

AMENDED IN SENATE AUGUST 13, 2013

AMENDED IN ASSEMBLY MAY 13, 2013

AMENDED IN ASSEMBLY APRIL 9, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 423**

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**Introduced by Assembly Member Torres**

February 15, 2013

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~~An act to add Section 5035 to the Penal Code, relating to corrections.~~  
*An act to amend Section 34171 of, and to add Section 34176.6 to, the Health and Safety Code, relating to housing.*

LEGISLATIVE COUNSEL'S DIGEST

AB 423, as amended, Torres. ~~Department of Corrections and Rehabilitation; restitution data.~~ *Multiphase affordable housing projects: enforceable obligations.*

*The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined. Existing law dissolved redevelopment agencies and community development agencies as of February 1, 2012, and provides for the designation of successor agencies. Existing law imposes various requirements on successor agencies and subjects successor agency actions to the review of oversight boards. Existing law requires each oversight board to direct the successor agency to, among other things, cease performance in connection with and terminate all existing agreements that do not qualify as enforceable obligations, as defined.*

*This bill would authorize a successor agency of a former redevelopment agency that commenced and completed construction of portions of a multiphase affordable housing project in a county with a*

*population over 1.7 million or in a city with a population over 160,000 to enter into a new enforceable obligation to complete the design and construction of a qualifying future phase, as specified, of a project. The bill would require that any moneys from the former redevelopment agency's Low and Moderate Income Housing Fund that have not been remitted to the county auditor-controller, as specified, to first be allocated to the implementing entity of the new enforceable obligation to pay for the costs associated with specified agreements. The bill would require, if the remaining balance of the Low and Moderate Income Housing Fund is insufficient to pay for the costs associated with the specified agreements, any remaining costs to be included on Recognized Obligation Payment Schedules as enforceable obligations and be funded with Redevelopment Property Tax Trust Funds.*

~~Existing law provides for the administration of the state correctional system by the Department of Corrections and Rehabilitation. Existing law requires the department to study the programmatic and fiscal feasibility of providing for rehabilitation information and tracking functionality within the Strategic Offender Management System, as specified.~~

~~This bill would require the department to include in the Strategic Offender Management System, or any successor system maintained by the department, information regarding restitution fines or orders for inmates within its jurisdiction, as specified. The bill would also require the department to utilize that system, or a combination of that system and the Trust Restitution Accounting Canteen System or any successor system, to ensure that the California Victim Compensation and Government Claims Board is provided with accurate and up-to-date information regarding unfulfilled restitution fines and orders.~~

Vote: majority. 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 34171 of the Health and Safety Code is
- 2     amended to read:
- 3     34171. The following terms shall have the following meanings:
- 4     (a) "Administrative budget" means the budget for administrative
- 5     costs of the successor agencies as provided in Section 34177.
- 6     (b) "Administrative cost allowance" means an amount that,
- 7     subject to the approval of the oversight board, is payable from

1 property tax revenues of up to 5 percent of the property tax  
2 allocated to the successor agency on the Recognized Obligation  
3 Payment Schedule covering the period January 1, 2012, through  
4 June 30, 2012, and up to 3 percent of the property tax allocated to  
5 the Redevelopment Obligation Retirement Fund money that is  
6 allocated to the successor agency for each fiscal year thereafter;  
7 provided, however, that the amount shall not be less than two  
8 hundred fifty thousand dollars (\$250,000), unless the oversight  
9 board reduces this amount, for any fiscal year or such lesser amount  
10 as agreed to by the successor agency. However, the allowance  
11 amount shall exclude, and shall not apply to, any administrative  
12 costs that can be paid from bond proceeds or from sources other  
13 than property tax. Administrative cost allowances shall exclude  
14 any litigation expenses related to assets or obligations, settlements  
15 and judgments, and the costs of maintaining assets prior to  
16 disposition. Employee costs associated with work on specific  
17 project implementation activities, including, but not limited to,  
18 construction inspection, project management, or actual  
19 construction, shall be considered project-specific costs and shall  
20 not constitute administrative costs.

21 (c) “Designated local authority” shall mean a public entity  
22 formed pursuant to subdivision (d) of Section 34173.

