AMENDED IN SENATE APRIL 23, 2025

AMENDED IN SENATE APRIL 9, 2025

AMENDED IN SENATE MARCH 5, 2025

SENATE BILL No. 79

Introduced by Senator Wiener

January 15, 2025

An act to amend Section 54221 of, and to add Chapter 4.1.5 (commencing with Section 65912.155) to Division 1 of Title 7 of, the Government Code, and to add Section 21080.26.5 to the Public Resources Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 79, as amended, Wiener. Local government land: public transit use: housing development: transit-oriented development.

(1) Existing law prescribes requirements for the disposal of surplus land by a local agency. Existing law defines "surplus land" for these purposes to mean land owned in fee simple by any local agency for which the local agency's governing body takes formal action declaring that the land is surplus and is not necessary for the agency's use. Existing law defines "agency's use" for these purposes to include land that is being used for agency work or operations, as provided. Existing law exempts from this definition of "agency's use" certain commercial or industrial uses, except that in the case of a local agency that is a district, except a local agency whose primary purpose or mission is to supply the public with a transportation system, "agency's use" may include commercial or industrial uses or activities, as specified.

This bill would additionally include land leased to support public transit operations in the definition of "agency's use," as described above.

The bill would also revise the definition of "agency's use" with respect to commercial or industrial uses to instead provide that a district or a public transit operator may use land for commercial or industrial uses or activities, as described above.

(2) Existing law, the Planning and Zoning Law, requires each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and specified land outside its boundaries, that contains certain mandatory elements, including a housing element. Existing law requires that the housing element include, among other things, an assessment of housing needs and an inventory of resources and constraints that are relevant to the meeting of these needs, including an inventory of land suitable for residential development, as provided. Existing law, for the 4th and subsequent revisions of the housing element, requires the Department of Housing and Community Development to determine the existing and projected need for housing for each region, as specified, and requires the appropriate council of local governments, or the department for cities and counties without a council of governments, to adopt a final regional housing need plan that allocates a share of the regional housing need to each locality in the region.

Existing law, the Housing Accountability Act, among other things, requires a local agency that proposes to disapprove a housing development project, as defined, or to impose a condition that the project be developed at a lower density to base its decision on written findings supported by a preponderance of the evidence that specified conditions exist if that project complies with applicable, objective general plan, zoning, and subdivision standards and criteria in effect at the time that the application was deemed complete. The act authorizes the applicant, a person who would be eligible to apply for residency in the housing development project or emergency shelter, or a housing organization to bring an action to enforce the act's provisions, as provided, and provides for penalties if the court finds that the local agency is in violation of specified provisions of the act.

This bill would require that a housing development project, as defined, proposed within a specified distance of a transit-oriented development (TOD) stop, as defined, be an allowed use on any site zoned for residential, mixed, commercial, or light industrial development, if the development complies with applicable requirements, as specified. The bill would establish requirements concerning height limits, density, and floor area ratio in accordance with a development's proximity to

specified tiers of TOD stops, as provided. The bill would provide that, for the purposes of the Housing Accountability Act, a proposed development consistent with the applicable standards of these provisions shall be deemed consistent, compliant, and in conformity with prescribed requirements. The bill would provide that a local government that denies a project meeting the requirements of these provisions located in a high-resource area, as defined, would be presumed in violation of the Housing Accountability Act, as specified, and immediately liable for penalties, as provided. The bill would specify that a development proposed pursuant to these provisions is eligible for streamlined, ministerial approval pursuant to specified law, except that the bill would exempt a project under these provisions from specified requirements, and would specify that the project is required to comply with certain affordability requirements, under that law.

This bill would require a proposed development to comply with specified requirements under existing law relating to the demolition of existing residential units. The bill would also authorize a transit agency to adopt objective standards for both residential and commercial development proposed pursuant to these provisions if the development would be constructed on land owned by the transit agency or on which the transit agency has a permanent operating easement, provided that the objective standards allow for the same or greater development intensity as allowed by local standards or applicable state law.

This bill would require the Department of Housing and Community Development to oversee compliance with the bill's provisions, including, but not limited to, promulgating specified standards relating to the inventory of land included within a county's or city's housing element. The bill would permit a local government to adopt an ordinance to implement these provisions, as provided. The bill would require the local government to submit a copy of this ordinance to the department within 60 days of adoption and require the department to review the ordinance for compliance, as specified. If the department finds an ordinance is out of compliance, and the local government does not take specified steps to address compliance, the bill would require the department to notify the local government in writing and authorize the department to notify the Attorney General, as provided.

This bill would define various terms for its purposes and make related findings and declarations.

This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

(3) Existing law, the California Environmental Quality Act (CEQA), requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of an environmental impact report on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment. CEQA, until January 1, 2030, exempts from its requirements certain transportation-related projects if specified requirements are met, as provided. CEQA includes within these exempt transportation-related projects a public project for the institution or increase of bus rapid transit, bus, or light rail service, or other passenger rail service, that will be exclusively used by low-emission or zero-emission vehicles, on existing public rights-of-way or existing highway rights-of-way.

This bill would exempt from CEQA a public or private residential, commercial, or mixed-used project that, at the time the project application is filed, is located entirely or principally on land owned by a public transit agency, or fully or partially encumbered by an existing operating easement in favor of a public transit agency, and meets specified requirements. The bill would provide that, for a project that requires the construction of new passenger rail storage and maintenance facilities at a publicly or privately owned offsite location distinct from the principal project site, that project would be considered a wholly separate project from the project described in these provisions and shall not be exempt from CEQA.

