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TITLE 5. LOCAL AGENCIES [50001 - 57607] (Title 5 added by Stats. 1949, Ch. 81.)

DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821] (Division 2 added by Stats. 1949, Ch. 81.)

PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7] (Part 1 added by Stats. 1949, Ch. 81.)

CHAPTER 5. Property [54000 - 54262] (Chapter 5 added by Stats. 1949, Ch. 81.)

ARTICLE 8.5. Surplus Residential Property [54235 - 54239.6] (Article 8.5 added by Stats. 1979, Ch. 1116.)

54235. The Legislature reaffirms its finding that the disposition of surplus property owned by public agencies should be utilized to further state policies.

The Legislature reaffirms its finding that there exists within the urban and rural areas of the state a serious shortage of decent, safe, and sanitary housing which persons and families of low or moderate income can afford, and consequently a pressing and urgent need for the preservation and expansion of the low- and moderate-income housing supply. The Legislature further reaffirms its finding that highway and other state activities have contributed to the severe shortage of such housing. The Legislature reaffirms that the provision of decent housing for all Californians is a state goal of the highest priority. The Legislature finds and declares that actions of state agencies including the sales of surplus residential properties which result in the loss of decent and affordable housing for persons and families of low or moderate income is contrary to state housing, urban development, and environmental policies and is a significant environmental effect, within the meaning of Article XIX of the California Constitution, which will be mitigated by the sale of surplus residential property pursuant to the provisions of this article.

The Legislature further finds and declares that the displacement of large numbers of persons as a result of the sale of surplus residential property owned by agencies of the state is a significant environmental effect, within the meaning of Article XIX of the California Constitution which will be mitigated by sale of such properties pursuant to the provisions of this article.

The Legislature further finds and declares that the sale of surplus residential property pursuant to the provisions of this article will directly serve an important public purpose. Wherefore, the Legislature intends by this article to preserve, upgrade and expand the supply of housing available to persons and families of low or moderate income. The Legislature further intends by this article to mitigate the environmental effects, within the meaning of Article XIX, of the California Constitution, caused by highway activities.

(Amended by Stats. 1982, Ch. 1367, Sec. 1.)

54236. (a) As used in this article, the term "offer" means to solicit proposals prior to sale in a manner calculated to achieve a sale under the conditions specified, and to hold the offer open for a reasonable period of time, which shall be no more than one year, unless the time is extended by the selling agency at its discretion, for a period to be specified by the selling agency.

(b) As used in this article, the term "affordable price" means, in the case of a purchaser, other than a lower income household, the price for residential property for which the purchaser's monthly payments will not exceed that portion of the purchasing household's adjusted income as determined in accordance with the regulations of the United States Department of Housing and Urban Development, issued pursuant to Section 235 of the National Housing Act; and, in the case of a purchaser that is a lower income household, the price for residential property for which the purchaser's monthly payments will not exceed that portion of the purchasing household's adjusted income as determined in accordance with the regulations of the United States Department of Housing and Urban Development issued pursuant to Section 8 of the United States Housing Act of 1937.

(c) As used in this article, the term "single-family residence" means a real property improvement used, or intended to be used, as a dwelling unit for one family.

(d) As used in this article, the term "surplus residential property" means land and structures owned by any agency of the state that is determined to be no longer necessary for the agency's use, and that is developed as single-family or multifamily housing, except property being held by the agency for the purpose of exchange.

Surplus residential properties shall only include land and structures that, at the time of purchase by the state, the state had intended to remove the residences thereon and to use the land for state purposes.

(e) As used in this article, the term “displacement” includes, but is not limited to, persons who will have to move from surplus residential property that they occupy when it is sold by a state agency because they are unable to afford to pay the price that the state agency is asking for the residential property.

(f) As used in this article, the term “fair market value” shall mean fair market value as of the date the offer of sale is made by the selling agency pursuant to the provisions of this article and shall reflect the existing “as is” condition of the property, taking into account any repairs required to make the property safe and habitable. This definition shall not apply to terms of sale that are described as mitigation measures in an environmental study prepared pursuant to the Public Resources Code if the study was initiated before this measure was enacted.

(g) As used in this article, the term “affordable rent” means, in the case of an occupant person or family, other than a person or family of low or moderate income, rent for residential property that is not more than 25 percent of the occupant household’s gross monthly income, and in the case of an occupant person or family of low or moderate income, rent for residential property that is not more than the percentage of the adjusted income of the occupant person or family as permitted under regulations of the United States Department of Housing and Urban Development issued pursuant to Section 8 of the United States Housing Act of 1937, but not in excess of the market rental value for comparable property.

(h) As used in this article, the term “area median income” means median household income, adjusted for family size as determined in accordance with the regulations of the United States Department of Housing and Urban Development issued pursuant to Section 235 of the National Housing Act, as amended (Public Law 90-448), for the standard metropolitan statistical area (SMSA), in which surplus residential property to be disposed of pursuant to this article is located, or the county in which the property is located, if it is outside an SMSA.

(i) As used in this article, the term “persons and families of low or moderate income” means persons and families who meet both of the following conditions:

(1) Meet the definition of persons and families of low or moderate income set forth in Section 50093 of the Health and Safety Code.

(2) Have not had an ownership interest in real property in the last three years.

(j) As used in this article, the term “lower income households” means lower income households as defined in Section 50079.5 of the Health and Safety Code.

(Amended by Stats. 2013, Ch. 468, Sec. 1. (SB 416) Effective January 1, 2014.)

54237. (a) Notwithstanding Section 11011.1, an agency of the state disposing of surplus residential property shall do so in accordance with the following priorities and procedures:

(1) First, all single-family residences presently occupied by their former owners shall be offered to those former owners at the appraised fair market value.

(2) Second, all single-family residences shall be offered, pursuant to this article, to their present occupants who have occupied the property for two years or more and who are persons and families of low or moderate income.

(3) Third, all single-family residences shall be offered, pursuant to this article, to their present occupants who have occupied the property for five years or more and whose household income does not exceed 150 percent of the area median income.

(4) Fourth, a single-family residence shall not be offered, pursuant to this article, to present occupants who are not the former owners of the property if the present occupants have had an ownership interest in real property in the last three years.

(b) Single-family residences offered to their present occupants pursuant to paragraphs (2) and (3) of subdivision (a) shall be offered to those present occupants at an affordable price. The price shall not be less than the price paid by the agency for original acquisition, unless the acquisition price was greater than the current fair market value, and shall not be greater than fair market value. When a single-family residence is offered to present occupants at a price that is less than fair market value, the selling agency shall impose terms, conditions, and restrictions to ensure that the housing will remain available to persons and families of low or moderate income and households with incomes no greater than the incomes of the present occupants in proportion to the area median income. The Department of Housing and Community Development shall provide to the selling agency recommendations of standards and criteria for these prices, terms, conditions, and restrictions. The selling agency shall provide repairs required by lenders and government housing assistance programs, or, at the option of the agency, provide the present occupants with a replacement dwelling pursuant to Section 54237.5.