23 (d) (1) “Enforceable obligation” means any of the following:

24 (A) Bonds, as defined by Section 33602 and bonds issued  
25 pursuant to Chapter 10.5 (commencing with Section 5850) of  
26 Division 6 of Title 1 of the Government Code, including the  
27 required debt service, reserve set-asides, and any other payments  
28 required under the indenture or similar documents governing the  
29 issuance of the outstanding bonds of the former redevelopment  
30 agency. A reserve may be held when required by the bond  
31 indenture or when the next property tax allocation will be  
32 insufficient to pay all obligations due under the provisions of the  
33 bond for the next payment due in the following half of the calendar  
34 year.

35 (B) Loans of moneys borrowed by the redevelopment agency  
36 for a lawful purpose, to the extent they are legally required to be  
37 repaid pursuant to a required repayment schedule or other  
38 mandatory loan terms.

39 (C) Payments required by the federal government, preexisting  
40 obligations to the state or obligations imposed by state law, other

1 than passthrough payments that are made by the county  
2 auditor-controller pursuant to Section 34183, or legally enforceable  
3 payments required in connection with the agencies' employees,  
4 including, but not limited to, pension payments, pension obligation  
5 debt service, unemployment payments, or other obligations  
6 conferred through a collective bargaining agreement. Costs incurred  
7 to fulfill collective bargaining agreements for layoffs or  
8 terminations of city employees who performed work directly on  
9 behalf of the former redevelopment agency shall be considered  
10 enforceable obligations payable from property tax funds. The  
11 obligations to employees specified in this subparagraph shall  
12 remain enforceable obligations payable from property tax funds  
13 for any employee to whom those obligations apply if that employee  
14 is transferred to the entity assuming the housing functions of the  
15 former redevelopment agency pursuant to Section 34176. The  
16 successor agency or designated local authority shall enter into an  
17 agreement with the housing entity to reimburse it for any costs of  
18 the employee obligations.

19 (D) Judgments or settlements entered by a competent court of  
20 law or binding arbitration decisions against the former  
21 redevelopment agency, other than passthrough payments that are  
22 made by the county auditor-controller pursuant to Section 34183.  
23 Along with the successor agency, the oversight board shall have  
24 the authority and standing to appeal any judgment or to set aside  
25 any settlement or arbitration decision.

26 (E) Any legally binding and enforceable agreement or contract  
27 that is not otherwise void as violating the debt limit or public  
28 policy. However, nothing in this act shall prohibit either the  
29 successor agency, with the approval or at the direction of the  
30 oversight board, or the oversight board itself from terminating any  
31 existing agreements or contracts and providing any necessary and  
32 required compensation or remediation for such termination. Titles  
33 of or headings used on or in a document shall not be relevant in  
34 determining the existence of an enforceable obligation.

35 (F) Contracts or agreements necessary for the administration or  
36 operation of the successor agency, in accordance with this part,  
37 including, but not limited to, agreements concerning litigation  
38 expenses related to assets or obligations, settlements and  
39 judgements, and the costs of maintaining assets prior to disposition,  
40 and agreements to purchase or rent office space, equipment and

1 supplies, and pay-related expenses pursuant to Section 33127 and  
2 for carrying insurance pursuant to Section 33134.

3 (G) Amounts borrowed from, or payments owing to, the Low  
4 and Moderate Income Housing Fund of a redevelopment agency,  
5 which had been deferred as of the effective date of the act adding  
6 this part; provided, however, that the repayment schedule is  
7 approved by the oversight board. Repayments shall be transferred  
8 to the Low and Moderate Income Housing Asset Fund established  
9 pursuant to subdivision (d) of Section 34176 as a housing asset  
10 and shall be used in a manner consistent with the affordable  
11 housing requirements of the Community Redevelopment Law (Part  
12 1 (commencing with Section 33000)).

13 (H) *Any agreement necessary to complete the design and*  
14 *construction of a qualifying future phase of a project pursuant to*  
15 *subdivision (b) of Section 34176.6.*

16 (2) For purposes of this part, “enforceable obligation” does not  
17 include any agreements, contracts, or arrangements between the  
18 city, county, or city and county that created the redevelopment  
19 agency and the former redevelopment agency. However, written  
20 agreements entered into (A) at the time of issuance, but in no event  
21 later than December 31, 2010, of indebtedness obligations, and  
22 (B) solely for the purpose of securing or repaying those  
23 indebtedness obligations may be deemed enforceable obligations  
24 for purposes of this part. Notwithstanding this paragraph, loan  
25 agreements entered into between the redevelopment agency and  
26 the city, county, or city and county that created it, within two years  
27 of the date of creation of the redevelopment agency, may be  
28 deemed to be enforceable obligations.

