

118TH CONGRESS
1ST SESSION

S. 3117

To amend the Federal Land Policy and Management Act of 1976 to authorize the sale of certain Federal land to States and units of local government to address housing shortages, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 24, 2023

Mr. LEE (for himself, Mr. SULLIVAN, Mr. BARRASSO, and Ms. LUMMIS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Federal Land Policy and Management Act of 1976 to authorize the sale of certain Federal land to States and units of local government to address housing shortages, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Helping Open Under-
5 utilized Space to Ensure Shelter Act of 2023” or the
6 “HOUSES Act of 2023”.

1 **SEC. 2. SALES OF FEDERAL LAND TO ADDRESS HOUSING**
 2 **SHORTAGES.**

3 Section 203 of the Federal Land Policy and Manage-
 4 ment Act of 1976 (43 U.S.C. 1713) is amended by adding
 5 at the end the following:

6 “(h) SALES OF PUBLIC LANDS TO ADDRESS HOUS-
 7 ING SHORTAGES.—

8 “(1) DEFINITIONS.—In this subsection:

9 “(A) ALLOWABLE COMMUNITY AMENITY.—

10 The term ‘allowable community amenity’ means
 11 a community assembly facility, firefighting fa-
 12 cility, grocery store, health clinic, hospital (in-
 13 cluding associated lodging), library, place of
 14 worship, police facility, recreational facility, pri-
 15 mary school, or secondary school.

16 “(B) COMMUNICATIONS INFRASTRUC-
 17 TURE.—The term ‘communications infrastruc-
 18 ture’ means the infrastructure or equipment
 19 necessary in the provision of—

20 “(i) cable service;

21 “(ii) broadband internet access serv-
 22 ice;

23 “(iii) video service;

24 “(iv) voice service; or

25 “(v) wireless service.

1 “(C) FEDERALLY PROTECTED LAND.—The
2 term ‘federally protected land’ means—
3 “(i) a National Monument;
4 “(ii) a National Recreation Area;
5 “(iii) a component of the National
6 Wilderness Preservation System;
7 “(iv) a component of the National
8 Wild and Scenic Rivers System;
9 “(v) a component of the National
10 Trails System;
11 “(vi) a National Conservation Area;
12 “(vii) a unit of the National Wildlife
13 Refuge System;
14 “(viii) a unit of the National Fish
15 Hatchery System;
16 “(ix) a National Park;
17 “(x) a National Preserve;
18 “(xi) a National Seashore or National
19 Lakeshore;
20 “(xii) a National Historic Site;
21 “(xiii) a National Memorial;
22 “(xiv) a National Battlefield, National
23 Battlefield Park, National Battlefield Site,
24 or National Military Park; and
25 “(xv) a National Historic Park.

1 “(D) GREEN SPACE.—

2 “(i) IN GENERAL.—The term ‘green
3 space’ means land that is—

4 “(I) partly or completely covered
5 with grass, trees, shrubs, or other
6 vegetation; and

7 “(II) accessible to the public at
8 no cost.

9 “(ii) INCLUSIONS.—The term ‘green
10 space’ includes parks and community gar-
11 dens.

12 “(iii) EXCLUSION.—The term ‘green
13 space’ does not include an area used for a
14 commercial use.

15 “(E) INDUSTRIAL AREA.—The term ‘in-
16 dustrial area’ means—

17 “(i) an area occupied by land uses or
18 facilities, the primary operation of which
19 involves manufacturing, assembling, proc-
20 essing, extracting, or otherwise treating
21 raw materials, semifinished products, or
22 finished products for distribution to whole-
23 sale or retail markets; or

24 “(ii) a tract of public lands conveyed
25 under this subsection on which there is lo-

1 cated a utility that serves utility customers
2 that do not reside on the tract.

3 “(F) OPEN SPACE.—

4 “(i) IN GENERAL.—The term ‘open
5 space’ means any open piece of land that—

6 “(I) is accessible to the public at
7 no cost; and

8 “(II)(aa) provides recreational
9 areas for residents; or

10 “(bb) helps to enhance the beau-
11 ty or environmental quality of an eli-
12 gible project described in paragraph
13 (2)(C).

14 “(ii) INCLUSIONS.—The term ‘open
15 space’ includes—

16 “(I) schoolyards;

17 “(II) playgrounds;

18 “(III) public seating areas; and

19 “(IV) public plazas.

20 “(iii) EXCLUSION.—The term ‘open
21 space’ does not include an area used for a
22 commercial use.

23 “(G) RESIDENTIAL DEVELOPMENT.—

24 “(i) IN GENERAL.—The term ‘residen-
25 tial development’ means 1 or more build-

1 ings, structures, or portions of a building
 2 or structure that are designed for human
 3 habitation and used as a primary resi-
 4 dence.

5 “(ii) INCLUSIONS.—The term ‘resi-
 6 dential development’ includes standard resi-
 7 dential amenities (including driveways and
 8 parking structures) that are related to an
 9 eligible project described in paragraph
 10 (2)(C).

