

**TITLE 21. PUBLIC WORKS**  
**Division 2. Department of Transportation**

**NOTICE OF PROPOSED RULEMAKING**

The Department of Transportation (Caltrans) proposes to adopt the proposed regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

**PUBLIC HEARING**

Caltrans will hold public hearings at the time and place listed below. The meeting facilities are wheelchair accessible. At the hearings, any person may present statements orally, or in writing relevant to the proposed action described in the Informative Digest.

July 15, 2014 6:00 p.m. – 8:00 p.m.  
California State University, Los Angeles  
Golden Eagle Building  
Golden Eagle Ballroom  
5151 State University Drive  
Los Angeles, CA 90032

July 17, 2014 6:00 p.m. – 8:00 p.m.  
Pasadena Convention Center  
Conference Center, Lower Level, Rm. 107  
300 East Green Street  
Pasadena, CA 91101

**WRITTEN COMMENT PERIOD**

Any interested persons, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to Caltrans. Comments may also be submitted by facsimile (fax) at (916) 654-6378, or by e-mail to [Affordable\\_Sales\\_Program@dot.ca.gov](mailto:Affordable_Sales_Program@dot.ca.gov). The written comment period closes at 5:00 PM on July 14, 2014. Caltrans will consider only comments received by that time.

Please submit comments to:

Brent L. Green  
Chief, Division of Right of Way and Land Surveys  
ATTN: Affordable Sales Program  
California Department of Transportation  
1120 N Street, MS 37  
Sacramento, CA 95814

## **AUTHORITY AND REFERENCE**

Sections 118 through 118.6 of the Streets and Highways Code authorizes Caltrans to dispose of real property no longer required for transportation uses. Caltrans is implementing, interpreting, and making specific Sections 54235 through 54238.7 of the Government Code which requires that certain properties owned by state agencies be disposed in a manner that will preserve, upgrade, and expand the supply of housing available to affected persons and families of low or moderate income.

## **INFORMATIVE DIGEST/ POLICY STATEMENT OVERVIEW**

Caltrans acquires real property necessary for state transportation purposes, and must, by law, attempt to dispose of properties no longer required for those purposes (Streets and Highways Code section 118.6). Government Code sections 54235 through 54238.7 (the “Roberti Act”) sets forth the priorities and procedures for disposing of surplus residential property for State Route 710 (SR 710) in Los Angeles County.

In 1979, the Legislature reaffirmed its findings that there exists within the urban and rural areas of the state a serious shortage of decent, safe, and sanitary housing which persons and families of low or moderate income can afford, and consequently a pressing and urgent need for the preservation and expansion of the low and moderate income housing supply. The Legislature further reaffirmed its findings that highway and other state activities have contributed to the severe shortage of such housing, and that provision of decent housing for all Californians is a state goal of the highest priority. The Legislature stated that actions of state agencies including the sales of surplus residential properties which result in the loss of decent and affordable housing for persons and families of low or moderate income is contrary to state housing, urban development, and environmental policies and is a significant environmental effect, within the meaning of Article XIX of the California Constitution, which will be mitigated by the sale of surplus residential property pursuant to the provisions of Government Code sections 54235 through 54238.7.

Additionally, the Legislature stated that the sale of surplus residential property pursuant to the provisions of the Roberti Act will directly serve an important public purpose. Accordingly, the Legislature intends by the Roberti Act to preserve, upgrade, and expand the supply of housing available to persons and families of low or moderate income. (Government Code section 54235.)

The Los Angeles Superior Court declared in *City of South Pasadena v. The California Department of Transportation* (Super. Ct. Los Angeles County, 2007, No. BC331628) that legal title to all State Route 710 (SR 710) parcels of real property shall remain vested in Caltrans until adoption of an appropriate regulation under the Administrative Procedures Act for their disposal pursuant to Government Code sections 54235 through 54238.7.

After conducting an evaluation for any related regulations, Caltrans has concluded that these are the only regulations concerning the use of surplus transportation property for affordable housing. Therefore, the proposed regulations are not inconsistent or incompatible with existing state regulations or statutes, and do not differ substantially from existing comparable federal regulations or statutes.

The proposed regulations set forth the procedures that will allow Caltrans to dispose of surplus residential properties originally acquired for the SR 710 extension in the cities of Los Angeles, South Pasadena, and Pasadena in accordance with the Roberti Act. The proposed regulations will increase the number of low and moderate income homeowners by allowing qualified tenants and occupants to purchase homes on the basis of affordability under the program, and will provide a benefit to purchasers by setting forth the standards used to calculate the appropriate purchase prices to fulfill the state's mission of providing affordable home ownership to Californians. The proposed regulations will provide the public with guidelines to determine the income levels used to qualify for the program, which in turn promotes fairness and social equity to the buying public. The proposed regulations will provide a non-monetary benefit by setting the guidelines and timelines applicable, which promotes openness and transparency in business and government.

The Regulations proposed in this rulemaking action will:

Section 1475 – Implement Senate Bill 86 known as the “Roberti Act”.