(c) If single-family residences are offered to their present occupants pursuant to paragraphs (2) and (3) of subdivision (a), the occupants shall certify their income and assets to the selling agency. When a single-family residence is offered to present occupants at a price that is less than fair market value, the selling agency may verify the certifications, in accordance with procedures used for verification of incomes of purchasers and occupants of housing financed by the California Housing Finance Agency and with regulations adopted for the verification of assets by the United States Department of Housing and Urban Development. The income and asset limitations and term of residency requirements of paragraphs (2) and (3) of subdivision (a) shall not apply to sales that are described as mitigation measures in an environmental study prepared pursuant to the Public Resources Code, if the study was initiated before this measure was enacted.

(d) (1) Except as otherwise provided in paragraph (2), all other surplus residential properties and all properties described in paragraphs (1), (2), and (3) of subdivision (a) that are not purchased by the former owners or the present occupants shall be then offered as follows:

(A) Except as required by subparagraph (B), the property shall be offered to a housing-related private or public entity at a reasonable price, which is best suited to economically feasible use of the property as decent, safe, and sanitary housing at affordable rents and affordable prices for persons and families of low or moderate income, on the condition that the purchasing entity shall cause the property to be rehabilitated and used as follows:

(i) If the housing-related entity is a public entity, the entity shall dedicate profits realized from a subsequent sale, as specified in subdivision (b) of Section 54237.7, to the construction of affordable housing within the Cities of Pasadena, South Pasadena, Alhambra, La Cañada Flintridge, and the 90032 postal ZIP Code.

(ii) If the entity is a private housing-related entity or a housing-related public entity, the entity shall cause the property to be developed as limited equity cooperative housing with first right of occupancy to present occupants, except that where the development of cooperative or cooperatives is not feasible, the purchasing entity shall cause the property to be used for low- and moderate-income rental or owner-occupied housing, with first right of occupancy to the present tenants. The price of the property in no case shall be less than the price paid by the entity for original acquisition unless the acquisition price was greater than current fair market value and shall not be greater than fair market value. Subject to the foregoing, it shall be set at the level necessary to provide housing at affordable rents and affordable prices for present tenants and persons and families of low or moderate income. When residential property is offered at a price that is less than fair market value, the selling agency shall impose terms, conditions, and restrictions that will ensure that the housing will remain available to persons and families of low or moderate income. The Department of Housing and Community Development shall provide to the selling agency recommendations of standards and criteria for prices, terms, conditions, and restrictions.

(B) (i) If the property is a historic home, the property shall be offered first to a housing-related public entity subject to clause (i) or (ii) of subparagraph (A) or to a nonprofit private entity dedicated to rehabilitating and maintaining the historic home for public and community access and use subject to clause (ii) of subparagraph (A).

(ii) For purposes of this subdivision, "historic home" means single-family surplus residential property that is listed on, or for which an application has been filed for listing on, at least one of the following by January 1, 2015:

(I) The California Register of Historical Resources, as established pursuant to Article 2 (commencing with Section 5020) of Chapter 1 of Division 5 of the Public Resources Code.

(II) The National Register of Historic Places, as established pursuant to Chapter 3021 of Title 54 of the United States Code.

(III) The National Register of Historic Places, as previously established pursuant to the federal National Historic Preservation Act (54 U.S.C. Sec. 300101 et seq.).

(2) This subdivision shall not apply to properties offered for sale pursuant to Section 54239.1, 54239.5, or 54239.6.

(e) A surplus residential property not sold pursuant to subdivisions (a) to (d), inclusive, or Section 54239.1, 54239.5, or 54239.6, as applicable, shall then be sold at fair market value, with priority given first to purchasers who are present tenants in good standing with all rent obligations current and paid in full, second to former tenants who were in good standing at the time they vacated the premises, with priority given to the most recent tenants first, and then to purchasers who will be owner occupants. The selling agency may commence the sale of property that former tenants may possess a right to purchase as provided by this subdivision 30 days after the selling agency has done both of the following:

(1) Posted information regarding the sale under this subdivision on the selling agency's internet website.

(2) Made a good faith effort to provide written notice, by first-class mail, to the last known address of each former tenant.

(f) (1) Tenants in good standing of nonresidential properties shall be given priority to purchase, at fair market value, the property they rent, lease, or otherwise legally occupy.

(2) (A) A tenant in good standing of a nonresidential property shall be given priority to purchase, at the lesser of fair market value or value in use, if the tenant is a city or a nonprofit organization qualified as exempt under Section 501(c)(3) of the Internal Revenue Code.

(B) The Department of Transportation shall not sell a nonresidential property to a tenant described in subparagraph (A) at a value below the minimum sales price, as defined by Section 1476 of Title 21 of the California Code of Regulations as that regulation read on July 1, 2019.

(C) If a nonresidential property is offered at a price that is less than fair market value, the selling agency shall impose appropriate terms, conditions, and restrictions.

(D) As used in this paragraph, "value in use" means the value of a nonresidential property assuming a specific use, that may or may not be the property's highest and best use on the effective date of the property's appraisal.

(Amended by Stats. 2024, Ch. 347, Sec. 1. (AB 1038) Effective September 22, 2024.)

54237.3. Notwithstanding the requirement to provide repairs in subdivision (b) of Section 54237, the Department of Transportation may offer a residence or property in an "as is" condition at the request of a person given priority to purchase pursuant to paragraphs (2) and (3) of subdivision (a) of Section 54237.

(Added by Stats. 2013, Ch. 468, Sec. 3. (SB 416) Effective January 1, 2014.)

54237.5. Notwithstanding the requirement to provide repairs in subdivision (b) of Section 54237, the selling agency may, at its option, provide the present occupants with a replacement dwelling if all of the following conditions exist:

(a) Providing a replacement dwelling is less expensive than providing the repairs required by subdivision (b) of Section 54237.

(b) The replacement dwelling is determined to have all of the following characteristics:

(1) Is decent, safe, and sanitary.

(2) Is suitable to the occupancy needs of the household as provided under regulations of the United States Department of Housing and Urban Development issued pursuant to Section 8 of the United States Housing Act of 1937.

(3) Is open to all persons regardless of race, color, religion, sex, or national origin and consistent with requirements of Title VIII of the Civil Rights Act of 1968.

(4) Is in an area not generally less desirable than the dwelling to be acquired in regard to public utilities and public and commercial facilities.

(5) Is reasonably accessible to the displaced person's place of employment.

(6) Is in an equal or better neighborhood.

(7) Is affordable, as defined in subdivision (b) of Section 54236, to the displaced person.

(c) The offer is made at an affordable price that is not less than the price paid by the agency for original acquisition of the unit now occupied by the displaced person or the replacement unit, whichever is less, and is not more than market value.

(d) The replacement dwelling is a newly constructed or a vacant residential unit. No resident shall be displaced, as defined by Section 7260, for the purpose of creating a replacement unit.

(Amended by Stats. 2014, Ch. 298, Sec. 2. (AB 2753) Effective January 1, 2015.)