11 “(H) TRANSIT HUB.—The term ‘transit
 12 hub’ means a rail, light rail, rapid transit, or
 13 commuter rail station, ferry terminal, or bus
 14 transfer station.

15 “(I) UTILITY.—The term ‘utility’ means a
 16 common commodity or service (including water,
 17 sewage, or electricity) that is provided to the
 18 public by a public or private entity for safe and
 19 sanitary living accommodations, including asso-
 20 ciated water storage infrastructure.

21 “(2) NOMINATION BY STATE OR UNIT OF
 22 LOCAL GOVERNMENT.—

23 “(A) IN GENERAL.—A State or unit of
 24 local government may nominate for consider-
 25 ation for conveyance by the Secretary under

1 subsection (a)(3) to the State or unit of local
 2 government 1 or more tracts of public lands
 3 within the boundary of the State or unit of local
 4 government for the purpose of carrying out an
 5 eligible project described in subparagraph (C)
 6 to provide housing in the State or unit of local
 7 government—

8 “(i) in accordance with a nomination
 9 process established by the Secretary in reg-
 10 ulations proposed not later than 180 days
 11 after the date of enactment of this sub-
 12 section and finalized not later than 1 year
 13 after the date of enactment of this sub-
 14 section; and

15 “(ii) subject to subparagraph (B).

16 “(B) NOMINATION REQUIREMENTS.—To
 17 be eligible for consideration by the Secretary, a
 18 nomination submitted by a State or unit of
 19 local government under subparagraph (A)—

20 “(i) shall not include federally pro-
 21 tected land; and

22 “(ii) shall include—

23 “(I) a map provided by the State
 24 or unit of local government of the 1 or

1 more tracts of public lands nominated;
2 and

3 “(II) a proposal that describes
4 the manner in which the 1 or more
5 tracts of public lands nominated
6 would be used for an eligible project
7 described in subparagraph (C) to pro-
8 vide housing in the State or unit of
9 local government.

10 “(C) ELIGIBLE PROJECTS.—An eligible
11 project to provide housing referred to in sub-
12 paragraphs (A) and (B)(ii)(II) is a project—

13 “(i) for which not less than 85 per-
14 cent of the land for the project shall be
15 used for residential development, open
16 space, green space, or allowable community
17 amenities;

18 “(ii) that provides that the density of
19 the land for the project dedicated to resi-
20 dential development under clause (i) shall
21 be not less dense than 4 residences per
22 acre;

23 “(iii) that provides that no tract of
24 land dedicated to residential development

1 under clause (i) on which a single resi-
2 dence is located may exceed $\frac{1}{2}$ acre;

3 “(iv) for which not more than 15 per-
4 cent of the land for the project may be
5 used for a commercial use project, subject
6 to the conditions that—

7 “(I) a mixed-use residential de-
8 velopment property shall not be con-
9 sidered to be a commercial use project
10 for purposes of this clause if at least
11 50 percent of the total floor space of
12 the property is residential; and

13 “(II) not more than $\frac{1}{3}$ of the
14 land identified under this clause may
15 be used for a commercial use project
16 to develop an industrial area;

17 “(v) that provides that the develop-
18 ment of roads, communications infrastruc-
19 ture, transit hubs, and utilities and the
20 distribution of utilities to serve the resi-
21 dences to be developed on the land for the
22 project shall not—

23 “(I) be inhibited; or

1 “(II) contribute to the apportion-
2 ment of residential or commercial de-
3 velopments; and

4 “(vi) that provides that—

5 “(I) a utility facility on the land
6 may generate enough power, collect
7 enough sewage, treat enough water, or
8 provide other commodities or services
9 sufficient to meet the needs of the
10 residences developed on the land; and

11 “(II) if a utility facility on the
12 land is built to have excess capacity
13 that is intended to be sold to users or
14 residences not on the tract of land,
15 the facility shall be—

16 “(aa) classified as an indus-
17 trial area; and

18 “(bb) subject to the limita-
19 tion under clause (iv)(II).

20 “(D) MODIFICATION OF PROPOSAL.—A
21 proposal for an eligible project under subpara-
22 graph (B)(ii)(II) may be subsequently modified
23 if, after modification, the eligible project would
24 still comply with the requirements of subpara-
25 graph (C), as determined by the Secretary.

1 “(3) REQUIREMENTS FOR REVIEW.—In review-
2 ing under subsection (a)(3) whether to approve or
3 disapprove the conveyance to the State or unit of
4 local government of a tract of public lands nomi-
5 nated under paragraph (2), the Secretary—

6 “(A) shall prioritize the use of the tract to
7 address housing shortages over any other poten-
8 tial use of the tract (other than protecting prior
9 existing rights);

10 “(B) shall not take into account whether
11 the housing shortage could be addressed pru-
12 dently or feasibly on land other than the nomi-
13 nated tract; and

14 “(C) shall—

15 “(i) in the case of a tract of public
16 lands that is designated as eligible for dis-
17 posal under any other applicable law, con-
18 sider the conveyance of the tract of public
19 lands to be approved for conveyance under
20 this subsection; and

21 “(ii) in the case of a conveyance of a
22 tract of not more than 640 acres of public
23 lands that is not described in clause (i)—

24 “(I) complete the review process
25 and issue a determination with re-

1 spect to the approval or disapproval of
2 the conveyance of the tract—

3 “(aa) by not later than 1
4 year after the date on which the
5 tract was nominated under para-
6 graph (2); and

7 “(bb) that includes, in the
8 case of disapproval, an expla-
9 nation of any reasons for the dis-
10 approval; or

11 “(II) if the Secretary fails to
12 complete the review process and issue
13 a determination by the deadline estab-
14 lished under subclause (I)(aa), con-
15 sider the conveyance approved.