(4) By increasing the duties of local officials, this bill would impose a state-mandated local program.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 54221 of the Government Code is amended to read:

54221. As used in this article, the following definitions shall apply:

(a) (1) "Local agency" means every city, whether organized under general law or by charter, county, city and county, district, including school, sewer, water, utility, and local and regional park districts of any kind or class, joint powers authority, successor agency to a former redevelopment agency, housing authority, or other political subdivision of this state and any instrumentality thereof that is empowered to acquire and hold real property.

(2) The Legislature finds and declares that the term "district" as used in this article includes all districts within the state, including, but not limited to, all special districts, sewer, water, utility, and local and regional park districts, and any other political subdivision of this state that is a district, and therefore the changes in paragraph (1) made by the act adding this paragraph that specify that the provisions of this article apply to all districts, including school, sewer, water, utility, and local and regional park districts of any kind or class, are declaratory of, and not a change in, existing law.

(b) (1) "Surplus land" means land owned in fee simple by any local agency for which the local agency's governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency's use. Land shall be declared either "surplus land" or "exempt surplus land," as supported by written findings, before a local agency may take any action to dispose of it consistent with an agency's policies or procedures. A local agency, on an annual basis, may declare multiple parcels as "surplus land" or "exempt surplus land."

(2) "Surplus land" includes land held in the Community Redevelopment Property Trust Fund pursuant to Section 34191.4 of the Health and Safety Code and land that has been designated in the long-range property management plan approved by the Department of Finance pursuant to Section 34191.5 of the Health

and Safety Code, either for sale or for future development, but does not include any specific disposal of land to an identified entity described in the plan.

(3) Nothing in this article prevents a local agency from obtaining fair market value for the disposition of surplus land consistent with Section 54226.

(4) Notwithstanding paragraph (1), a local agency is not required to make a declaration at a public meeting for land that is "exempt surplus land" pursuant to subparagraph (A), (B), (E), (K), (L), or (Q) of paragraph (1) of subdivision (f) if the local agency identifies the land in a notice that is published and available for public comment, including notice to the entities identified in subdivision (a) of Section 54222, at least 30 days before the exemption takes effect.

(c) (1) Except as provided in paragraph (2), "agency's use" shall include, but not be limited to, land that is being used, or is planned to be used pursuant to a written plan adopted by the local agency's governing board, for agency work or operations, including, but not limited to, utility sites, property owned by a port that is used to support logistics uses, watershed property, land being used for conservation purposes, land for demonstration, exhibition, or educational purposes related to greenhouse gas emissions, sites for broadband equipment or wireless facilities, land leased to support public transit operations, and buffer sites near sensitive governmental uses, including, but not limited to, waste disposal sites, and wastewater treatment plants. "Agency's use" by a local agency that is a district shall also include land disposed for uses described in subparagraph (B) of paragraph (2).

(2) (A) "Agency's use" shall not include commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development. Property disposed of for the sole purpose of investment or generation of revenue shall not be considered necessary for the agency's use.

(B) In the case of a local agency that is a district or a public transit operator, "agency's use" may include commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development or be for the sole purpose of investment or generation of revenue if the agency's governing body takes action in a public meeting declaring that the use of the site will do one of the following:

(i) Directly further the express purpose of agency work or operations.

(ii) Be expressly authorized by a statute governing the local agency, provided the district complies with Section 54233.5 if applicable.

(d) (1) "Dispose" means either of the following:

(A) The sale of the surplus land.

(B) The entering of a lease for surplus land, which is for a term longer than 15 years, inclusive of any extension or renewal options included in the terms of the initial lease, entered into on or after January 1, 2024.

(2) "Dispose" shall not mean either of the following:

(A) The entering of a lease for surplus land, which is for a term of 15 years or less, inclusive of any extension or renewal options included in the terms of the initial lease.

(B) The entering of a lease for surplus land on which no development or demolition will occur, regardless of the term of the lease.

(e) "Open-space purposes" means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(f) (1) Except as provided in paragraph (2), "exempt surplus land" means any of the following:

(A) Surplus land that is transferred pursuant to Section 25539.4 or 37364.

(B) Surplus land that is less than one-half acre in area and is not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes.

(C) Surplus land that a local agency is exchanging for another property necessary for the agency's use. "Property" may include easements necessary for the agency's use.

(D) Surplus land that a local agency is transferring to another local, state, or federal agency, or to a third-party intermediary for future dedication for the receiving agency's use, or to a federally recognized California Indian tribe. If the surplus land is transferred to a third-party intermediary, the receiving agency's use must be contained in a legally binding agreement at the time of transfer to the third-party intermediary.

(E) Surplus land that is a former street, right-of-way, or easement, and is conveyed to an owner of an adjacent property.

(F) (i) Surplus land that is to be developed for a housing development, which may have ancillary commercial ground floor uses, that restricts 100 percent of the residential units to persons and families of low or moderate income, with at least 75 percent of the residential units restricted to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, for 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability, and in no event shall the maximum affordable sales price or rent level be higher than 20 percent below the median market rents or sales prices for the neighborhood in which the site is located.

(ii) The requirements of clause (i) shall be contained in a covenant or restriction recorded against the surplus land at the time of sale that shall run with the land and be enforceable against any owner who violates the covenant or restriction and each successor in interest who continues the violation.