29 (3) Contracts or agreements between the former redevelopment  
30 agency and other public agencies, to perform services or provide  
31 funding for governmental or private services or capital projects  
32 outside of redevelopment project areas that do not provide benefit  
33 to the redevelopment project and thus were not properly authorized  
34 under Part 1 (commencing with Section 33000) shall be deemed  
35 void on the effective date of this part; provided, however, that such  
36 contracts or agreements for the provision of housing properly  
37 authorized under Part 1 (commencing with Section 33000) shall  
38 not be deemed void.

39 (e) “Indebtedness obligations” means bonds, notes, certificates  
40 of participation, or other evidence of indebtedness, issued or

1 delivered by the redevelopment agency, or by a joint exercise of  
 2 powers authority created by the redevelopment agency, to  
 3 third-party investors or bondholders to finance or refinance  
 4 redevelopment projects undertaken by the redevelopment agency  
 5 in compliance with the Community Redevelopment Law (Part 1  
 6 commencing with Section 33000)).

7 (f) “Oversight board” shall mean each entity established pursuant  
 8 to Section 34179.

9 (g) “Recognized obligation” means an obligation listed in the  
 10 Recognized Obligation Payment Schedule.

11 (h) “Recognized Obligation Payment Schedule” means the  
 12 document setting forth the minimum payment amounts and due  
 13 dates of payments required by enforceable obligations for each  
 14 six-month fiscal period as provided in subdivision (m) of Section  
 15 34177.

16 (i) “School entity” means any entity defined as such in  
 17 subdivision (f) of Section 95 of the Revenue and Taxation Code.

18 (j) “Successor agency” means the successor entity to the former  
 19 redevelopment agency as described in Section 34173.

20 (k) “Taxing entities” means cities, counties, a city and county,  
 21 special districts, and school entities, as defined in subdivision (f)  
 22 of Section 95 of the Revenue and Taxation Code, that receive  
 23 passthrough payments and distributions of property taxes pursuant  
 24 to the provisions of this part.

25 (l) “Property taxes” include all property tax revenues, including  
 26 those from unitary and supplemental and roll corrections applicable  
 27 to tax increment.

28 (m) “Department” means the Department of Finance unless the  
 29 context clearly refers to another state agency.

30 (n) “Sponsoring entity” means the city, county, or city and  
 31 county, or other entity that authorized the creation of each  
 32 redevelopment agency.

33 (o) “Final judicial determination” means a final judicial  
 34 determination made by any state court that is not appealed, or by  
 35 a court of appellate jurisdiction that is not further appealed, in an  
 36 action by any party.

37 *SEC. 2. Section 34176.6 is added to the Health and Safety*  
 38 *Code, to read:*

39 *34176.6. (a) The Legislature finds and declares all of the*  
 40 *following:*

1 (1) Former redevelopment agencies provided a crucial supply  
2 of affordable housing to the residents of California since the  
3 inception of redevelopment and tax increment financing. Many of  
4 these affordable housing projects were multiphase developments  
5 spanning over decades of land assembly, planning, implementation,  
6 and construction, and provide vital housing for thousands of  
7 persons and families of low or moderate income. Failure to  
8 complete the multiphase affordable housing projects because of  
9 the dissolution of redevelopment agencies would result in a  
10 deterioration of properties and land use, and undue disruption to  
11 the health, safety, and well-being of the residents of completed  
12 phases of these projects. Failure to complete these affordable  
13 housing projects would exacerbate the shortage of affordable  
14 housing for persons and families of low or moderate income  
15 residing and working throughout California.

16 (2) Many of these multiphase projects were underway at the  
17 time the dissolution of redevelopment agencies was under  
18 consideration by the Governor, Legislature, and the courts.  
19 Multiphase affordable housing projects that were substantially  
20 completed but awaiting approval of the final phase have been  
21 stymied by the dissolution of redevelopment agencies. This is  
22 particularly true in larger communities where land assembly and  
23 construction had been severely impacted by the recent economic  
24 down turn and delayed the final implementation of these projects.