16 “(4) SALE PRICE.—Notwithstanding sub-
17 sections (d), (f), and (g) and subject to paragraphs
18 (5) and (6), the Secretary shall offer for sale to the
19 nominating State or unit of local government the
20 tract of public lands approved for conveyance under
21 paragraph (3)(C) in exchange for an amount equal
22 to the quotient obtained by dividing—

23 “(A) the amount equal to the product ob-
24 tained by multiplying—

1 “(i) the amount of the estimated fair
2 market value of the tract, as determined
3 by the Secretary; and

4 “(ii) the amount of the payment that
5 would otherwise be made to the unit of
6 local government for the tract for the prior
7 fiscal year under chapter 69 of title 31,
8 United States Code; by

9 “(B) the estimated amount of tax revenue
10 that would have been due to the State or unit
11 of local government for the prior fiscal year if
12 the tract had been sold for the amount deter-
13 mined under subparagraph (A)(i).

14 “(5) APPROVAL OF GOVERNOR REQUIRED.—
15 The Secretary may not offer to convey to a unit of
16 local government a tract of public lands approved for
17 conveyance by the Secretary until the date on which
18 the Secretary receives from the Governor of the
19 State in which the tract is located written notice
20 specifying that the Governor of the State approves
21 of the conveyance to the unit of local government.

22 “(6) COMPLIANCE WITH PROPOSAL.—

23 “(A) IN GENERAL.—The Secretary may
24 not convey to a State or unit of local govern-
25 ment a tract of public lands approved for con-

1 veyance under this subsection until the date on
2 which the Secretary confirms that the State or
3 unit of local government has in effect any ordi-
4 nances, statutes, or regulations, as applicable,
5 that are necessary to ensure compliance by the
6 State or unit of local government with the ap-
7 plicable proposal submitted under paragraph
8 (2)(B)(ii)(II).

9 “(B) PROHIBITION OF CERTAIN FUND-
10 ING.—

11 “(i) IN GENERAL.—Notwithstanding
12 any other provision of law, if, during the
13 15-year period beginning on the date of
14 the conveyance to a State or unit of local
15 government of a tract of public lands ap-
16 proved for conveyance under this sub-
17 section, the Secretary determines that the
18 State or unit of local government is not in
19 compliance with the applicable proposal
20 submitted under paragraph (2)(B)(ii)(II)
21 or a modified proposal under paragraph
22 (2)(D), as applicable, the State or unit of
23 local government shall not be considered to
24 be eligible to receive funds from any of the
25 programs described in clause (ii) until the

1 date on which the Secretary certifies that
2 the State or unit of local government is in
3 compliance with the applicable proposal or
4 modified proposal.

5 “(ii) DESCRIPTION OF PROGRAMS.—

6 The programs referred to in clause (i) are
7 the following:

8 “(I) Any program carried out by
9 the Economic Development Adminis-
10 tration.

11 “(II) The community develop-
12 ment block grant program under title
13 I of the Housing and Community De-
14 velopment Act of 1974 (42 U.S.C.
15 5301 et seq.).

16 “(III) The community services
17 block grant program carried out
18 under the Community Services Block
19 Grant Act (42 U.S.C. 9901 et seq.).

20 “(7) DISPOSITION OF PROCEEDS.—

21 “(A) IN GENERAL.—Subject to subpara-
22 graph (B), the gross proceeds of a sale of a
23 tract of public lands under this subsection shall
24 be—

25 “(i) deposited in the Treasury; and

1 “(ii) available to the Secretary, sub-
2 ject to appropriations, for—

3 “(I) capital improvements in
4 units of the National Park System;

5 “(II) the development and imple-
6 mentation of comprehensive, cost-ef-
7 fective, and multijurisdictional haz-
8 ardous fuels reduction and wildfire
9 prevention plans to be carried out;

10 “(III) the development of public
11 water infrastructure on Federal land;
12 and

13 “(IV) the restoration or preserva-
14 tion of a critical habitat.

15 “(B) APPLICABILITY OF STATE ENABLING
16 ACTS.—If there is a provision of an applicable
17 State enabling Act that would otherwise apply
18 to the disposition of the gross proceeds of a sale
19 of a tract of public lands under this subsection,
20 before applying the requirements of subpara-
21 graph (A) to the disposition of the gross pro-
22 ceeds of the sale, the provision of the applicable
23 State enabling Act shall apply.”.

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