(G) (i) Surplus land that is subject to a local agency's open, competitive solicitation or that is put to open, competitive bid by a local agency, provided that all entities identified in subdivision (a) of Section 54222 will be invited to participate in the process, for a housing or a mixed-use development that is more than one acre and less than 10 acres in area, consisting of either a single parcel, or two or more adjacent or non-adjacent parcels combined, that includes not less than 300 residential units, and that restricts at least 25 percent of the residential units to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability.

(ii) The requirements of clause (i) shall be contained in a covenant or restriction recorded against the surplus land at the time of sale that shall run with the land and be enforceable against any owner who violates the covenant or restriction and each successor in interest who continues the violation.

(H) (i) Surplus land totaling 10 or more acres, consisting of either a single parcel, or two or more adjacent or non-adjacent parcels combined for disposition to one or more buyers pursuant to a plan or ordinance adopted by the legislative body of the local agency, or a state statute. That surplus land shall be subject to a local agency's open, competitive solicitation process or put out to open, competitive bid by a local agency, provided that all entities identified in subdivision (a) of Section 54222 will be invited to participate in the process for a housing or mixed-use development.

(ii) The aggregate development shall include the greater of the following:

(I) Not less than 300 residential units.

(II) A number of residential units equal to 10 times the number of acres of the surplus land or 10,000 residential units, whichever is less.

(iii) At least 25 percent of the residential units shall be restricted to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent pursuant to Sections 50052.5 and 50053 of the Health and Safety Code, for a minimum of 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability.

(iv) If nonresidential development is included in the development pursuant to this subparagraph, at least 25 percent of the total planned units affordable to lower income households shall be made available for lease or sale and permitted for use and occupancy before or at the same time with every 25 percent of nonresidential development made available for lease or sale and permitted for use and occupancy.

(v) A violation of this subparagraph is subject to the penalties described in Section 54230.5. Those penalties are in addition to any remedy a court may order for violation of this subparagraph. A local agency shall only dispose of land pursuant to this

subparagraph through a disposition and development agreement that includes an indemnification clause that provides that if an action occurs after disposition violates this subparagraph, the person or entity that acquired the property shall be liable for the penalties.

(vi) The requirements of clauses (i) to (v), inclusive, shall be contained in a covenant or restriction recorded against the surplus land at the time of sale that shall run with the land and be enforceable against any owner who violates the covenant or restriction and each successor in interest who continues the violation.

(I) A mixed-use development, which may include more than one publicly owned parcel, that meets all of the following conditions:

(i) The development restricts at least 25 percent of the residential units to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability.

(ii) At least 50 percent of the square footage of the new construction associated with the development is designated for residential use.

(iii) The development is not located in an urbanized area, as defined in Section 21094.5 of the Public Resources Code.

(J) (i) Surplus land that is subject to a valid legal restriction that is not imposed by the local agency and that makes housing prohibited, unless there is a feasible method to satisfactorily mitigate or avoid the prohibition on the site. A declaration of exemption pursuant to this subparagraph shall be supported by documentary evidence establishing the valid legal restriction. For the purposes of this section, “documentary evidence” includes, but is not limited to, a contract, agreement, deed restriction, statute, regulation, or other writing that documents the valid legal restriction.

(ii) Valid legal restrictions include, but are not limited to, all of the following:

(I) Existing constraints under ownership rights or contractual rights or obligations that prevent the use of the property for housing, if the rights or obligations were agreed to prior to September 30, 2019.

(II) Conservation or other easements or encumbrances that prevent housing development.

(III) Existing leases, or other contractual obligations or restrictions, if the terms were agreed to prior to September 30, 2019.

(IV) Restrictions imposed by the source of funding that a local agency used to purchase a property, provided that both of the following requirements are met:

(ia) The restrictions limit the use of those funds to purposes other than housing.

(ib) The proposed disposal of surplus land meets a use consistent with that purpose.

(iii) Valid legal restrictions that would make housing prohibited do not include either of the following:

(I) An existing nonresidential land use designation on the surplus land.

(II) Covenants, restrictions, or other conditions on the property rendered void and unenforceable by any other law, including, but not limited to, Section 714.6 of the Civil Code.

(iv) Feasible methods to mitigate or avoid a valid legal restriction on the site do not include a requirement that the local agency acquire additional property rights or property interests belonging to third parties.

(K) Surplus land that was granted by the state in trust to a local agency or that was acquired by the local agency for trust purposes by purchase or exchange, and for which disposal of the land is authorized or required subject to conditions established by statute.

(L) Land that is subject to either of the following, unless compliance with this article is expressly required:

(i) Section 17388, 17515, 17536, 81192, 81397, 81399, 81420, or 81422 of the Education Code.

(ii) Part 14 (commencing with Section 53570) of Division 31 of the Health and Safety Code.

(M) Surplus land that is a former military base that was conveyed by the federal government to a local agency, and is subject to Article 8 (commencing with Section 33492.125) of

Chapter 4.5 of Part 1 of Division 24 of the Health and Safety Code, provided that all of the following conditions are met:

(i) The former military base has an aggregate area greater than five acres, is expected to include a mix of residential and nonresidential uses, and is expected to include no fewer than 1,400 residential units upon completion of development or redevelopment of the former military base.

(ii) The affordability requirements for residential units shall be governed by a settlement agreement entered into prior to September 1, 2020. Furthermore, at least 25 percent of the initial 1,400 residential units developed shall be restricted to lower income households, as defined in Section 50079.5 of the Health and Safety Code, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability.