54237.7. (a) Notwithstanding Section 183.1 of the Streets and Highways Code, the Department of Transportation shall deposit proceeds from the sale of surplus residential property from the department to a new owner pursuant to this article into the SR-710 Rehabilitation Account, which is hereby created. Notwithstanding Section 13340, funds in the account are hereby continuously appropriated to the department without regard to fiscal years for the purpose of providing repairs required pursuant to subdivision (b) of Section 54237. The total funds maintained in the account shall not exceed one million two hundred thousand dollars (\$1,200,000). Funds exceeding that amount, less any reimbursements due to the federal government, shall be transferred to the State Highway Account in the State Transportation Fund to be used for allocation by the California Transportation Commission (commission) exclusively to fund projects located in Pasadena, South Pasadena, Alhambra, La Cañada Flintridge, and the 90032 postal ZIP Code. Projects shall be selected and prioritized by the affected communities in consultation with the Los Angeles County Metropolitan Transportation Authority, pursuant to guidelines developed by the commission. The Los Angeles County Metropolitan Transportation

Authority shall submit a proposed program of projects and the commission shall have final authority to approve the projects. Eligible projects may include, but are not limited to: sound walls; transit and rail capital improvements; bikeways; pedestrian improvements; signal synchronization; left turn signals; and major street resurfacing, rehabilitation, and reconstruction. The funds shall not be used to advance or construct any proposed North State Route 710 tunnel. Any funds remaining in the SR-710 Rehabilitation Account on the date that final payment due for the last of the properties repaired has been made, less any reimbursements due to the federal government, shall be transferred to the State Highway Account in the State Transportation Fund, to be used exclusively for the purposes described in this section.

(b) Notwithstanding any other law, the net proceeds from a subsequent market sale of surplus residential property sold pursuant to this article at an affordable or reasonable price, as specified in regulations adopted by the department, shall be deposited into the Affordable Housing Trust Account, which is hereby created within the Housing Finance Fund and, notwithstanding Section 13340, continuously appropriated to the California Housing Finance Agency to carry out any activity authorized by Part 3 (commencing with Section 50900) of Division 31 of the Health and Safety Code for the benefit of persons and families of low and moderate income residing exclusively in Pasadena, South Pasadena, Alhambra, La Cañada Flintridge, and the 90032 postal ZIP Code. The priority for the distribution of proceeds from subsequent sales shall be established pursuant to regulations adopted by the department.

(Amended by Stats. 2021, Ch. 362, Sec. 2. (SB 381) Effective September 28, 2021.)

54237.8. Notwithstanding any other law, for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), the preliminary project alternatives referred to as Alternative F-5, F-6, and F-7 in the December 2012 Alternative Analysis Report of the Los Angeles County Metropolitan Transportation Authority and any other freeway or tunnel alternatives to close the Interstate 710 North Gap shall no longer be deemed as feasible alternatives for consideration in any environmental review process for the Interstate 710 North Gap Closure project, State Clearinghouse number 1982092310.

(Amended by Stats. 2019, Ch. 835, Sec. 2. (SB 7) Effective January 1, 2020.)

54237.9. Notwithstanding any other provision in this article, except for subdivision (f) of Section 54237, the price of property sold pursuant to this article shall not be less than the price paid by the Department of Transportation for original acquisition of the property. The original acquisition price shall not be adjusted for inflation, except as provided in subdivision (f) of Section 54237.

(Added by Stats. 2021, Ch. 130, Sec. 4. (SB 51) Effective July 23, 2021.)

54237.10. (a) The Legislature finds and declares that the state's homelessness crisis has compounded the need for affordable housing described in Section 54235. To help mitigate the need for affordable housing and to speed up sales pursuant to this article, the Legislature further finds and declares that an emergency exists for purposes of Sections 11342.545, 11346.1, and 11349.6.

(b) The Department of Transportation shall file proposed emergency regulations or permanent regulations with the Office of Administrative Law for adoption to implement this article not later than six months after this article is enacted, or six months after any amendment to this article.

(c) Notwithstanding Section 11346.1, the emergency regulations in effect on September 15, 2024, that were adopted to implement this article and that are contained in Chapter 9.5 (commencing with Section 1475) of Division 2 of Title 21 of the California Code of Regulations, including, but not limited to, the regulations adopted pursuant to subdivision (f) of Section 54239.4 as it read on January 1, 2024, and subdivision (e) of Section 54239.5 as it read on January 1, 2024, shall remain in effect until January 31, 2026, or until permanent regulations are adopted, whichever is sooner.

(d) Notwithstanding Section 11346.1, any necessary emergency regulations adopted by the Department of Transportation to implement the changes made to this article by the act that added this subdivision shall remain in effect until January 31, 2026, or until permanent regulations are adopted, whichever is sooner.

(Amended by Stats. 2024, Ch. 347, Sec. 2. (AB 1038) Effective September 22, 2024.)

54238. In the event a purchaser of surplus residential property does not comply with terms, conditions, and restrictions imposed pursuant to Section 54237 of this article, to assure that such housing will remain available to persons and families of low or moderate income, the state agencies which sold the property may require that the purchasers pay the state the difference between the actual price paid by the purchaser for the property and the fair market value of such property, at the time of the agency's determination of noncompliance, plus 6 percent interest on such amount for the period of time the land has been held by the purchaser. This section does not limit the right to seek injunctive relief to enforce the provisions of this article.

(Added by Stats. 1979, Ch. 1116.)

54238.3. (a) This article shall apply only to surplus residential properties which were acquired for a state project, for which at least 20 dwelling units were acquired and owned by the state on January 1, 1980, or on the date the properties were declared to be surplus, whichever date occurs later. For the purpose of this section, a freeway route and its interchanges shall be considered one

state project. Except for State Highway Route 7 in Los Angeles County, this article shall not apply to freeway routes rescinded on or after January 1, 1984.

(b) Any person who is displaced from any dwelling located on such residential property that is also located within the right-of-way of a freeway route or its interchanges for which the property was declared surplus on or after January 1, 1984, and who occupied that dwelling for at least 90 days prior to the date the property was declared surplus, shall be eligible to receive the relocation advisory assistance provided by Section 7261, the relocation benefits provided by paragraph (1) of subdivision (a) or subdivision (b) of Section 7262, the payments authorized by subdivision (b) or (c) of Section 7264, and the right for review of decision as provided by Section 7266 if the person is forced to relocate from the dwelling, as a direct result of the state agency's disposal of the excess real property, within 90 days of the recordation of the deed from the state agency to a new owner.

(c) Whenever a state surplus residential property disposal project, as described in subdivision (b), includes 50 or more dwelling units, a Relocation Liaison shall be appointed by the Secretary of Transportation. The term of the appointment shall be of sufficient duration for the Relocation Liaison to fulfill the assignment, not to exceed 180 days, and shall begin on the date that the property is declared to be surplus. The Relocation Liaison shall have the following assigned duties and responsibilities:

- (1) Meet with the eligible persons and explain to them the benefits defined in subdivision (b).
- (2) In conjunction with the state agency, assist in obtaining replacement housing for eligible persons.
- (3) Assist eligible persons in completing and processing claims for benefits.

The state agency which is disposing of the surplus residential property shall be responsible for underwriting all reasonable costs as determined by the secretary associated with the operation of the Relocation Liaison's office necessary to perform all duties assigned to it.

(Amended by Stats. 2013, Ch. 352, Sec. 307. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

54238.4. This article is intended to benefit persons and families subject to displacement and persons and families of low or moderate income. The article shall be liberally construed to permit such persons or families to enforce the rights, duties, and benefits created by the article.

(Added by Stats. 1979, Ch. 1116.)

