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SB-381 Surplus residential property: priorities, procedures, price, and fund: City of South Pasadena.
(2021-2022)

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Senate Bill No. 381

CHAPTER 362

An act to amend Sections 54237 and 54237.7 of, and to add Section 54239.4 to, the Government Code, relating to local government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 2021. Filed with Secretary of State September 28, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 381, Portantino. Surplus residential property: priorities, procedures, price, and fund: City of South Pasadena.

(1) Existing law establishes priorities and procedures that any state agency disposing of surplus residential property is required to follow. Under existing law, specified single-family residences must first be offered to their present occupants, as specified. Existing law then requires the property to be offered to housing-related entities, as provided, prior to placing the property up for sale for fair market value, subject to specified priorities. Existing law requires, if a property that is not a historic home is sold to a private housing-related entity or a housing-related public entity, that the entity develop the property as limited equity cooperative housing with first right of occupancy to present occupants, or use the property for low- and moderate-income rental or owner-occupied housing where the development of cooperative or cooperatives is not feasible. Existing law requires, if a property is a historic home, as defined, that the property be offered first to a housing-related entity, subject to the above-described requirements, or a nonprofit private entity dedicated to rehabilitating and maintaining the historic home for public and community access and use, as provided.

This bill, with respect to surplus residential property that is located within the City of South Pasadena, would instead require that if the surplus residential property is not sold to a former owner or present occupant, as described above, the property be offered at fair market value to present tenants who have occupied the property for 5 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 occupants. If the surplus residential property has a historic home, as defined, not occupied by tenants, the bill would then require that the property be offered to the City of South Pasadena, subject to specified terms and conditions. Finally, the bill would require that surplus residential property be offered to the City of South Pasadena, as a housing-related entity, and then to another housing-related entity, subject to specified terms and conditions. The bill would require the Department of Housing and Community Development to determine compliance with certain of these terms and conditions, as provided. The bill would require a housing-related entity to cause the property to be used, under specified conditions, for low- and moderate-income rental housing for a term of at least 55 years, subject to a recorded covenant, to ensure use as affordable housing, as provided, and to provide a first right of occupancy to the present tenants. The bill, if the surplus residential property is a single-family residence, would authorize the surplus residential property to be used for owner-occupied affordable housing for a term of at least 45 years, subject to a covenant recorded against the property to ensure its use as affordable housing.

The bill, in the case of a historic home, would require the City of South Pasadena to monitor compliance with the covenant and require the Department of Transportation, in the case of surplus residential property sold to a housing-related entity, to monitor or designate a public agency to monitor a property's compliance with the recorded covenant, and would authorize the monitoring entity to charge the property owner a fee to cover the cost of monitoring and reporting. If the monitoring entity is not a state agency, the bill would require the monitoring entity to prepare and submit to the Legislature reports that describe how the purchasers complied with these provisions and how they were monitored for compliance, as specified. By imposing duties on a local agency monitoring compliance pursuant to these provisions, this bill would impose a state-mandated local program. The bill would also require the Department of Transportation to sell specified unimproved properties at the original acquisition price paid by the department to the City of South Pasadena, as a housing-related entity, and then to another housing-related entity, subject to specified terms and conditions. If the Department of Transportation does not commence the sale of its unoccupied surplus residential property in the City of South Pasadena, as provided, by June 30, 2022, the bill would require the department to report by December 31, 2022, to the relevant policy and fiscal committees of the Legislature the reasons for not commencing sales and its plans for commencing them.

(2) Existing law generally requires that not less than the general prevailing rate of per diem wages, as specified, be paid to workers employed on a public work project that exceeds \$1,000.

The bill would require the housing-related entity to provide an enforceable commitment to the selling agency that it will comply with specified requirements, if a project on the property involves construction, regarding the payment of prevailing rate of per diem wages for construction work related to the project, except as provided.

(3) Existing law, known as the Administrative Procedure Act, governs the procedures for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law. Existing law establishes procedures for the adoption of emergency regulations, including requiring that the state agency make a finding that the adoption of a regulation or order of repeal is necessary to address an emergency, as defined. Under existing law, a regulation, amendment, or repeal adopted as an emergency regulatory action may only remain in effect for up to 180 days, unless the adopting agency complies with specified requirements relating to notice of regulatory action and public comment.

This bill would authorize the Department of Housing and Community Development to review, adopt, amend, and repeal standards, forms, and definitions to implement specified provisions relating to the sale of surplus residential property that has a historic home within the City of South Pasadena, as described above, and exempt those standards, forms, or definitions from the rulemaking provisions of the Administrative Procedure Act. The bill would also require the Department of Transportation to file proposed emergency regulations with the Office of Administrative Law for adoption to implement the above-described requirements relating to the disposal of surplus property no later than 6 months after the bill's provisions are enacted. The bill would include findings that an emergency exists for purposes of specified provisions of the Administrative Procedure Act. The bill, notwithstanding the 180-day limit for emergency regulations, would provide that emergency regulations adopted under its provisions would remain in effect for 2 years after their effective date, or until the adoption of permanent regulations, whichever occurs sooner.

(4) Existing law creates the SR-710 Rehabilitation Account, which is continuously appropriated to the Department of Transportation, and into which proceeds from the sale of surplus residential property by the department are deposited. Existing law requires that the total funds maintained in the account not exceed \$500,000 and that funds exceeding that amount, less any reimbursements due to the federal government, be transferred to the State Highway Account in the State Transportation Fund to be used for allocation by the California Transportation Commission, as specified.

