

**Introduced by Senator Dutton**January 31, 2012

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An act to amend Sections 34177 and 34180 of the Health and Safety Code, relating to redevelopment, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

SB 986, as introduced, Dutton. Redevelopment: bond proceeds.

Existing law dissolves redevelopment agencies and community development agencies, as of February 1, 2012, and designates successor agencies, as defined. Existing law requires that successor entities perform certain duties, including, among others, remitting unencumbered funds of that agency to the county auditor-controller, and overseeing the use of bond proceeds. Existing law requires each successor agency to have an oversight board that is composed of 7 members who meet certain qualifications. Existing law requires the oversight board to approve certain actions of the successor agency.

This bill would provide that all bond proceeds that were generated by the former redevelopment agency shall be deemed to be encumbered and would prohibit a successor agency from remitting these proceeds to the county auditor-controller. This bill would also require that the proceeds of bonds issued by a former redevelopment agency must be used by the successor agency for the purposes for which the bonds were sold pursuant to an enforceable obligation, as defined, that was entered into either by the former redevelopment agency prior to its dissolution, or is entered into by the successor agency by December 14, 2014. This bill would also provide that if an enforceable obligation is not entered into by that time, or if the purpose for which the bonds were sold can no longer be achieved, then the bond proceeds shall be used to defease

the bonds or to purchase outstanding bonds on the open market for cancellation.

This bill would also require the oversight board to approve of the establishment of an enforceable obligation with respect to bond proceeds. This bill would prohibit the oversight board from disapproving the establishment of an enforceable obligation with respect to bond proceeds if that obligation is reasonably in furtherance of the purposes for which the bonds were sold.

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

Vote: 2/3. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Section 34177 of the Health and Safety Code is  
 2 amended to read:  
 3 34177. Successor agencies are required to do all of the  
 4 following:  
 5 (a) Continue to make payments due for enforceable obligations.  
 6 (1) On and after October 1, 2011, and until a Recognized  
 7 Obligation Payment Schedule becomes operative, only payments  
 8 required pursuant to an enforceable obligations payment schedule  
 9 shall be made. The initial enforceable obligation payment schedule  
 10 shall be the last schedule adopted by the redevelopment agency  
 11 under Section 34169. However, payments associated with  
 12 obligations excluded from the definition of enforceable obligations  
 13 by paragraph (2) of subdivision (e) of Section 34171 shall be  
 14 excluded from the enforceable obligations payment schedule and  
 15 be removed from the last schedule adopted by the redevelopment  
 16 agency under Section 34169 prior to the successor agency adopting  
 17 it as its enforceable obligations payment schedule pursuant to this  
 18 subdivision. The enforceable obligation payment schedule may  
 19 be amended by the successor agency at any public meeting and  
 20 shall be subject to the approval of the oversight board as soon as  
 21 the board has sufficient members to form a quorum.  
 22 (2) The Department of Finance and the Controller shall each  
 23 have the authority to require any documents associated with the  
 24 enforceable obligations to be provided to them in a manner of their  
 25 choosing. Any taxing entity, the department, and the Controller

1 shall each have standing to file a judicial action to prevent a  
2 violation under this part and to obtain injunctive or other  
3 appropriate relief.

4 (3) Commencing on January 1, 2012, only those payments listed  
5 in the Recognized Obligation Payment Schedule may be made by  
6 the successor agency from the funds specified in the Recognized  
7 Obligation Payment Schedule. In addition, commencing January  
8 1, 2012, the Recognized Obligation Payment Schedule shall  
9 supersede the Statement of Indebtedness, which shall no longer  
10 be prepared nor have any effect under the Community  
11 Redevelopment Law.

12 (4) Nothing in the act adding this part is to be construed as  
13 preventing a successor agency, with the prior approval of the  
14 oversight board, as described in Section 34179, from making  
15 payments for enforceable obligations from sources other than those  
16 listed in the Recognized Obligation Payment Schedule.

17 (5) From October 1, 2011, to July 1, 2012, a successor agency  
18 shall have no authority and is hereby prohibited from accelerating  
19 payment or making any lump-sum payments that are intended to  
20 prepay loans unless such accelerated repayments were required  
21 prior to the effective date of this part.

22 (b) Maintain reserves in the amount required by indentures,  
23 trust indentures, or similar documents governing the issuance of  
24 outstanding redevelopment agency bonds.

25 (c) Perform obligations required pursuant to any enforceable  
26 obligation.