54238.5. Failure to comply with the provisions of this article shall not invalidate the transfer, sale, or conveyance to a bona fide purchaser for value or an encumbrancer for value.

(Added by Stats. 1979, Ch. 1116.)

54238.6. If a provision of this article or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application thereof, and to this end the provisions of this article are severable.

(Added by Stats. 1979, Ch. 1116.)

54238.7. Except those properties the Department of Transportation has in escrow as of August 15, 1997, to sell, the Department of Transportation shall not dispose of any surplus property in the City of South Pasadena prior to January 31, 1998.

(Amended by Stats. 2001, Ch. 745, Sec. 105. Effective October 12, 2001.)

54238.8. (a) Any surplus residential property purchased at an affordable price pursuant to this article shall be assessed at its affordable price for property tax purposes.

(b) Any surplus residential property purchased at a reasonable price pursuant to this article shall be assessed at its reasonable price for property tax purposes.

(c) This section shall only apply to surplus residential properties for State Route 710, in the County of Los Angeles.

(Added by Stats. 2017, Ch. 20, Sec. 4. (AB 115) Effective June 27, 2017.)

54238.9. (a) The Department of Transportation shall not increase the rent of a tenant who resides in a surplus residential property located within the State Route 710 corridor in the County of Los Angeles and who participates in the Affordable Rent Program administered by the department pursuant to Article 1 of Chapter 24 of Division 2 of Title 21 of the California Code of Regulations, Sections 2653 to 2658, inclusive.

(b) Any signatories of active rental agreements for residential property entered into with the Department of Transportation as of July 1, 2019, and continuously residing at the property since that date, may be eligible to participate in the Affordable Rent Program

administered by the department pursuant to Article 1 (commencing with Section 2653) of Chapter 24 of Division 2 of Title 21 of the California Code of Regulations.

(Amended by Stats. 2019, Ch. 835, Sec. 3. (SB 7) Effective January 1, 2020.)

54239.1. Notwithstanding subdivision (d) of Section 54237, after a surplus residential property located within the City of Los Angeles is offered for sale pursuant to subdivisions (a) to (c), inclusive, of Section 54237, the surplus residential property shall be offered for sale in accordance with the following priorities and procedures:

(a) After the surplus residential property is offered for sale pursuant to subdivisions (a) to (c), inclusive, of Section 54237 these properties shall then be offered at fair market value to present tenants who have occupied the property for five years or more and who are in good standing with all rent obligations current and paid in full, with first right of occupancy to the present tenants.

(b) (1) After the surplus residential property is offered for sale pursuant to subdivisions (a) to (c), inclusive, of Section 54237 and subdivision (a) of this section, and if the property is a historic home, the property shall be offered to the city in which the property is located or to a nonprofit entity dedicated to rehabilitating and maintaining the historic home for public and community access and use subject to the following:

(A) The property shall be offered at a reasonable price, which is best suited to economically feasible use of the property as a historic home for public and community access and use.

(B) The sales price in no case shall be less than the price paid by the Department of Transportation unless the acquisition price was greater than current fair market value and shall not be greater than fair market value. Subject to the foregoing, the price shall be set at the level necessary to rehabilitate and maintain the historic home for public and community access and use.

(C) Surplus residential property sold pursuant to this subdivision shall be sold in its existing "as is" condition.

(D) The selling agency shall impose terms, conditions, and restrictions as will ensure that the historic home will remain available for public and community access and use. The purchaser shall comply with monitoring requirements, as determined by the Department of Transportation or the monitoring entity.

(E) The Department of Transportation may designate in regulations to, or delegate by agreement to, a public agency to monitor the purchasers' compliance with the terms, conditions, and restrictions required by this subdivision. The monitoring entity may charge the property owner a fee to recover the cost of this monitoring.

(2) For purposes of this subdivision, "historic home" means single-family surplus residential property that is listed on, or for which an application has been filed for listing on, at least one of the following by January 1, 2015:

(A) The California Register of Historical Resources, as established pursuant to Article 2 (commencing with Section 5020) of Chapter 1 of Division 5 of the Public Resources Code.

(B) The National Register of Historic Places, as established pursuant to Chapter 3021 of Title 54 of the United States Code.

(C) The National Register of Historic Places, as previously established pursuant to the federal National Historic Preservation Act (54 U.S.C. Sec. 300101 et seq.).

(c) After the surplus residential property is offered for sale pursuant to subdivisions (a) to (c), inclusive, of Section 54237 and subdivisions (a) and (b) of this section, the surplus residential property shall be offered to a housing-related entity as follows:

(1) The sales price shall be the price paid by the Department of Transportation for original acquisition. The original acquisition price shall not be adjusted for inflation.

(2) Surplus residential property sold pursuant to this subdivision shall be sold in its existing "as is" condition.

(3) The surplus residential property shall be subject to a covenant recorded against the property to ensure its use as affordable housing pursuant to this paragraph.

(A) In the event that the surplus residential property is sold prior to the expiration of the covenant, the covenant shall remain in effect until the time at which it expires according to the provisions of this paragraph.

(B) Any housing-related entity purchaser shall comply with monitoring requirements, as determined by the Department of Transportation or the monitoring entity.

(C) For Each surplus residential property purchased under this subdivision, the housing-related entity shall cause the property to be used for either of the following:

(i) Low- or moderate-income rental housing for a term of at least 55 years. The purchase and operation of the property shall remain available and affordable for rental by lower income and moderate-income households, as defined by Sections 50079.5 and 50052.5 of the Health and Safety Code, respectively, for a term no shorter than 55 years.

In the event the housing-related entity is no longer able to provide affordable housing on the property, the housing-related entity shall either sell the property to a successor housing-related entity that will maintain the property and the operations in compliance with the covenant or transfer the title to the city in which the property is located, which shall subsequently transfer the title and operations to a successor housing-related entity that will maintain the property and the operations in compliance with the covenant. The housing-related entity shall provide first right of occupancy to the present tenants. The rental amount shall be in accordance with income certification if the current tenants qualify as low or moderate income. If the current tenant's income exceeds the limits for that level, the rent for that tenant shall be no less than the current rent, or adjusted no higher than current market rates for the ZIP Code in which the surplus residential property is located. The housing-related entity shall cause any additional new units added to the property to be used only for low- or moderate-income rental housing and the new units shall remain available and affordable for rental by lower income and moderate-income households, as defined by Sections 50052.5 and 50079.5 of the Health and Safety Code, during the covenant period.

(ii) If the surplus residential property is a single-family residence, it may be used for owner-occupied affordable housing for a term of at least 45 years. The housing-related entity shall sell the property to a person or family of low or moderate income for ownership and occupancy as affordable housing, as defined in Section 62250, and specifically as the primary residence of that buyer. The housing-related entity shall dedicate profits realized from the sale during the covenant period, as specified in subdivision (b) of Section 54237.7, to the construction of affordable housing within the 90032 postal ZIP Code. The housing-related entity shall provide first right of refusal to present tenants if they are a person or family of low or moderate income. All subsequent sales of the property during the covenant period shall be to a person or family of low or moderate income for ownership and occupancy as affordable housing, as defined in Section 62250. The property owner shall cause any additional new units added to the property to be used only for low or moderate income rental housing and the new units shall remain available and affordable for rental by lower income and moderate income households, as defined by Sections 50052.5 and 50079.5 of the Health and Safety Code, during the covenant period. The monitoring entity shall ensure that subsequent sales are made in compliance with this paragraph by conducting and certifying the income qualifications of the buyer(s) prior to purchase and sales contracts being consummated and prior to the opening of escrow.