(iii) Before disposition of the surplus land, the agency adopts written findings that the land is exempt surplus land pursuant to this subparagraph.

(iv) Before disposition of the surplus land, the recipient has negotiated a project labor agreement consistent with the local agency's project stabilization agreement resolution, as adopted on February 2, 2021, and any succeeding ordinance, resolution, or policy, regardless of the length of the agreement between the local agency and the recipient.

(v) The agency includes in the annual report required by paragraph (2) of subdivision (a) of Section 65400 the status of development of residential units on the former military base, including the total number of residential units that have been permitted and what percentage of those residential units are restricted for persons and families of low or moderate income, or lower income households, as defined in Section 50079.5 of the Health and Safety Code.

A violation of this subparagraph is subject to the penalties described in Section 54230.5. Those penalties are in addition to any remedy a court may order for violation of this subparagraph or the settlement agreement.

(N) Real property that is used by a district for an agency's use expressly authorized in subdivision (c).

(O) Land that has been transferred before June 30, 2019, by the state to a local agency pursuant to Section 32667 of the Streets and Highways Code and has a minimum planned residential density of at least 100 dwelling units per acre, and includes 100 or more residential units that are restricted to persons and families of low or moderate income, with an affordable sales price or an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for 55 years for rental housing, 45 years for ownership housing, and 50 years for rental or ownership housing located on tribal trust lands, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability. For purposes of this subparagraph, not more than 20 percent of the affordable units may be restricted to persons and families of moderate income and at least 80 percent of the affordable units must be restricted to lower income households as defined in Section 50079.5 of the Health and Safety Code.

(P) (i) Land that meets the following conditions:

(I) Land that is subject to a sectional planning area document that meets both of the following:

(ia) The sectional planning area was adopted prior to January 1, 2019.

(ib) The sectional planning area document is consistent with county and city general plans applicable to the land.

(II) The land identified in the adopted sectional planning area document was dedicated prior to January 1, 2019.

(III) On January 1, 2019, the parcels on the land met at least one of the following conditions:

(ia) The land was subject to an irrevocable offer of dedication of fee interest requiring the land to be used for a specified purpose.

(ib) The land was acquired through a land exchange subject to a land offer agreement that grants the land's original owner the right to repurchase the land acquired by the local agency pursuant to the agreement if the land will not be developed in a manner consistent with the agreement.

(ic) The land was subject to a grant deed specifying that the property shall be used for educational uses and limiting other types of uses allowed on the property.

(IV) At least 25 percent of the units are dedicated to lower income households, as defined in Section 50079.5 of the Health and Safety Code, at an affordable rent, as defined by Section 50053 of the Health and Safety Code, or an affordable housing cost, as defined by Section 50052.5 of the Health and Safety Code, and subject to a recorded deed restriction for a period of 55 years for rental units and 45 years for owner-occupied units, unless a local ordinance or a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability.

(V) The land is developed at an average density of at least 10 units per acre, calculated with respect to the entire sectional planning area.

(VI) No more than 25 percent of the nonresidential square footage identified in the sectional planning area document receives its first certificate of occupancy before at least 25 percent of the residential square footage identified in the sectional planning area document has received its first certificate of occupancy.

(VII) No more than 50 percent of the nonresidential square footage identified in the sectional planning area document receives its first certificate of occupancy before at least 50 percent of the residential square footage identified in the sectional planning area document has received its first certificate of occupancy.

(VIII) No more than 75 percent of the nonresidential square footage identified in the sectional planning area document shall receive its first certificate of occupancy before at least 75 percent of the residential square footage identified in the sectional planning area document has received its first certificate of occupancy.

(ii) The local agency includes in the annual report required by paragraph (2) of subdivision (a) of Section 65400 the status of development, including the total square footage of the residential and nonresidential development, the number of residential units that have been permitted, and what percentage of those residential units are restricted for persons and families of low or moderate income, or lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(iii) The Department of Housing and Community Development may request additional information from the agency regarding land disposed of pursuant to this subparagraph.

(iv) At least 30 days prior to disposing of land declared "exempt surplus land," a local agency shall provide the Department of

Housing and Community Development a written notification of its declaration and findings in a form prescribed by the Department of Housing and Community Development. Within 30 days of receipt of the written notification and findings, the department shall notify the local agency if the department has determined that the local agency is in violation of this article. A local agency that fails to submit the written notification and findings shall be liable for a civil penalty pursuant to this subparagraph. A local agency shall not be liable for the civil penalty if the Department of Housing and Community Development does not notify the agency that the agency is in violation of this article within 30 days of receiving the written notification and findings. Once the department determines that the declarations and findings comply with subclauses (I) to (IV), inclusive, of clause (i), the local agency may proceed with disposal of land pursuant to this subparagraph. This clause is declaratory of, and not a change in, existing law.

(v) If the local agency disposes of land in violation of this subparagraph, the local agency shall be liable for a civil penalty calculated as follows:

(I) For a first violation, 30 percent of the greater of the final sale price or the fair market value of the land at the time of disposition.

(II) For a second or subsequent violation, 50 percent of the greater of the final sale price or the fair market value of the land at the time of disposition.

(III) For purposes of this subparagraph, fair market value shall be determined by an independent appraisal of the land.

