing the SLA's requirements (AB 1486, Ting, Chapter 664). Among other changes, AB 1486 broadened the definition of surplus land and required land to be designated as surplus before the local agency sells it. AB 1486 prohibited local agencies from counting the sale of land for economic development purposes as being "for the agency's use." This means that local agencies must open their properties to affordable housing developers first, even if they have a different purpose for the property.

AB 1486 also required that, if a surplus property is not sold to a housing sponsor but housing is developed on it later, 15% of the units be sold or rented at an affordable cost to lower income households. Finally, AB 1486 imposed penalties on local agencies that violate the SLA, totaling 30% of the sales price of land disposed of in violation of the SLA for a first violation and 50% of the price of the land for subsequent violations.

These recent amendments to the SLA have come into conflict with local agencies' plans and obligations to redevelop former military bases. Specifically, at Alameda Point, pursuant to the recent changes to the SLA, the City of Alameda is obligated to make the former military base available to various entities for possible development of housing, open space, etc. This obligation conflicts with the federally-approved reuse plan and the prior agreement the City had entered into with the Navy to redevelop Alameda Point. In addition, the inclusion of leases in the SLA has impacted the City's ability to lease vacated military buildings for interim uses, an essential component of the reuse plan as well as the City's economic revitalization plan to offset the loss of jobs and tax revenue from the closure of Alameda Point. The interim lease of vacant buildings for economic revitalization helps finance ongoing cleanup and development over the lifetime of the Alameda Point project. An example of the conflict is the inability of the Alameda Point Collaborative (APC) to move forward with a project that will replace dilapidated units now housing homeless people and build an additional 112 units for the homeless.

This bill creates a 12th category of exemption to the SLA for Alameda Point. It also requires the City of Alameda to report the number units completed on the site, by affordability category, in its housing element annual progress report.

- 6) *G&F Committee Amendments.* The author agreed to amendments with the Senate Governance and Finance Committee. Due to timing, the amendments will be taken in this committee, and make the change "initial" finding to "written" finding to be consistent with rest of SLA.
- 7) *Double-referral.* This bill passed out of the Governance and Finance Committee on June 15th on a 5-0 vote.

RELATED LEGISLATION:

SB 719 (Min, 2021) — provides that land comprising the former Tustin Marine Corps Air Station is exempt surplus land for the purposes of the SLA if certain affordability standards for residential developments and other conditions are met. *This bill is pending in the Assembly Committee on Local Government.*

AB 2357 (Ting, 2022) — establishes process improvements to the SLA to increase transparency, facilitate more effective implementation, and facilitate enforcement. *This bill is pending in the Senate Governance and Finance Committee.*

AB 1748 (Seyarto, 2022) — would have exempt low density parcels located in jurisdictions that meet or exceed their 6th cycle Regional Housing Needs Allocation (RHNA) production targets for Very Low Income (VLI) and Low Income (LI) housing on an annual basis from the Surplus Lands Act (SLA). *This bill died in the Assembly Committee on Housing and Community Development.*

AB 1271 (Ting, 2021) – would have expanded the types of land exempt from the Surplus Lands Act (SLA), imposed new procedural requirements on local agencies disposing of surplus land, and would make various technical changes to the SLA. *This bill was held in the Assembly Committee on Housing and Community Development.*

AB 1486 (Ting, Chapter 664, Statutes of 2019) – expanded the scope of local agencies subject to the SLA, revised the definitions of “surplus land” and “exempt surplus land,” revised the noticing requirements relative to local agencies, housing sponsors and HCD, and added penalties for local agencies that sell land in violation of the SLA.

AB 2135 (Ting Chapter 644, Statues of 2014) – amended the procedure for the disposal of surplus land by local agencies and expanded the provisions relating to

the prioritization of affordable housing development if the surplus land will be used for residential development.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

POSITIONS: (Communicated to the committee before noon on Wednesday, June 15, 2022.)

SUPPORT:

City of Alameda (Sponsor)
Alameda Point Collaborative
Building Futures With Women and Children
Operation Dignity INC

OPPOSITION:

None received.

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