27 (d) Remit unencumbered balances of redevelopment agency  
28 funds to the county auditor-controller for distribution to the taxing  
29 entities, including, but not limited to, the unencumbered balance  
30 of the Low and Moderate Income Housing Fund of a former  
31 redevelopment agency. In making the distribution, the county  
32 auditor-controller shall utilize the same methodology for allocation  
33 and distribution of property tax revenues provided in Section  
34 34188. *For purposes of this subdivision, bond proceeds of the*  
35 *redevelopment agency shall be deemed to be encumbered, and*  
36 *therefore the successor agency shall not remit those funds to the*  
37 *county auditor-controller.*

38 (e) Dispose of assets and properties of the former redevelopment  
39 agency as directed by the oversight board; provided, however, that  
40 the oversight board may instead direct the successor agency to

1 transfer ownership of certain assets pursuant to subdivision (a) of  
2 Section 34181. The disposal is to be done expeditiously and in a  
3 manner aimed at maximizing value. Proceeds from asset sales and  
4 related funds that are no longer needed for approved development  
5 projects or to otherwise wind down the affairs of the agency, each  
6 as determined by the oversight board, shall be transferred to the  
7 county auditor-controller for distribution as property tax proceeds  
8 under Section 34188.

9 (f) Enforce all former redevelopment agency rights for the  
10 benefit of the taxing entities, including, but not limited to,  
11 continuing to collect loans, rents, and other revenues that were due  
12 to the redevelopment agency.

13 (g) Effectuate transfer of housing functions and assets to the  
14 appropriate entity designated pursuant to Section 34176.

15 (h) Expeditiously wind down the affairs of the redevelopment  
16 agency pursuant to the provisions of this part and in accordance  
17 with the direction of the oversight board.

18 (i) Continue to oversee development of properties until the  
19 contracted work has been completed or the contractual obligations  
20 of the former redevelopment agency can be transferred to other  
21 parties. Bond proceeds shall be used for the purposes for which  
22 ~~the bonds were sold unless the purposes can no longer be achieved,~~  
23 ~~in which case, the proceeds may be used to defease the bonds, if~~  
24 ~~and to the extent that the successor agency is either performing~~  
25 ~~an obligation required pursuant to any enforceable obligation~~  
26 ~~entered into by the former redevelopment agency, or is performing~~  
27 ~~an enforceable obligation entered into by the successor agency~~  
28 ~~on or before December 31, 2014, to fulfill the purposes for which~~  
29 ~~the bonds were sold by the dissolved redevelopment agency. Any~~  
30 ~~amount of bond proceeds not subject to an enforceable obligation~~  
31 ~~as of January 1, 2015, shall be used to defease the bonds or to~~  
32 ~~purchase outstanding bonds on the open market for cancellation.~~  
33 *If the purposes for which the bonds were sold by the dissolved*  
34 *redevelopment agency can no longer be achieved, then the*  
35 *proceeds shall be used to defease the bonds or to purchase*  
36 *outstanding bonds on the open market for cancellation.*

37 (j) Prepare a proposed administrative budget and submit it to  
38 the oversight board for its approval. The proposed administrative  
39 budget shall include all of the following:

1 (1) Estimated amounts for successor agency administrative costs  
2 for the upcoming six-month fiscal period.

3 (2) Proposed sources of payment for the costs identified in  
4 paragraph (1).

5 (3) Proposals for arrangements for administrative and operations  
6 services provided by a city, county, city and county, or other entity.

7 (k) Provide administrative cost estimates, from its approved  
8 administrative budget that are to be paid from property tax revenues  
9 deposited in the Redevelopment Property Tax Trust Fund, to the  
10 county auditor-controller for each six-month fiscal period.

11 (l) (1) Before each six-month fiscal period, prepare a  
12 Recognized Obligation Payment Schedule in accordance with the  
13 requirements of this paragraph. For each recognized obligation,  
14 the Recognized Obligation Payment Schedule shall identify one  
15 or more of the following sources of payment:

16 (A) Low and Moderate Income Housing Fund.

17 (B) Bond proceeds.

18 (C) Reserve balances.

19 (D) Administrative cost allowance.

20 (E) The Redevelopment Property Tax Trust Fund, but only to  
21 the extent no other funding source is available or when payment  
22 from property tax revenues is required by an enforceable obligation  
23 or by the provisions of this part.

24 (F) Other revenue sources, including rents, concessions, asset  
25 sale proceeds, interest earnings, and any other revenues derived  
26 from the former redevelopment agency, as approved by the  
27 oversight board in accordance with this part.