(IV) An action to enforce this subparagraph may be brought by any of the following:

(ia) An entity identified in subdivisions (a) to (e), inclusive, of Section 54222.

(ib) A person who would have been eligible to apply for residency in affordable housing had the agency not violated this section.

(ic) A housing organization, as that term is defined in Section 65589.5.

(id) A beneficially interested person or entity.

(ie) The Department of Housing and Community Development.

(V) A penalty assessed pursuant to this subparagraph shall, except as otherwise provided, be deposited into a local housing

trust fund. The local agency may elect to instead deposit the penalty moneys into the Building Homes and Jobs Trust Fund or the Housing Rehabilitation Loan Fund. Penalties shall not be paid out of funds already dedicated to affordable housing, including, but not limited to, Low and Moderate Income Housing Asset Funds, funds dedicated to housing for very low, low-, and moderate-income households, and federal HOME Investment Partnerships Program and Community Development Block Grant Program funds. The local agency shall commit and expend the penalty moneys deposited into the local housing trust fund within five years of deposit for the sole purpose of financing newly constructed housing units that are affordable to extremely low, very low, or low-income households.

(VI) Five years after deposit of the penalty moneys into the local housing trust fund, if the funds have not been expended, the funds shall revert to the state and be deposited in the Building Homes and Jobs Trust Fund or the Housing Rehabilitation Loan Fund for the sole purpose of financing newly constructed housing units located in the same jurisdiction as the surplus land and that are affordable to extremely low, very low, or low-income households. Expenditure of any penalty moneys deposited into the Building Homes and Jobs Trust Fund or the Housing Rehabilitation Loan Fund pursuant to this subdivision shall be subject to appropriation by the Legislature.

(vi) For purposes of this subparagraph, the following definitions apply:

(I) "Sectional planning area" means an area composed of identifiable planning units, within which common services and facilities, a strong internal unity, and an integrated pattern of land use, circulation, and townscape planning are readily achievable.

(II) "Sectional planning area document" means a document or plan that sets forth, at minimum, a site utilization plan of the sectional planning area and development standards for each land use area and designation.

(vii) This subparagraph shall become inoperative on January 1, 2034.

(Q) Land that is owned by a California public-use airport on which residential uses are prohibited pursuant to Federal Aviation Administration Order 5190.6B, Airport Compliance Program, Chapter 20 – Compatible Land Use and Airspace Protection.

(R) Land that is transferred to a community land trust, and all of the following conditions are met:

(i) The property is being or will be developed or rehabilitated as any of the following:

(I) An owner-occupied single-family dwelling.

(II) An owner-occupied unit in a multifamily dwelling.

(III) A member-occupied unit in a limited equity housing cooperative.

(IV) A rental housing development.

(ii) Improvements on the property are or will be available for use and ownership or for rent by qualified persons, as defined in paragraph (6) of subdivision (c) of Section 214.18 of the Revenue and Taxation Code.

(iii) (I) A deed restriction or other instrument, requiring a contract or contracts serving as an enforceable restriction on the sale or resale value of owner-occupied units or on the affordability of rental units is recorded on or before the lien date following the acquisition of the property by the community land trust.

(II) For the purpose of this clause, the following definitions apply:

(ia) "A contract or contracts serving as an enforceable restriction on the sale or resale value of owner-occupied units" means a contract described in paragraph (11) of subdivision (a) of Section 402.1 of the Revenue and Taxation Code.

(ib) "A contract or contracts serving as an enforceable restriction on the affordability of rental units" means an enforceable and verifiable agreement with a public agency, a recorded deed restriction, or other legal document described in subparagraph (A) of paragraph (2) of subdivision (g) of Section 214 of the Revenue and Taxation Code.

(iv) A copy of the deed restriction or other instrument shall be provided to the assessor.

(S) (i) For local agencies whose primary mission or purpose is to supply the public with a transportation system, surplus land that is developed for commercial or industrial uses or activities, including nongovernmental retail, entertainment, or office development or for the sole purpose of investment or generation of revenue, if the agency meets all of the following conditions:

(I) The agency has an adopted land use plan or policy that designates at least 50 percent of the gross acreage covered by the

adopted land use plan or policy for residential purposes. The adopted land use plan or policy shall also require the development of at least 300 residential units, or at least 10 residential units per gross acre, averaged across all land covered by the land use plan or policy, whichever is greater.

(II) The agency has an adopted land use plan or policy that requires at least 25 percent of all residential units to be developed on the parcels covered by the adopted land use plan or policy made available to lower income households, as defined in Section 50079 of the Health and Safety Code, at an affordable sales price or rented at an affordable rent, as defined in Sections 50052.5 and 50053 of the Health and Safety Code, for 55 years for rental housing and 45 years for ownership housing, unless a local ordinance or the terms of a federal, state, or local grant, tax credit, or other project financing requires a longer period of affordability. These terms shall be included in the land use plan or policy and dictate that they will be contained in a covenant or restriction recorded against the surplus land at the time of disposition that shall run with the land and be enforceable against any owner or lessee who violates the covenant or restriction and each successor in interest who continues the violation.

(III) Land disposed of for residential purposes shall issue a competitive request for proposals subject to the local agency's open, competitive solicitation process or put out to open, competitive bid by the local agency, provided that all entities identified in subdivision (a) of Section 54222 are invited to participate.

