

Government Code

11011. (a) On or before December 31 of each year, each state agency shall make a review of all proprietary state lands, other than tax-deeded land, land held for highway purposes, lands under the jurisdiction of the State Lands Commission, land that has escheated to the state or that has been distributed to the state by court decree in estates of deceased persons, and lands under the jurisdiction of the State Coastal Conservancy, over which it has jurisdiction to determine what, if any, land is in excess of its foreseeable needs and report thereon in writing to the Department of General Services. These lands shall include, but not be limited to, the following:

(1) Land not currently being utilized, or currently being underutilized, by the state agency for any existing or ongoing state program.

(2) Land for which the state agency has not identified any specific utilization relative to future programmatic needs.

(3) Land not identified by the state agency within its master plans for facility development.

(b) Jurisdiction of all land reported as excess shall be transferred to the Department of General Services, when requested by the director of that department, for sale or disposition under this section or as may be otherwise authorized by law.

(c) The Department of General Services shall report to the Legislature annually, the land declared excess and request authorization to dispose of the land by sale or otherwise.

(d) The Department of General Services shall review and consider reports submitted to the Director of General Services pursuant to Section 66907.12 of this **code** and Section 31104.3 of the Public Resources **Code** prior to recommending or taking any action on surplus land, and shall also circulate the reports to all agencies that are required to report excess land pursuant to this section. In recommending or determining the disposition of surplus lands, the Director of General Services may give priority to proposals by the state that involve the exchange of surplus lands for lands listed in those reports.

(e) Except as otherwise provided by any other law, whenever any land is reported as excess pursuant to this section, the Department of General Services shall determine whether or not the use of the land is needed by any other state agency. If the Department of General Services determines that any land is needed by any other state agency it may transfer the jurisdiction of this land to the

other state agency upon the terms and conditions as it may deem to be for the best interests of the state.

(f) When authority is granted for the sale or other disposition of lands declared excess, and the Department of General Services has determined that the use of the land is not needed by any other state agency, the Department of General Services shall sell the land or otherwise dispose of the same pursuant to the authorization, upon any terms and conditions and subject to any reservations and exceptions as the Department of General Services may deem to be for the best interests of the state. The Department of General Services shall report to the Legislature annually, with respect to each parcel of land authorized to be sold under this section, giving the following information:

(1) A description or other identification of the property.

(2) The date of authorization.

(3) With regard to each parcel sold after the next preceding report, the date of sale and price received, or the value of the land received in exchange.

(4) The present status of the property, if not sold or otherwise disposed of at the time of the report.

(g) Except as otherwise specified by law, the net proceeds received from any real property disposition, including the sale, lease, exchange, or other means, that is received pursuant to this section shall be paid into the Deficit Recovery Bond Retirement Sinking Fund Subaccount, established pursuant to subdivision (f) of Section 20 of Article XVI of the California Constitution, until the time that the bonds issued pursuant to the Economic Recovery Bond Act (Title 18 (commencing with Section 99050)), approved by the voters at the March 2, 2004, statewide primary election, are retired. Thereafter, the net proceeds received pursuant to this section shall be deposited in the Special Fund for Economic Uncertainties.

For purposes of this section, net proceeds shall be defined as proceeds less any outstanding loans from the General Fund, or outstanding reimbursements due to the Property Acquisition Law Money Account for costs incurred prior to June 30, 2005, related to the management of the state's real property assets, including, but not limited to, surplus property identification, legal research, feasibility statistics, activities associated with land use, and due diligence.

(h) The Director of Finance may approve loans from the General Fund to the Property Acquisition Law Money Account, which is hereby created in the State Treasury, for the purposes of supporting the management of the state's real property assets.

(i) Any rentals or other revenues received by the department from real properties, the jurisdiction of which has been transferred to the Department of General Services under this section, shall be

deposited in the Property Acquisition Law Money Account and shall be available for expenditure by the Department of General Services upon appropriation by the Legislature.

(j) Nothing contained in this section shall be construed to prohibit the sale, letting, or other disposition of any state lands pursuant to any law now or hereafter enacted authorizing the sale, letting, or disposition.