25 (3) To avoid serious blight to the multiphase projects and to  
26 ensure an adequate supply of housing for persons and families of  
27 low or moderate income, it is necessary to enact this section. This  
28 section shall apply only to counties with a population over 1.7  
29 million and cities with a population over 160,000. In enacting this  
30 section, it is the policy of the Legislature to assist these larger  
31 communities who were negatively impacted by the recent economic  
32 crisis and were unable to complete the final phase of large scale,  
33 multiphase, planned, and partially implemented affordable housing  
34 projects as a result of the dissolution of redevelopment agencies.

35 (b) Notwithstanding Section 34177.3, or any other law, a  
36 successor agency of a former redevelopment agency that  
37 commenced and completed construction of portions of a multiphase  
38 affordable housing project in a county with a population over 1.7  
39 million or in a city with a population over 160,000 may enter into  
40 a new enforceable obligation, as defined in paragraph (1) of

1 subdivision (d) of Section 34171, to complete the design and  
2 construction of a qualifying future phase of a project.

3 (c) Notwithstanding any other law, any moneys from the former  
4 redevelopment agency's Low and Moderate Income Housing Fund  
5 that have not been remitted to the county auditor-controller  
6 pursuant to the due diligence review process in Sections 34179.5  
7 and 34179.6 shall first be allocated to the implementing entity of  
8 the new enforceable obligation to pay for the costs associated with  
9 any agreement permitted by subdivision (b). The implementing  
10 entity may be either the successor agency or the housing successor  
11 entity, as designated pursuant to Section 34176. In the event that  
12 the remaining balance of the Low and Moderate Income Housing  
13 Fund is insufficient to pay for the costs associated with any  
14 agreements permitted by subdivision (b), any remaining costs shall  
15 be included on Recognized Obligation Payment Schedules as  
16 enforceable obligations and shall be funded with the  
17 Redevelopment Property Tax Trust Fund.

18 (d) Any agreement permitted by subdivision (b) shall first be  
19 approved by the oversight board pursuant to Section 34180.

20 (e) (1) "Qualifying future phase" shall mean a phase of a  
21 planned and partially implemented project where the previously  
22 planned phases have received a certificate of occupancy before  
23 February 1, 2012, but construction contracts had not been entered  
24 into for the final phase of the project before February 1, 2012.

25 (2) "Qualifying future phase" shall meet all of the following  
26 criteria:

27 (A) The project is for the creation of affordable housing for  
28 "persons and families of low or moderate income," as defined in  
29 Section 50093. The project may include first floor commercial or  
30 retail space.

31 (B) Upon completion of the residential units, the residential  
32 units shall be subject to a declaration of covenants and restrictions  
33 restricting the residential units to housing for a period in  
34 compliance with the Community Redevelopment Law (Part 1  
35 (commencing with Section 33000)) and the maximum income and  
36 purchase price or rent that may be charged. The declaration of  
37 covenants and restrictions shall be recorded against the property.

38 (C) All public infrastructure including sewers, water lines, curb  
39 cuts, streets, and other customary infrastructure is currently in  
40 place for the future phase.

1 (D) At least one phase of the project had been identified as a  
2 Catalyst Project for California Sustainable Strategies Pilot  
3 Program and embodies the goals of the Sustainable Communities  
4 and Climate Protection Act of 2008 (Chapter 728 of the Statutes  
5 of 2008).

6 ~~SECTION 1. Section 5035 is added to the Penal Code,~~  
7 ~~immediately following Section 5032, to read:~~

8 ~~5035. The Department of Corrections and Rehabilitation shall~~  
9 ~~include in the Strategic Offender Management System, or any~~  
10 ~~successor system maintained by the department, information~~  
11 ~~regarding restitution fines or orders for inmates within its~~  
12 ~~jurisdiction, including the amount necessary to fulfill a fine or~~  
13 ~~order, the amounts that have been collected from the offender, if~~  
14 ~~any, and the status of efforts to collect any remaining balance. The~~  
15 ~~department shall utilize that system, or a combination of that~~  
16 ~~system and the Trust Restitution Accounting Canteen System or~~  
17 ~~any successor system, to ensure that the California Victim~~  
18 ~~Compensation and Government Claims Board is provided with~~  
19 ~~accurate and up-to-date information regarding unfulfilled restitution~~  
20 ~~fines and orders.~~