(IV) Prior to entering into an agreement to dispose of a parcel for nonresidential development on land designated for the purposes authorized pursuant to this subparagraph in an agency's adopted land use plan or policy, the agency, since January 1, 2020, must have entered into an agreement to dispose of a minimum of 25 percent of the land designated for affordable housing pursuant to subclause (II).

(ii) The agency may exempt at one time all parcels covered by the adopted land use plan or policy pursuant to this subparagraph.

(2) Notwithstanding paragraph (1), a written notice of the availability of surplus land for open-space purposes shall be sent to the entities described in subdivision (b) of Section 54222 before disposing of the surplus land, provided the land does not meet the

criteria in subparagraph (H) of paragraph (1), if the land is any of the following:

(A) Within a coastal zone.

(B) Adjacent to a historical unit of the State Parks System.

(C) Listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places.

(D) Within the Lake Tahoe region as defined in Section 66905.5.

(g) "Persons and families of low or moderate income" has the same meaning as provided in Section 50093 of the Health and Safety Code.

SEC. 2. Chapter 4.1.5 (commencing with Section 65912.155) is added to Division 1 of Title 7 of the Government Code, to read:

Chapter 4.1.5. Transit-Oriented Development

65912.155. The Legislature finds and declares all of the following:

(a) California faces a housing shortage both acute and chronic, particularly in areas with access to robust public transit infrastructure.

(b) Building more homes near transit access reduces housing and transportation costs for California families, and promotes environmental sustainability, economic growth, and reduced traffic congestion.

(c) Public transit systems require sustainable funding to provide reliable service, especially in areas experiencing increased density and ridership. The state does not invest in public transit service to the same degree as it does in roads, and the state funds a smaller proportion of the state's major transit agencies' operations costs than other states with comparable systems. Transit systems in other countries derive significant revenue from transit-oriented development at and near their stations.

65912.156. For purposes of this chapter, the following definitions apply:

(a) "Adjacent" means sharing a property line with a transit stop, including any parcels that serve a parking or circulation purpose related to the stop.

(b) “Commuter rail” means a rail transit service not meeting the standards for heavy rail or light rail, excluding California High-Speed Rail and Amtrak Long Distance Service.

(c) “Department” means the Department of Housing and Community Development.

(d) “Frequent commuter rail” means a commuter rail service with a total of at least 24 daily trains per weekday across both directions and not meeting the standard for very high or high-frequency commuter rail at any point in the past three years.

(e) “Heavy rail transit” means an electric railway with the capacity for a heavy volume of traffic using high-speed and rapid acceleration passenger rail cars operating singly or in multicar trains on fixed rails, separate rights-of-way from which all other vehicular and foot traffic are excluded, and high platform loading.

(f) “High-frequency commuter rail” means a commuter rail service operating a total of at least 48 trains per day across both directions at any point in the past three years.

(g) “High-resource area” means a highest resource or high-resource neighborhood opportunity area, as used in the opportunity area maps published annually by the California Tax Credit Allocation Committee and the department.

(h) “Housing development project” has the same meaning as defined in Section 65589.5.

(i) “Light rail transit” includes streetcar, trolley, and tramway service.

(j) “Net habitable square footage” means the finished and heated floor area fully enclosed by the inside surface of walls, windows, doors, and partitions, and having a headroom of at least six and one-half feet, including working, living, eating, cooking, sleeping, stair, hall, service, and storage areas, but excluding garages, carports, parking spaces, cellars, half-stories, and unfinished attics and basements.

(k) “Rail transit” has the same meaning as defined in Section 99602 of the Public Utilities Code.

(*l*) “Residential floor area ratio” means the ratio of net habitable square footage dedicated to residential use to the area of the lot.

(m) “Tier 1 transit-oriented development stop” means a major transit stop, as defined by Section 21155 of the Public Resources Code, served by heavy rail transit or very high frequency commuter rail.

(n) "Tier 2 transit-oriented development stop" means a major transit stop, as defined by Section 21155 of the Public Resources Code, excluding a Tier 1 transit-oriented development stop, served by light rail transit, by high-frequency commuter rail, or by bus service meeting the standards of paragraph (1) of subdivision (a) of Section 21060.2 of the Public Resources Code.

(o) "Tier 3 transit-oriented development stop" means a major transit stop, as defined by Section 21155 of the Public Resources Code, excluding a Tier 1 or Tier 2 transit-oriented development stop, served by frequent commuter rail service or by ferry service.

(p) "Transit-oriented development stop" means a major transit stop, as defined by Section 21155 of the Public Resources Code, excluding any stop served by rail transit with a frequency of fewer than 10 total trains per weekday.

(q) "Very high frequency commuter rail" means a commuter rail service with a total of at least 72 trains per day across both directions at any point in the past three years.

65912.157. (a) A housing development project within one-half or one-quarter mile of a transit-oriented development stop shall be an allowed use on any site zoned for residential, mixed, commercial, or light industrial development, if the development complies with the applicable of all of the following requirements:

(1) For a residential development within one-quarter mile of a Tier 1 transit-oriented development stop, all of the following apply:

(A) A development may be built up to 75 feet high, or up to the local height limit, whichever is greater. *If a development proposes a height under this subparagraph in excess of the local height limit, then a local government shall not be required to grant a waiver, incentive, or concession pursuant to Section 65915 for additional height beyond that specified under this subparagraph, except as provided in subparagraph (D) of paragraph (2) of subdivision (d) of Section 65915.*

(B) A local government shall not impose any maximum density of less than 120 dwelling units per acre. The development proponent may seek a further increased density in accordance with applicable density bonus law.