(4) The City of Los Angeles shall monitor compliance with the covenant required by this subdivision.

(A) The City of Los Angeles shall prepare and submit to the Legislature reports that describe how the purchasers complied with this subdivision and how they were monitored for compliance. The first report shall be submitted five years after the first property is sold pursuant to this subdivision, and subsequent reports shall be submitted every five years thereafter until the last covenant expires. A report to be submitted pursuant to this subparagraph shall be submitted in compliance with Section 9795.

(B) The City of Los Angeles may charge the property owner a fee to recover the cost of this monitoring and reporting.

(d) After the surplus residential property is offered for sale pursuant to subdivisions (a) to (c), inclusive, of Section 54237 and subdivisions (a) to (c), inclusive, of this section, the property shall be offered in accordance with the priorities and procedures specified in subdivision (e) of Section 54237.

(Added by Stats. 2021, Ch. 130, Sec. 6. (SB 51) Effective July 23, 2021.)

54239.2. Before selling unimproved property within the State Route 710 corridor in the City of Los Angeles pursuant to Section 118 of the Streets and Highways Code, the Department of Transportation shall offer to sell the property at the price paid by the Department of Transportation for original acquisition to a housing-related entity for affordable housing purposes, pursuant to the terms and conditions provided in subdivision (c) of Section 54239.1.

(Added by Stats. 2021, Ch. 130, Sec. 7. (SB 51) Effective July 23, 2021.)

54239.3. (a) As a condition of the sale of property to a housing-related entity pursuant to subdivision (c) of Section 54239.1 or pursuant to Section 54239.2, the housing-related entity shall provide an enforceable commitment to the selling agency that, if a construction project is undertaken on the property, and the entirety of the project is not a public work for which prevailing wages must be paid for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, all construction workers employed on the project will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(b) If the project is subject to subdivision (a), then for those portions of the project that are not a public work all of the following shall apply:

- (1) The housing-related entity shall ensure that the prevailing wage requirement is included in all contracts for the performance of all construction work.
- (2) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.
- (3) Except as provided in paragraph (5), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.
- (4) Except as provided in paragraph (5), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the project, or by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.
- (5) Paragraphs (3) and (4) shall not apply if all contractors and subcontractors performing work on the project are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the project and provides for enforcement of that obligation through an arbitration procedure. For purposes of this paragraph, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.
- (6) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(Added by Stats. 2021, Ch. 130, Sec. 8. (SB 51) Effective July 23, 2021.)

54239.4. (a) If a surplus residential property purchased by a housing-related public entity pursuant to Section 54239.5 or 54239.6 is not resold as provided for in paragraph (17) of subdivision (b) of Section 54239.5 or paragraph (17) of subdivision (b) of Section 54239.6, the property shall be used as affordable housing subject to all the following:

- (1) The surplus residential property shall be subject to a covenant recorded against the property to ensure the property's use as affordable housing pursuant to this paragraph.
 - (A) In the event that the surplus residential property is sold prior to the expiration of the covenant, the covenant shall remain in effect until the time at which it expires according to the provisions of this paragraph.
 - (B) Any housing-related entity purchaser shall comply with monitoring requirements, as determined by the Department of Transportation or the monitoring entity.
 - (C) For each surplus residential property purchased under this subdivision, the housing-related entity shall cause the property to be used for either of the following:
 - (i) (I) Low- or moderate-income rental housing for a term of at least 55 years. The purchase and operation of the property shall remain available and affordable for rental by lower income and moderate-income households, as defined by Sections 50052.5 and 50079.5 of the Health and Safety Code, respectively, for a term no shorter than 55 years.
 - (II) In the event the housing-related entity is no longer able to provide affordable housing on the property, the housing-related entity shall either sell the property to a successor housing-related entity that will maintain the property and the operations in compliance with the covenant or transfer the title to the city in which the property is located, which shall subsequently transfer the title and operations to a successor housing-related entity that will maintain the property and the operations in compliance with the covenant. The housing-related entity shall provide first right of occupancy to the present tenants. The rental amount shall be in accordance with income certification if the current tenants qualify as low or moderate income. If the current tenant's income exceeds the limits for that level, the rent for that tenant shall be no less than the current rent, or adjusted no higher than current market rates for the ZIP Code in which the surplus residential property is located. The housing-related entity shall cause any additional new units added to the property to

be used only for low- or moderate-income rental housing, and the new units shall remain available and affordable for rental by lower income and moderate-income households, as defined by Sections 50052.5 and 50079.5 of the Health and Safety Code, during the covenant period.

(ii) If the surplus residential property is a single-family residence, it may be used for owner-occupied affordable housing for a term of at least 45 years. The housing-related entity shall sell the property to a person or family of low or moderate income for ownership and occupancy as affordable housing, as defined in Section 62250, and specifically as the primary residence of that buyer. The housing-related entity shall dedicate profits realized from the sale during the covenant period, as specified in subdivision (b) of Section 54237.7, to the construction of affordable housing within the city in which the surplus residential property is located. The housing-related entity shall provide first right of refusal to present tenants if they are a person or family of low or moderate income. All subsequent sales of the property during the covenant period shall be to a person or family of low or moderate income for ownership and occupancy as affordable housing, as defined in Section 62250. The property owner shall cause any additional new units added to the property to be used only for low- or moderate-income rental housing, and the new units shall remain available and affordable for rental by lower income and moderate-income households, as defined by Sections 50052.5 and 50079.5 of the Health and Safety Code, during the covenant period. The monitoring entity shall ensure that subsequent sales are made in compliance with this paragraph by conducting and certifying the income qualifications of the buyer(s) prior to purchase and sales contracts being consummated and prior to the opening of escrow.

(2) The Department of Transportation may designate in regulations to, or delegate by agreement to, a public agency to monitor the purchasers' compliance with the terms, conditions, and restrictions required by this subdivision.

(A) If the monitoring is not performed by a state agency, the monitoring entity shall prepare and submit to the Legislature reports that describe how the purchasers complied with this subdivision and how they were monitored for compliance. The first report shall be submitted five years after the first property is sold pursuant to this subdivision, and subsequent reports shall be submitted every five years thereafter until the last covenant expires. A report to be submitted pursuant to this subparagraph shall be submitted in compliance with Section 9795.

(B) The monitoring entity may charge the property owner a fee to recover the cost of this monitoring and reporting.

(Amended by Stats. 2024, Ch. 347, Sec. 3. (AB 1038) Effective September 22, 2024.)

54239.5. Notwithstanding subdivision (d) of Section 54237, after a surplus residential property located within the City of Pasadena is offered for sale pursuant to subdivisions (a) to (c), inclusive, of Section 54237, the surplus residential property shall be offered for sale in accordance with all of the following priorities and procedures:

(a) After the surplus residential property is offered for sale pursuant to subdivisions (a) to (c), inclusive, of Section 54237, these properties shall then be offered at fair market value to present tenants who have occupied the property for five years or more and who are in good standing with all rent obligations current and paid in full, with first right of occupancy to the present tenants.