(k) (1) The disposition of a parcel of surplus state real property, pursuant to Section **11011.1**, made on an "as is" basis shall be exempt from Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources **Code**. Upon title to the parcel vesting in the purchaser or transferee of the property, the purchaser or transferee shall be subject to any local governmental land use entitlement approval requirements and to Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources **Code**.

(2) If the disposition of a parcel of surplus state real property, pursuant to Section **11011.1**, is not made on an "as is" basis and close of escrow is contingent on the satisfaction of a local governmental land use entitlement approval requirement or compliance by the local **government** with Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources **Code**, the execution of the purchase and sale agreement or of the exchange agreement by all parties to the agreement shall be exempt from Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources **Code**.

(3) For the purposes of this subdivision, "disposition" means the sale, exchange, sale combined with an exchange, or transfer of a parcel of surplus state property.

11011.1. (a) Notwithstanding any other provision of law, except Article 8.5 (commencing with Section 54235) of Chapter 5 of Part 1 of Division 2 of Title 5, the disposal of surplus state real property by the Department of General Services shall be subject to the requirements of this section. For purposes of this section, "surplus state real property" means real property declared surplus by the Legislature and directed to be disposed of by the Department of General Services, including any real property previously declared surplus by the Legislature but not yet disposed of by the Department of General Services prior to the enactment of this section.

(b) (1) The department may dispose of surplus state real property by sale, lease, exchange, a sale combined with an exchange, or other

manner of disposition of property, as authorized by the Legislature, upon any terms and conditions and subject to any reservations and exceptions the department deems to be in the best interests of the state.

(2) (A) The Legislature finds and declares that the provision of decent housing for all Californians is a state goal of the highest priority. The disposal of surplus state real property is a direct and substantial public purpose of statewide concern and will serve an important public purpose, including mitigating the environmental effects of state activities. Therefore, it is the intent of the Legislature that priority be given, as specified in this section, to the disposal of surplus state real property to housing for persons and families of low or moderate income, where land is suitable for housing and there is a need for housing in the community.

(B) Surplus state real property that has been determined by the department not to be needed by any state agency shall be offered to any local agency, as defined in subdivision (a) of Section 54221, and then to nonprofit affordable housing sponsors, prior to being offered for sale to private entities or individuals. As used in this subdivision, "nonprofit affordable housing sponsor" means any of the following:

(i) A nonprofit corporation incorporated pursuant to Division 2 (commencing with Section 5000) of Title 1 of the Corporations **Code**.

(ii) A cooperative housing corporation which is a stock cooperative, as defined by Section 11003.2 of the Business and Professions **Code**.

(iii) A limited-dividend housing corporation.

(C) The department, subject to this section, shall maintain a list of surplus state real property in a conspicuous place on its Internet Web site. The department shall provide local agencies and, upon request, members of the public, with electronic notification of updates to the list of properties.

(D) To be considered as a potential priority buyer of the surplus state real property, a local agency or nonprofit affordable housing sponsor shall notify the department of its interest in the surplus state real property within 90 days of the department posting on its Internet Web site the notice of the availability of the surplus state real property. The local agency or nonprofit affordable housing sponsor shall demonstrate, to the satisfaction of the department, that the surplus state real property, or portion of that surplus state real property, is to be used by the local agency or nonprofit affordable housing sponsor for open space, public parks, affordable housing projects, or development of local **government**-owned facilities. When more than one local agency expresses an interest in the surplus state real property, priority shall be given to the local agency that intends to use the surplus state real property for

affordable housing. If no agreement or transfer of title occurs, the priority shall next be given to the local agency that intends to use the surplus state real property for open space, public parks, or development of local **government**-owned facilities. The sales agreement shall be executed by the local agency or nonprofit affordable housing sponsor within 60 days after the director determines the local agency or nonprofit affordable housing sponsor is to receive the surplus state real property. The sale of the surplus state real property to a local agency or nonprofit affordable housing sponsor pursuant to this section shall be completed, and title transferred, within 60 days of the date the department executes the sales agreement, or, if required by law, no later than 60 days after the State Public Works Board has authorized the sale. If the sale of a surplus state real property to a local agency or nonprofit affordable housing sponsor is not completed within the timeframe specified in this subparagraph, then the department shall proceed with the process for disposal to other private entities or individuals.