(C) A local government shall not enforce any other local development standard or combination of standards that would prevent achieving a residential floor area ratio of up to 3.5.

(D) A development that otherwise meets the eligibility requirements of Section 65915, including, but not limited to, affordability requirements, shall be eligible for three additional concessions pursuant to Section 65915.

(2) For a residential development further than one-quarter mile but within one-half mile of a Tier 1 transit-oriented development stop, all of the following apply:

(A) A development may be built up to 65 feet high, or up to the local height limit, whichever is greater. *If a development proposes a height under this subparagraph in excess of the local height limit, then a local government shall not be required to grant a waiver, incentive, or concession pursuant to Section 65915 for additional height beyond that specified under this subparagraph, except as provided in subparagraph (D) of paragraph (2) of subdivision (d) of Section 65915.*

(B) A local government shall not impose any maximum density standard of less than 100 dwelling units per acre. The development proponent may seek a further increased density in accordance with applicable density bonus law.

(C) A local government shall not enforce any other local development standard or combination of standards that would prevent achieving a residential floor area ratio of up to 3.

(D) A development that otherwise meets the eligibility requirements of Section 65915, including, but not limited to, affordability requirements, shall be eligible for two additional concessions pursuant to Section 65915.

(3) For a residential development within one-quarter mile of a Tier 2 transit-oriented development stop, all of the following apply:

(A) A development may be built up to 65 feet high, or up to the local height limit, whichever is greater. *If a development proposes a height under this subparagraph in excess of the local height limit, then a local government shall not be required to grant a waiver, incentive, or concession pursuant to Section 65915 for additional height beyond that specified under this subparagraph, except as provided in subparagraph (D) of paragraph (2) of subdivision (d) of Section 65915.*

(B) A local government shall not impose any maximum density standard of less than 100 dwelling units per acre. The development proponent may seek a further increased density in accordance with applicable density bonus law.

(C) A local government shall not enforce any other local development standard or combination of standards that would prevent achieving a residential floor area ratio of up to 3.

(D) A development that otherwise meets the eligibility requirements of Section 65915, including, but not limited to, affordability requirements, shall be eligible for two additional concessions pursuant to Section 65915.

(4) For a residential development further than one-quarter mile but within one-half mile of a Tier 2 transit-oriented development stop, all of the following apply:

(A) A development may be built up to 55 feet high, or up to the local height limit, whichever is greater. *If a development proposes a height under this subparagraph in excess of the local height limit, then a local government shall not be required to grant a waiver, incentive, or concession pursuant to Section 65915 for additional height beyond that specified under this subparagraph, except as provided in subparagraph (D) of paragraph (2) of subdivision (d) of Section 65915.*

(B) A local government shall not impose any maximum density standard of less than 80 dwelling units per acre. The development proponent may seek a further increased density in accordance with applicable density bonus law.

(C) A local government shall not enforce any other local development standard or combination of standards that would prevent achieving a residential floor area ratio of up to 2.5.

(D) A development that otherwise meets the eligibility requirements of Section 65915, including, but not limited to, affordability requirements, shall be eligible for one additional concession pursuant to Section 65915.

(5) For a residential development within one-quarter mile of a Tier 3 transit-oriented development stop, all of the following apply:

(A) A development may be built up to 55 feet high, or up to the local height limit, whichever is greater. *If a development proposes a height under this subparagraph in excess of the local height limit, then a local government shall not be required to grant a waiver, incentive, or concession pursuant to Section 65915 for additional height beyond that specified under this subparagraph, except as provided in subparagraph (D) of paragraph (2) of subdivision (d) of Section 65915.*

(B) A local government shall not impose any maximum density standard of less than 80 dwelling units per acre. The development proponent may seek a further increased density in accordance with applicable density bonus law.

(C) A local government shall not enforce any other local development standard or combination of standards that would prevent achieving a residential floor area ratio of up to 2.5.

(D) A development that otherwise meets the eligibility requirements of Section 65915, including, but not limited to, affordability requirements, shall be eligible for one additional concession pursuant to Section 65915.

(6) For a residential development further than one-quarter mile but within one-half mile of a Tier 3 transit-oriented development stop, all of the following apply:

(A) A development may be built up to 45 feet high, or up to the local height limit, whichever is greater. *If a development proposes a height under this subparagraph in excess of the local height limit, then a local government shall not be required to grant a waiver, incentive, or concession pursuant to Section 65915 for additional height beyond that specified under this subparagraph, except as provided in subparagraph (D) of paragraph (2) of subdivision (d) of Section 65915.*

(B) A local government shall not impose any maximum density standard of less than 60 dwelling units per acre. The development proponent may seek a further increased density in accordance with applicable density bonus law.

(C) A local government shall not enforce any other local development standard or combination of standards that would prevent achieving a residential floor area ratio of up to 2.

(b) Notwithstanding any other law, a housing development project that meets any of the eligibility criteria under subdivision (a) and is immediately adjacent to a Tier 1, Tier 2, or Tier 3 transit-oriented development stop shall be eligible for an adjacency intensifier to increase the height limit by an additional 20 feet, the maximum density standard by an additional 40 dwelling units per acre, and the residential floor area ratio by 1.

(c) A development proposed pursuant to this section shall comply with the antidisplacement requirements of Section 66300.6. This subdivision shall apply to any city or county.

(d) For purposes of subdivision (j) of Section 65589.5, a proposed housing development project that is consistent with the applicable standards from this chapter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision.