Section 1476 – Define the terms used in the proposed regulations.

Section 1477 – Specify the order of priority for the Conditional Offer Prior to Sale.

Section 1478 – Set forth the criteria for Conditions of Offer Prior to Sale.

Section 1479 – Set forth the notices for Conditional Offer Prior to Sale.

Section 1480 – Set forth the term of the Conditional Offer Prior to Sale.

Section 1481 – Set forth the terms of acceptance for the Conditional Offer Prior to Sale.

Section 1482 – Specify the burden of evidence for income and occupancy on the buyer.

Section 1483 – Provide grounds for denial based on insufficiency or incompleteness of response to Conditional Offer Prior to Sale.

Section 1484 – Specify that failure to respond will be deemed a rejection of the Conditional Offer Prior to Sale.

Section 1485 – Establish the eligibility for buyers and sets forth priority for purchase.

Section 1486 – Specify the response time for buyers for entering into a Contract for Sale.

Section 1487 – Specify time for close of escrow and the Department’s authority to extend.

Section 1488 – Provide sale provision for properties not subject to sale under the Affordable Sales Program.

Section 1489 – Provide the duty of the purchaser upon noncompliance.

Section 1490 – Specify the monitoring requirement to ensure compliance with the terms of sale.

The adoption of the proposed regulations will increase the openness and transparency in government regarding the sale of property pursuant to the Roberti Act. Adoption of the proposed regulations will not affect: 1) the protection of public health and safety, worker safety, or the environment; and 2) the prevention of discrimination. Adoption of the proposed regulations will: 1) increase openness and transparency in business and government; and 2) promote fairness and social equity because they make residential properties available to low or moderate income people that would otherwise be unaffordable.

**DISCLOSURES REGARDING THE PROPOSED ACTION/RESULTS OF THE ECONOMIC IMPACT ANALYSIS**

*Caltrans has made the following determinations:*

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: The cost of below market sales of property sold under the Roberti Act is estimated to be \$232.4 to \$307.1 million.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other non-discretionary costs or savings imposed on local agencies: There will be an anticipated loss of property tax revenues to the county of Los Angeles that cannot be reasonably estimated.

Costs or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business or the ability of California businesses to compete with businesses in other states: None.

Cost impacts on representative private person or businesses: Caltrans is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations:

- (1) will not affect the creation or elimination of jobs within California.
- (2) will not affect the creation of new businesses or the elimination of existing businesses within California.
- (3) will not affect the expansion of businesses currently doing business within California.
- (4) will not affect the benefits of the regulation to worker's safety, and the state's environment.
- (5) will benefit the health and welfare of California residents by providing affordable home ownership to low and moderate income households.

Significant Effect on Housing Costs: None.

Caltrans has determined that the proposed regulations do not affect small businesses because the proposed regulations apply only to certain state-owned properties, not small businesses.

## **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a) (13), Caltrans must determine that no reasonable alternative that is considered or that has otherwise been identified and brought to the attention of Caltrans would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Caltrans invites interested persons to present statements or arguments with respect to alternatives to the proposed regulatory action during the written comment period and during any of the two scheduled hearings.

## **CONTACT PERSONS**

Inquiries concerning the proposed regulatory action may be directed to:

Brent L. Green  
Chief, Division of Right of Way and Land Surveys  
California Department of Transportation  
1120 N Street, MS 37  
Sacramento, CA 95814  
916-654-4790

Affordable\_Sales\_Program@dot.ca.gov

Alternate contact person:

Jennifer Lowden  
Assistant Division Chief, Division of Right of Way and Land Surveys  
California Department of Transportation  
1120 N Street, MS 37  
Sacramento, CA 95814  
916-654-4790  
Affordable\_Sales\_Program@dot.ca.gov

Please direct requests for copies of the text of the proposed regulations, the initial statement of reasons, or other information upon which the rulemaking is based to Brent L. Green at the above address.

### **AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS AND RULEMAKING FILE**

Caltrans will have the entire Rulemaking File available for inspection and copying throughout the rulemaking process at its office at the above address during regular business hours. As of the date this notice is published in the Notice Register, the Rulemaking File consists of this notice, the proposed text of the regulations, and the initial statement of reasons. Copies may be obtained by contacting Brent L. Green at the address or phone number listed above.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After considering all written comments received timely, as well as comments received at the scheduled public hearings, Caltrans may adopt the proposed regulations as described in this notice. If Caltrans makes substantive modifications that are sufficiently related to the originally proposed text, it will make the modified text (with changes clearly indicated) available to the public for at least 15 days before Caltrans adopts the regulations as revised. Copies of any modified regulations may be obtained by contacting Brent L. Green at the address or phone number listed above. Caltrans will accept written comments on any modified regulations for 15 days after the date on which they are made available.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Brent L. Green at the above address or by visiting Caltrans' Web site listed below.

## **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in underline and strikeout if applicable can be accessed through Caltrans' Web site at: <http://www.dot.ca.gov/regulations.htm>.