(b) After the surplus residential property is offered for sale pursuant to subdivisions (a) to (c), inclusive, of Section 54237 and subdivision (a) of this section, and if the property is not occupied by tenants, the property shall be offered to the City of Pasadena subject to all of the following:

(1) The sales price shall be the price paid by the Department of Transportation for original acquisition. The original acquisition price shall not be adjusted for inflation.

(2) Surplus residential property sold pursuant to this subdivision shall be sold in its existing "as is" condition.

(3) The City of Pasadena shall, with the proceeds generated from the subsequent sale of unoccupied homes, finance the production or acquisition of affordable housing units. Units produced must have a regulatory agreement requiring an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for a minimum of 55 years for rental and 45 years for owner-occupied affordable housing. Units acquired must have a regulatory agreement requiring an affordable rent, as defined in Section 50053 of the Health and Safety Code, for a minimum of 55 years for rental. Proceeds may be used to finance either or both of the following:

(A) The production of three housing units affordable to persons and families of very low, low and moderate income, as defined in Section 50093 of the Health and Safety Code, for every unoccupied home purchased by the City of Pasadena.

(B) The acquisition of three existing units for use as rental housing affordable to persons and families of very low, low, and moderate income, as defined in Section 50093 of the Health and Safety Code, for every unoccupied home purchased by the City of Pasadena.

(4) Prior to closing escrow on the purchase of the surplus residential property from the Department of Transportation, the City of Pasadena shall demonstrate to the Department of Housing and Community Development the zoned capacity on parcels suitable for housing development to produce at least three affordable units, as defined in paragraph (3), for each housing unit on the surplus residential property being purchased and identify and analyze potential and actual governmental constraints to the maintenance, improvement, or development of housing affordable to persons and families of low income, including housing for people with disabilities, on said parcels to the satisfaction of the Department of Housing and Community Development. The analysis must also demonstrate local efforts to remove constraints that hinder development of the parcels and evaluate their impact on the speed of delivery and depth of affordability of the necessary affordable units prescribed in paragraph (3).

(5) Units may be produced or acquired on a single site, or on multiple sites.

(6) All units acquired or produced shall be within high or highest resource census tracts within the City of Pasadena, as identified by the latest edition of the California Tax Credit Allocation Committee's opportunity maps. To the greatest extent possible, units acquired or produced shall be in geographic proximity to the unoccupied homes that were sold by the City of Pasadena.

(7) The City of Pasadena shall commence construction or complete acquisition of all affordable units numbering at least three times the total number of unoccupied homes acquired by the city by December 31, 2026.

(8) Notwithstanding any other law, funds generated through the sale of unoccupied homes by the City of Pasadena shall be held by the City of Pasadena for the sole purpose of the financing of these units.

(9) The City of Pasadena shall include as an attachment to its annual report required by paragraph (2) of subdivision (a) of Section 65400 all of the following:

(A) Current ownership status of unoccupied homes in the State Route 710 corridor purchased by the City of Pasadena, and an accounting of funds spent by the city on the purchase of these homes and generated through their sale.

(B) The City of Pasadena shall provide documents to the Department of Housing and Community Development that evidence sale. These documents shall include purchase and sale agreements, escrow instructions, and final HUD-1 form closing statements.

(C) Documentation of rezoning actions taken by the City of Pasadena to ensure the continued availability of sufficient capacity for development of sufficient affordable housing to accommodate all units prescribed in paragraph (3).

(D) Documentation of other actions taken by the City of Pasadena to support its compliance with paragraph (3), including the acquisition of homes for use as affordable housing, rehabilitation of acquired homes or apartment units, or new construction of homes or apartment units for the same purpose.

(E) Other information requested by the Department of Housing and Community Development regarding the City of Pasadena's compliance with this paragraph.

(10) At the end of the period defined in paragraph (7), the City of Pasadena shall additionally report all of the following information to the Department of Housing and Community Development:

(A) A summary of all prior reporting.

(B) Supporting documentation that evidences the acquisition or commencement of construction on a sufficient number of units of affordable housing to satisfy paragraphs (3) and (7) in a form agreeable to the Department of Housing and Community Development.

(C) An accounting of total funds spent to acquire unoccupied homes from the Department of Transportation pursuant to this paragraph.

(D) An accounting of funds generated through the sale of these homes.

(E) Aggregate data on low- and moderate-income tenants and owners residing in the newly acquired or constructed units, including, but not limited to, information relating to income eligibility, household size, and other information as required by the Department of Housing and Community Development that is not individually identifiable.

(F) Other information requested by the Department of Housing and Community Development regarding the City of Pasadena's compliance with this paragraph.

(11) Failure to comply with any of paragraphs (1) to (10), inclusive, shall require the City of Pasadena to pay a fine of an amount equal to the funds generated through the sale of unoccupied homes pursuant to this paragraph less the city's acquisition cost. Fines shall be deposited into an account held by the Department of Housing and Community Development under the stipulations

of Section 50470 within 30 calendar days of notification of failure to comply, and made accessible for the development of housing for persons and families of low and moderate income residing exclusively in the City of Pasadena.

(12) Terms of paragraph (11) may be subject to up to two two-year extensions from the deadline specified in paragraph (7), provided the City of Pasadena is able to demonstrate sufficient progress on the development or acquisition of all required affordable units. Sufficient progress may include, but is not limited to, an executed option agreement or exclusive negotiation agreement for purchase of property intended for conversion to affordable units, completed project entitlements or building permits, executed purchase agreements and draft covenants for the acquisition or rehabilitation of market rate units for the purpose of conversion to affordable units, a combination thereof, or other proof of progress at the discretion of the Director of the Department of Housing and Community Development.

(13) Any surplus funds remaining after the completion of the construction of the required affordable units shall be used at the discretion of the City of Pasadena for the production or acquisition of rental or for-sale housing affordable to persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code.

(14) Compliance with any clause in paragraphs (3) to (13), inclusive, shall be determined by the Department of Housing and Community Development and is not subject to appeal.

(15) The Department of Housing and Community Development may review, adopt, amend, and repeal the standards, forms, or definitions to implement paragraph (3) to (14), inclusive. 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.

(16) The surplus residential property subject to this subdivision shall be subject to a covenant recorded against the property to ensure the property's use as pursuant to this subdivision.

(17) Notwithstanding paragraphs (3) to (15), inclusive, if the City of Pasadena does not resell a surplus residential property sold to it by the Department of Transportation within two years of closure of the sale, the property shall be used as affordable housing pursuant to subdivision (a) of Section 54239.4.

(18) Terms of paragraph (17) may be subject to up to one two-year extension provided the City of Pasadena is able to demonstrate sufficient progress on the sale of the surplus residential properties. Sufficient progress may include proof that the property has been listed for 180 days at a price that does not exceed fair market value based on comparable sales in the City of Pasadena with no offers, unexpected structural damage due to a natural disaster or similar occurrence, or other proof of progress at the discretion of the Director of the Department of Housing and Community Development.

(19) The City of Pasadena shall monitor compliance with the covenant required by paragraph (16). The City of Pasadena may charge the property owner a fee to recover the cost of this monitoring.