(e) A local government that denies a housing development project meeting the requirements of this section that is located in a high-resource area shall be presumed to be in violation of the Housing Accountability Act (Section 65589.5) and immediately liable for penalties pursuant to subparagraph (B) of paragraph (1) of subdivision (k) of Section 65589.5, unless the local government demonstrates, pursuant to the standards in subdivisions (j) and (o) of Section 65589.5, that it has a health, life, or safety reason for denying the project.

65912.158. Notwithstanding any other provision of this chapter, a transit agency may adopt objective standards for both residential and commercial developments proposed to be constructed on land owned by the transit agency or on which the transit agency has a permanent operating easement, if the objective standards allow for the same or greater development intensity as that allowed by local standards or applicable state law.

65912.159. A housing development project proposed pursuant to Section 65912.157 shall be eligible for streamlined ministerial approval pursuant to Section 65913.4 in accordance with all of the following:

(a) The proposed project shall be exempt from subparagraph (A) of paragraph (4) of, paragraph (5) of, and clause (iv) of subparagraph (A) of paragraph (6) of, subdivision (a) of Section 65913.4.

(b) The proposed project shall comply with the affordability requirements in subclauses (I) through (III), inclusive, of clause (i) of subparagraph (B) of paragraph (4) of subdivision (a) of Section 65913.4.

(c) The proposed project shall comply with all other requirements of Section 65913.4, including, but not limited to, the prohibition against a site that is within a very high fire hazard severity zone, pursuant to subparagraph (D) of paragraph (6) of subdivision (a) of Section 65913.4.

65912.160. (a) The department shall oversee compliance with this chapter, including, but not limited to, promulgating standards

on how to account for capacity pursuant to this chapter in a city or county's inventory of land suitable for residential development, pursuant to Section 65583.2.

(b) (1) A local government may adopt an ordinance to implement the provisions of this chapter, which may include revisions to applicable zoning requirements on individual sites within a transit-oriented development zone, provided that those revisions maintain the average density allowed for the applicable tier, or up to a 100-percent increase, subject to review by the department pursuant to paragraph (3).

(2) An ordinance adopted to implement this section shall not be considered a project under Division 13 (commencing with Section 21000) of the Public Resources Code.

(3) (A) A local government shall submit a copy of any ordinance adopted pursuant to this section to the department within 60 days of adoption.

(B) Upon receipt of an ordinance pursuant to this paragraph, the department shall review that ordinance and determine whether it complies with this section. If the department determines that the ordinance does not comply with this section, the department shall notify the local government in writing and provide the local government a reasonable time, not to exceed 30 days, to respond before taking further action as authorized by this section.

(C) The local government shall consider any findings made by the department pursuant to subparagraph (B) and shall do one of the following:

(i) Amend the ordinance to comply with this section.

(ii) Adopt the ordinance without changes. The local government shall include findings in its resolution adopting the ordinance that explain the reasons the local government believes that the ordinance complies with this section despite the findings of the department.

(D) If the local government does not amend its ordinance in response to the department's findings or does not adopt a resolution with findings explaining the reason the ordinance complies with this chapter and addressing the department's findings, the department shall notify the local government and may notify the Attorney General that the local government is in violation of this section.

65912.161. The Legislature finds and declares that the state faces a housing crisis of availability and affordability, in large part due to a severe shortage of housing, and solving the housing crisis therefore requires a multifaceted, statewide approach, including, but not limited to, encouraging an increase in the overall supply of housing, encouraging the development of housing that is affordable to households at all income levels, removing barriers to housing production, expanding homeownership opportunities, and expanding the availability of rental housing, and is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, this chapter applies to all cities, including charter cities.

SEC. 3. Section 21080.26.5 is added to the Public Resources Code, to read:

21080.26.5. (a) For the purposes of this section, "public project" means a project constructed by either a public agency or private entity, that, upon the completion of the construction, will be operated by a public agency.

(b) This division shall not apply to a public or private residential, commercial, or mixed-used project that, at the time the project application is filed, is located entirely or principally on land owned by a public transit agency, or fully or partially encumbered by an existing operating easement in favor of a public transit agency, and that includes at least one of the following:

(1) A project component identified in paragraphs (1) to (5), inclusive, or paragraph (7) of subdivision (b) of Section 21080.25.

(2) A public project for passenger rail service facilities, other than light rail service eligible under paragraph (5) of subdivision (b) of Section 21080.25, including the construction, reconfiguration, or rehabilitation of stations, terminals, rails, platforms, or existing operations facilities, which will be exclusively used by zero-emission or electric trains. The project shall be located on land owned by a public transit agency, or land fully or partially encumbered by an existing operating easement in favor of a public transit agency, at the time the project application is filed.

(3) An agreement between the project applicant and public transit agency that owns the land or has the permanent operating easement to finance transit capital infrastructure, transit maintenance, or transit operations, including through a proposed

public financing district, community financing district, or tax increment generated by the project.

(c) If a project described in subdivision (b) requires the construction of new passenger rail storage and maintenance facilities at a publicly or privately owned offsite location distinct from the principal project site, then that project shall be considered a wholly separate project from the project described in subdivision (b) and shall not be exempt from this division. Any required environmental review shall not affect or render invalid the exemption provided in subdivision (b), regardless of whether the project described in subdivision (b) cannot proceed unless the offsite facilities are constructed.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local government 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.

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