28 (2) A Recognized Obligation Payment Schedule shall not be  
29 deemed valid unless all of the following conditions have been met:

30 (A) A draft Recognized Obligation Payment Schedule is  
31 prepared by the successor agency for the enforceable obligations  
32 of the former redevelopment agency by November 1, 2011. From  
33 October 1, 2011, to July 1, 2012, the initial draft of that schedule  
34 shall project the dates and amounts of scheduled payments for  
35 each enforceable obligation for the remainder of the time period  
36 during which the redevelopment agency would have been  
37 authorized to obligate property tax increment had ~~such a~~ *that*  
38 redevelopment agency not been dissolved, and shall be reviewed  
39 and certified, as to its accuracy, by an external auditor designated  
40 pursuant to Section 34182.

1 (B) The certified Recognized Obligation Payment Schedule is  
2 submitted to and duly approved by the oversight board.

3 (C) A copy of the approved Recognized Obligation Payment  
4 Schedule is submitted to the county auditor-controller and both  
5 the Controller’s office and the Department of Finance and be posted  
6 on the successor agency’s Internet Web site.

7 (3) The Recognized Obligation Payment Schedule shall be  
8 forward looking to the next six months. The first Recognized  
9 Obligation Payment Schedule shall be submitted to the Controller’s  
10 office and the Department of Finance by December 15, 2011, for  
11 the period of January 1, 2012, to June 30, 2012, inclusive. Former  
12 redevelopment agency enforceable obligation payments due, and  
13 reasonable or necessary administrative costs due or incurred, prior  
14 to January 1, 2012, shall be made from property tax revenues  
15 received in the spring of 2011 property tax distribution, and from  
16 other revenues and balances transferred to the successor agency.

17 SEC. 2. Section 34180 of the Health and Safety Code is  
18 amended to read:

19 34180. All of the following successor agency actions shall first  
20 be approved by the oversight board:

21 (a) The establishment of new repayment terms for outstanding  
22 loans where the terms have not been specified prior to the date of  
23 this part.

24 (b) Refunding of outstanding bonds or other debt of the former  
25 redevelopment agency by successor agencies in order to provide  
26 for savings or to finance debt service spikes; provided, however,  
27 that no additional debt is created and debt service is not accelerated.

28 (c) Setting aside of amounts in reserves as required by  
29 indentures, trust indentures, or similar documents governing the  
30 issuance of outstanding redevelopment agency bonds.

31 (d) Merging of project areas.

32 (e) Continuing the acceptance of federal or state grants, or other  
33 forms of financial assistance from either public or private sources,  
34 where assistance is conditioned upon the provision of matching  
35 funds, by the successor entity as successor to the former  
36 redevelopment agency, in an amount greater than 5 percent.

37 (f) (1) If a city, county, or city and county wishes to retain any  
38 properties or other assets for future redevelopment activities,  
39 funded from its own funds and under its own auspices, it must  
40 reach a compensation agreement with the other taxing entities to

1 provide payments to them in proportion to their shares of the base  
2 property tax, as determined pursuant to Section 34188, for the  
3 value of the property retained.

4 (2) If no other agreement is reached on valuation of the retained  
5 assets, the value will be the fair market value as of the 2011  
6 property tax lien date as determined by the county assessor.

7 (g) Establishment of the Recognized Obligation Payment  
8 Schedule.

9 (h) A request by the successor agency to enter into an agreement  
10 with the city, county, or city and county that formed the  
11 redevelopment agency that it is succeeding.

12 (i) A request by a successor agency or taxing entity to pledge,  
13 or to enter into an agreement for the pledge of, property tax  
14 revenues pursuant to subdivision (b) of Section 34178.

15 (j) *The establishment of an enforceable obligation with respect*  
16 *to bond proceeds pursuant to subdivision (i) of Section 34177.*  
17 *However, the oversight board shall not disapprove the*  
18 *establishment of an enforceable obligation with respect to bond*  
19 *proceeds if that obligation is reasonably in furtherance of the*  
20 *purposes for which the bonds were sold.*

21 SEC. 3. This act is an urgency statute necessary for the  
22 immediate preservation of the public peace, health, or safety within  
23 the meaning of Article IV of the Constitution and shall go into  
24 immediate effect. The facts constituting the necessity are:

25 In order to provide guidance to the successor agencies on the  
26 use of bond proceeds, it is necessary for this act to take effect  
27 immediately.