(c) (1) After the surplus residential property is offered for sale pursuant to subdivisions (a) to (c), inclusive, of Section 54237 and subdivisions (a) and (b) of this section, the property shall be offered in accordance with the priorities and procedures specified in subdivision (d) of Section 54237 and then in accordance with the priorities and procedures specified in subdivision (e) of Section 54237.

(2) The Department of Transportation may designate in regulations to, or delegate by agreement to, a public agency to monitor the purchasers' compliance with the terms, conditions, and restrictions required by this subdivision and subdivision (d) of Section 54237.

(A) If the monitoring is not performed by a state agency, the monitoring entity shall prepare and submit to the Legislature reports that describe how the purchasers complied with this subdivision and how they were monitored for compliance. The first report shall be submitted five years after the first property is sold pursuant to this subdivision, and subsequent reports shall be submitted every five years thereafter until the last covenant expires. A report to be submitted pursuant to this subparagraph shall be submitted in compliance with Section 9795.

(B) The monitoring entity may charge the property owner a fee to recover the cost of this monitoring and reporting.

(d) Before selling unimproved property within the State Route 710 corridor in the City of Pasadena pursuant to Section 118 of the Streets and Highways Code, the Department of Transportation shall offer to sell the property to the City of Pasadena, as a housing-related entity for affordable housing purposes, and then to another housing-related entity, pursuant to the terms and conditions provided in subdivision (d) of Section 54237, but at the price paid by the Department of Transportation for original acquisition.

(e) (1) (A) As a condition of the sale of property to a housing-related entity pursuant to subdivision (c) or (d), the housing-related entity shall provide an enforceable commitment to the selling agency that, if a construction project is undertaken on the property, and the entirety of the project is not a public work for which prevailing wages must be paid for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, all construction workers employed on the project will be paid at least the

general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(B) As a condition of the sale of property to the city pursuant to subdivision (b), the city shall provide an enforceable commitment to the selling agency that all construction workers employed on the following projects will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate:

(i) Any project involving construction of units pursuant to paragraph (3) of subdivision (b), if the entirety of the project is not a public work for which prevailing wages must be paid for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(ii) Any project involving construction on properties subsequently sold to a housing-related entity by the city pursuant to subdivision (b), if the entirety of the project is not a public work for which prevailing wages must be paid for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(2) If the project is subject to paragraph (1), then for those portions of the project that are not a public work all of the following shall apply:

(A) The housing-related entity or city shall ensure that the prevailing wage requirement is included in all contracts for the performance of all construction work.

(B) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(C) Except as provided in subparagraph (E), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.

(D) Except as provided in subparagraph (E), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the project, or by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(E) Subparagraphs (C) and (D) shall not apply if all contractors and subcontractors performing work on the project are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the project and provides for enforcement of that obligation through an arbitration procedure. For purposes of this paragraph, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(F) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(Amended by Stats. 2024, Ch. 347, Sec. 4. (AB 1038) Effective September 22, 2024.)

54239.6. Notwithstanding subdivision (d) of Section 54237, after a surplus residential property located within the City of South Pasadena is offered for sale pursuant to subdivisions (a) to (c), inclusive, of Section 54237, the surplus residential property shall be offered for sale in accordance with all of the following priorities and procedures:

(a) After the surplus residential property is offered for sale pursuant to subdivisions (a) to (c), inclusive, of Section 54237, these properties shall then be offered at fair market value to present tenants who have occupied the property for five years or more and who are in good standing with all rent obligations current and paid in full, with first right of occupancy to the present tenants.

(b) After the surplus residential property is offered for sale pursuant to subdivisions (a) to (c), inclusive, of Section 54237 and subdivision (a) of this section, and if the property is not occupied by tenants, the property shall be offered to the City of South Pasadena subject to all of the following:

(1) The sales price shall be the price paid by the Department of Transportation for original acquisition. The original acquisition price shall not be adjusted for inflation.

(2) Surplus residential property sold pursuant to this subdivision shall be sold in its existing "as is" condition.

(3) The City of South Pasadena shall, with the proceeds generated from the subsequent sale of unoccupied homes, finance the production or acquisition of affordable housing units. Units produced must have a regulatory agreement requiring an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for a minimum of 55 years for rental and 45 years for owner-occupied affordable housing. Units acquired must have a regulatory agreement requiring an affordable rent, as defined in Section 50053 of the Health and Safety Code, for a minimum of 55 years for rental. Proceeds may be used to finance either or both of the following:

(A) The production of three housing units affordable to persons and families of very low, low and moderate income, as defined in Section 50093 of the Health and Safety Code, for every unoccupied home purchased by the City of South Pasadena.

(B) The acquisition of three existing units for use as rental housing affordable to persons and families of very low, low, and moderate income, as defined in Section 50093 of the Health and Safety Code, for every unoccupied home purchased by the City of South Pasadena.

(4) (A) Prior to closing escrow on the purchase of the surplus residential property from the Department of Transportation, the City of South Pasadena shall demonstrate to the Department of Housing and Community Development the zoned capacity on parcels suitable for housing development to produce at least three affordable units, as defined in paragraph (3), for each housing unit of the surplus residential property being purchased and identify and analyze potential and actual governmental constraints to the maintenance, improvement, or development of housing affordable to persons and families of low income, including housing for people with disabilities, on said parcels to the satisfaction of the Department of Housing and Community Development. The analysis must also demonstrate local efforts to remove constraints that hinder development of the parcels and evaluate their impact on the speed of delivery and depth of affordability of the necessary affordable units prescribed in paragraph (3).

(B) Any parcel used for the development of these units shall be granted streamlined, ministerial approval and not be subject to a conditional use permit or other nonlegislative discretionary approval, and shall be exempt from any initiative or other measure that may preclude achieving maximum densities, including, but not limited to, any height restriction requirement. The Legislature finds and declares that, in light of the shortage of affordable housing in the state, facilitating the development of affordable housing as provided in this subparagraph is necessary to support the development and speed of delivery and the depth of affordability of the necessary affordable units prescribed in paragraph (3), as well as the sale of surplus residential properties to the City of South Pasadena by the Department of Transportation.

(5) Units may be produced or acquired on a single site, or on multiple sites.

(6) All units acquired or produced shall be within high or highest resource census tracts within the City of South Pasadena, as identified by the latest edition of the California Tax Credit Allocation Committee's opportunity maps. To the greatest extent possible, units acquired or produced shall be in geographic proximity to the unoccupied homes that were sold by the City of South Pasadena.

(7) The City of South Pasadena shall commence construction or complete acquisition of all affordable units numbering at least three times the total number of unoccupied homes acquired by the city by July 1, 2028.

(8) Notwithstanding any other law, funds generated through the sale of unoccupied homes by the City of South Pasadena shall be held by the City of South Pasadena for the sole purpose of the financing of these units.

(9) The City of South Pasadena shall include as an attachment to its annual report required by paragraph (2) of subdivision (a) of Section 65400 all of the following:

(A) Current ownership status of unoccupied homes in the State Route 710 corridor purchased by the City of South Pasadena, and an accounting of funds spent by the city on the purchase of these homes and generated through their sale.

(B) The City of South Pasadena shall provide documents to the Department of Housing and Community Development that evidence sale. These documents shall include purchase and sale agreements, escrow instructions, and final HUD-1 form closing statements.