(c) (1) If more than one local agency desires the surplus state real property for use as an open space, a public park, or the development of a local **government**-owned facility, the department shall transfer the surplus state real property to the local agency offering the highest price above fair market value. If more than one local agency desires the surplus state real property for use as an affordable housing project, the department shall transfer the surplus state real property to the local agency offering the greatest number of affordable housing units. If more than one nonprofit affordable housing sponsor desires the surplus state real property for use as an affordable housing project, the department shall transfer the surplus state real property to the nonprofit affordable housing sponsor offering the greatest number of affordable housing units.

(2) If no local agency or nonprofit affordable housing sponsor is interested, or an agreement, as provided above, is not reached, then the disposal of the surplus state real property to private entities or individuals shall be pursuant to a public bidding process designed to obtain the highest most certain return for the state from a responsible bidder, and any transaction based on such a bidding process shall be deemed to be the fair market value for the purposes of the reporting requirements pursuant to subdivision (d).

(3) Notwithstanding any other provision of law, the department may sell surplus state real property, or a portion of surplus state real property, to a local agency, or to a nonprofit affordable housing sponsor if no local agency is interested in the surplus state real property, for affordable housing projects at a sales price less than fair market value if the department determines that such a discount will enable the provision of housing for persons and families of low or moderate income. Nothing shall preclude a local agency that

purchases the surplus state real property for affordable housing from reconveying the surplus state real property to a nonprofit affordable housing sponsor for development of affordable housing. Transfer of title to the surplus state real property or lease of the surplus state real property for affordable housing shall be conditioned upon continued use of the surplus state real property as housing for persons and families of low and moderate income for at least 40 years and the department shall record a regulatory agreement that imposes affordability covenants, conditions, and restrictions on the surplus state real property. The regulatory agreement shall be a first priority lien on the surplus state real property and last for a period of at least 40 years, and if another state agency is lending funds for a project, a combined regulatory agreement shall be utilized. Notwithstanding any other provision of law, the regulatory agreement shall not be subordinated to any other lien or encumbrance except for any federal loan program whose statutes or regulations require a first lien priority for that federal loan.

(4) Notwithstanding any other provision of law, the Director of General Services may transfer surplus state real property to a local agency for less than fair market value if the local agency uses the surplus state real property for parks or open-space purposes. The deed or other instrument of transfer shall provide that the surplus state real property would revert to the state if the use changed to a use other than parks or open-space purposes during the period of 25 years after the transfer date. For the purpose of this paragraph, "open-space purposes" means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(d) Thirty days prior to executing a transaction for a sale, lease, exchange, a sale combined with an exchange, or other manner of disposition of the surplus state real property for less than fair market value or for affordable housing, or as authorized by the Legislature, the Director of General Services shall report to the chairpersons of the fiscal committees of the Legislature all of the following:

- (1) The financial terms of the transaction.
- (2) A comparison of fair market value for the surplus state real property and the terms listed in paragraph (1).
- (3) The basis for agreeing to terms and conditions other than fair market value.

(e) As to surplus state real property sold and or exchanged pursuant to this section, the director shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources **Code**, together with the right to prospect for, mine, and remove the deposits. If, however, the director determines that there is little or no potential for mineral deposits, the reservation

may be without surface right of entry above a depth of 500 feet, or the rights to prospect for, mine, and remove the deposits shall be limited to those areas of the surplus state real property conveyed that the director determines to be reasonably necessary for the removal of the deposits.

(f) The failure to comply with this section, except for subdivision (d), shall not invalidate the transfer or conveyance of surplus state real property to a purchaser for value.

(g) For purposes of this section, fair market value is established by an appraisal and economic evaluation conducted by the department or approved by the department.