This bill would authorize an increase in the amount of the total funds maintained in the account up to \$1,200,000. By authorizing an increase in the funds held in a continuously appropriated fund, the bill would make an appropriation.

(5) This bill would make findings regarding the public purpose served by the bill.

(6) This bill would make legislative findings and declarations as to the necessity of a special statute for the City of South Pasadena.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: yes

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

SECTION 1. Section 54237 of the Government Code is amended to read:

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 or 54239.4.

(e) A surplus residential property not sold pursuant to subdivisions (a) to (d), inclusive, or Section 54239.1 or 54239.4, 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.

SEC. 2. Section 54237.7 of the Government Code is amended to read:

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.

SEC. 3. Section 54239.4 is added to the Government Code, to read:

54239.4. 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) (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 has a historic home not occupied by tenants, the property shall be offered to the City of South Pasadena subject to all of the following:

(A) 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.

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

(C) The City of South Pasadena shall, with the proceeds generated from the subsequent sale of unoccupied historic 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:

(i) 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 historic home purchased by the City of South Pasadena.

(ii) 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 historic home purchased by the City of South Pasadena.

(D) 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 subparagraph (C), 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 subparagraph (C).

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

(F) All units produced or acquired must be within the 91030 postal ZIP Code.

(G) 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 historic homes acquired by the city by December 31, 2025.

(H) Notwithstanding any other law, funds generated through the sale of unoccupied historic 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.

(I) 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:

(i) Current ownership status of unoccupied historic 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.

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

(iii) 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 subparagraph (C).

(iv) Documentation of other actions taken by the City of South Pasadena to support its compliance with subparagraph (C), including the acquisition of homes for use as affordable housing, rehabilitation of homes or apartment units for the same purpose, or the extension of affordability restrictions on housing units currently restricted to low- and moderate-income households.

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

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

(i) A summary of all prior reporting.

(ii) Supporting documentation that evidences the acquisition or commencement of construction on a sufficient number of units of affordable housing to satisfy subparagraphs (C) and (G) in a form agreeable to the Department of Housing and Community Development.

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

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

(K) Failure to comply with any of subparagraphs (A) through (J), 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 historic 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 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.

(L) Terms of subparagraph (K) may be subject to up two two-year extensions from the deadline specified in subparagraph (G), 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.

(M) 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.

(N) Compliance with any clause in subparagraphs (C) through (M), inclusive, shall be determined by the Department of Housing and Community Development and is not subject to appeal.

(O) The Department of Housing and Community Development may review, adopt, amend, and repeal the standards, forms, or definitions to implement subparagraphs (C) through (N), 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.

(P) The Department of Transportation shall provide an accounting of all historically designated properties in the State Route 710 corridor in the City of South Pasadena by January 1, 2022, to the Department of Housing and Community Development. This accounting shall include locations of all properties, addresses of all properties, parcel numbers for all properties, current occupancy status, and any other known building details.

(Q) 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 paragraph.

(R) Notwithstanding subparagraphs (C) through (P), 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 paragraphs (3) and (4) of subdivision (c).

(S) Terms of subparagraph (R) may be subject to up 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.

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

(2) For purposes of this subdivision, "historic home" means either of the following:

(A) A 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.).

(B) A locally designated surplus residential property that meets either of the following requirements:

(i) The property has been identified before January 1, 2021, in the City of South Pasadena's inventory of cultural resources that has been adopted by the city pursuant to Section 2.63 of the Code of the City of South Pasadena, California, 1958.

(ii) The property has been designated before January 1, 2021, by the City of South Pasadena as a historic home.

(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 the City of South Pasadena, as a housing-related entity, and then to another 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 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 of South Pasadena. 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 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.

(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.

(e) 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 at the price paid by the Department of Transportation for original acquisition to the City of South Pasadena, as a housing-related entity, for affordable housing purposes, and then to another housing-related entity for affordable housing purposes, pursuant to the terms and conditions provided in subdivision (c).

(f) (1) 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.

(2) The Department of Transportation shall file proposed emergency regulations with the Office of Administrative Law for adoption to implement this section not later than six months after this section is enacted.

(3) Notwithstanding Section 11346.1, the emergency regulations adopted pursuant to paragraph (2) shall remain in effect for two years after their effective date or until permanent regulations are adopted, whichever is sooner.

(g) If the Department of Transportation does not commence the sale of its unoccupied surplus residential property in the City of South Pasadena through a solicitation of interest in the first relevant step in the sales process pursuant to subdivision (b) or (c),

as applicable, by June 30, 2022, the Department of Transportation shall report by December 31, 2022, to the relevant policy and fiscal committees of the Legislature the reasons for not commencing the sales and its plans for commencing them. The report required by this subdivision shall be submitted in compliance with Section 9795.

(h) (1) As a condition of the sale of property to a housing-related entity pursuant to subdivision (c) or (e), 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.

(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 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.

SEC. 4. The Legislature finds and declares that the addition of Section 54239.4 to the Government Code by this act serves the public purpose of encouraging the creation and maintenance of affordable rentals and homes, and does not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.

SEC. 5. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances in the City of South Pasadena.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to address the shortage of affordable housing and make surplus residential properties owned by the state available as soon as possible, it is necessary that this act take effect immediately.