(C) Documentation of rezoning actions taken by the City of South Pasadena to ensure the continued availability of sufficient capacity for development of sufficient affordable housing to accommodate all units prescribed in paragraph (3).

(D) Documentation of other actions taken by the City of South Pasadena to support its compliance with paragraph (3), including the acquisition of homes for use as affordable housing, rehabilitation of acquired homes or apartment units, or new

construction of homes or apartment units for the same purpose.

(E) Other information requested by the Department of Housing and Community Development regarding the City of South Pasadena's compliance with this paragraph.

(10) At the end of the period defined in paragraph (7), the City of South Pasadena shall additionally report all of the following information to the Department of Housing and Community Development:

(A) A summary of all prior reporting.

(B) Supporting documentation that evidences the acquisition or commencement of construction on a sufficient number of units of affordable housing to satisfy paragraphs (3) and (7) in a form agreeable to the Department of Housing and Community Development.

(C) An accounting of total funds spent to acquire unoccupied homes from the Department of Transportation pursuant to this paragraph.

(D) An accounting of funds generated through the sale of these homes.

(E) Aggregate data on low- and moderate-income tenants and owners residing in the newly acquired or constructed units, including, but not limited to, information relating to income eligibility, household size, and other information as required by the Department of Housing and Community Development that is not individually identifiable.

(F) Other information requested by the Department of Housing and Community Development regarding the City of South Pasadena's compliance with this paragraph.

(11) Failure to comply with any of paragraphs (1) to (10), inclusive, shall require the City of South Pasadena to pay a fine of an amount equal to the funds generated through the sale of unoccupied homes pursuant to this paragraph less the city's acquisition cost. Fines shall be deposited into an account held by the Department of Housing and Community Development under the stipulations of Section 50470 within 30 calendar days of notification of failure to comply, and made accessible for the development of housing for persons and families of low and moderate income residing exclusively in the City of South Pasadena.

(12) Terms of paragraph (11) may be subject to up to two two-year extensions from the deadline specified in paragraph (7), provided the City of South Pasadena is able to demonstrate sufficient progress on the development or acquisition of all required affordable units. Sufficient progress may include, but is not limited to, an executed option agreement or exclusive negotiation agreement for purchase of property intended for conversion to affordable units, completed project entitlements or building permits, executed purchase agreements and draft covenants for the acquisition or rehabilitation of market rate units for the purpose of conversion to affordable units, a combination thereof, or other proof of progress at the discretion of the Director of the Department of Housing and Community Development.

(13) Any surplus funds remaining after the completion of the construction of the required affordable units shall be used at the discretion of the City of South Pasadena for the production or acquisition of rental or for-sale housing affordable to persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code.

(14) Compliance with any clause in paragraphs (3) to (13), inclusive, shall be determined by the Department of Housing and Community Development and is not subject to appeal.

(15) The Department of Housing and Community Development may review, adopt, amend, and repeal the standards, forms, or definitions to implement paragraph (3) to (14), inclusive. 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.

(16) The surplus residential property subject to this subdivision shall be subject to a covenant recorded against the property to ensure the property's use as pursuant to this subdivision.

(17) Notwithstanding paragraphs (3) to (15), inclusive, if the City of South Pasadena does not resell a surplus residential property sold to it by the Department of Transportation within two years of closure of the sale, the property shall be used as affordable housing pursuant to subdivision (a) of Section 54239.4.

(18) Terms of paragraph (17) may be subject to up to one two-year extension provided the City of South Pasadena is able to demonstrate sufficient progress on the sale of the surplus residential properties. Sufficient progress may include proof that the property has been listed for 180 days at a price that does not exceed fair market value based on comparable sales in the City of South Pasadena with no offers, unexpected structural damage due to a natural disaster or similar occurrence, or other proof of progress at the discretion of the Director of the Department of Housing and Community Development.

(19) The City of South Pasadena shall monitor compliance with the covenant required by paragraph (16). The City of South Pasadena may charge the property owner a fee to recover the cost of this monitoring.

(c) (1) After the surplus residential property is offered for sale pursuant to subdivisions (a) to (c), inclusive, of Section 54237 and subdivisions (a) and (b) of this section, the property shall be offered in accordance with the priorities and procedures specified in subdivision (d) of Section 54237 and then in accordance with the priorities and procedures specified in subdivision (e) of Section 54237.

(2) The Department of Transportation may designate in regulations to, or delegate by agreement to, a public agency to monitor the purchasers' compliance with the terms, conditions, and restrictions required by this subdivision and subdivision (d) of Section 54237.

(A) If the monitoring is not performed by a state agency, the monitoring entity shall prepare and submit to the Legislature reports that describe how the purchasers complied with this subdivision and how they were monitored for compliance. The first report shall be submitted five years after the first property is sold pursuant to this subdivision, and subsequent reports shall be submitted every five years thereafter until the last covenant expires. A report to be submitted pursuant to this subparagraph shall be submitted in compliance with Section 9795.

(B) The monitoring entity may charge the property owner a fee to recover the cost of this monitoring and reporting.

(d) Before selling unimproved property within the State Route 710 corridor in the City of South Pasadena pursuant to Section 118 of the Streets and Highways Code, the Department of Transportation shall offer to sell the property to the City of South Pasadena, as a housing-related entity for affordable housing purposes, and then to another housing-related entity, pursuant to the terms and conditions provided in subdivision (a) of Section 54239.4, but at the price paid by the Department of Transportation for original acquisition.

(e) (1) (A) As a condition of the sale of property to a housing-related entity pursuant to subdivision (c) or (d), the housing-related entity shall provide an enforceable commitment to the selling agency that, if a construction project is undertaken on the property, and the entirety of the project is not a public work for which prevailing wages must be paid for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code, all construction workers employed on the project will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(B) As a condition of the sale of property to the city pursuant to subdivision (b), the city shall provide an enforceable commitment to the selling agency that all construction workers employed on the following projects will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area, as determined by the Director of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate:

(i) Any project involving construction of units pursuant to paragraph (3) of subdivision (b), if the entirety of the project is not a public work for which prevailing wages must be paid for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(ii) Any project involving construction on properties subsequently sold to a housing-related entity by the city pursuant to subdivision (b), if the entirety of the project is not a public work for which prevailing wages must be paid for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(2) If the project is subject to paragraph (1), then for those portions of the project that are not a public work all of the following shall apply:

(A) The housing-related entity or city shall ensure that the prevailing wage requirement is included in all contracts for the performance of all construction work.

(B) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.

(C) Except as provided in subparagraph (E), all contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.

(D) Except as provided in subparagraph (E), the obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the project, or by an underpaid worker through an administrative complaint or civil action, or by a joint labor-

management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.

(E) Subparagraphs (C) and (D) shall not apply if all contractors and subcontractors performing work on the project are subject to a project labor agreement that requires the payment of prevailing wages to all construction workers employed in the execution of the project and provides for enforcement of that obligation through an arbitration procedure. For purposes of this paragraph, "project labor agreement" has the same meaning as set forth in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code.

(F) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Section 511 or 514 of the Labor Code.

(Added by Stats. 2024, Ch. 347, Sec. 5. (AB 1038) Effective September 22, 2024.)