

ASSEMBLY BILL

No. 564

Introduced by Assembly Member Mullin

February 20, 2013

An act to amend Sections 34191.4 and 34191.5 of the Health and Safety Code, relating to community redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

AB 564, as introduced, Mullin. Community redevelopment: successor agencies.

Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies, as defined. Existing law requires successor agencies to wind down the affairs of the dissolved redevelopment agencies and to, among other things, make payments due for enforceable obligations, as defined, perform obligations required pursuant to any enforceable obligation, dispose of all assets of the former redevelopment agency, and to remit unencumbered balances of redevelopment agency funds, including housing funds, to the county auditor-controller for distribution to taxing entities. Existing law requires each successor agency to have an oversight board to approve certain actions of the successor agency, including the approval of an enforceable obligation. Existing law requires the Department of Finance to review the actions of an oversight board. Existing law prescribes when an action of an oversight board shall become effective, subject to approval by the Department of Finance.

Existing law provides that certain loan agreements entered into between a redevelopment agency and the city, county, or city and county that created the redevelopment agency are deemed enforceable

obligations. Existing law provides that bond proceeds derived from bonds issued by a redevelopment agency on or before December 31, 2012, are to be used for the purposes for which the bonds are sold. Existing law provides that enforceable obligations may be satisfied by the creation of reserves for projects that are the subject of the enforceable obligation, as specified. Existing law provides that an expenditure made pursuant to these provisions constitutes the creation of excess bond proceeds obligations.

This bill would prohibit the Department of Finance from taking any future action to modify the enforceable obligations described above following the effective date of the approval of those enforceable obligations after review by the oversight board and the department.

Existing law establishes a Community Redevelopment Property Trust Fund, administered by the successor agency, to serve as the repository of the former redevelopment agency’s real properties. Existing law requires the successor agency to prepare a long-range property management plan that addresses the disposition and use of the real properties of the former redevelopment agency. Existing law provides for the transfer of property, and the liquidation of property and the use of proceeds, in a specified manner.

This bill would prohibit the Department of Finance from taking any future action to modify a transfer of property, or the liquidation of property and the use of proceeds, as described above, if the transfer, liquidation, or use of proceeds is consistent with the approved plan of the successor agency.

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 34191.4 of the Health and Safety Code
- 2 is amended to read:
- 3 34191.4. The following provisions shall apply to any successor
- 4 agency that has been issued a finding of completion by the
- 5 Department of Finance:
- 6 (a) All real property and interests in real property identified in
- 7 subparagraph (C) of paragraph (5) of subdivision (c) of Section
- 8 34179.5 shall be transferred to the Community Redevelopment
- 9 Property Trust Fund of the successor agency upon approval by the
- 10 Department of Finance of the long-range property management

1 plan submitted by the successor agency pursuant to *Section 34191.5*
2 *or* subdivision (b) of Section 34191.7, unless that property is
3 subject to the requirements of any existing enforceable obligation.

4 (b) (1) Notwithstanding subdivision (d) of Section 34171, upon
5 application by the successor agency and approval by the oversight
6 board, loan agreements entered into between the redevelopment
7 agency and the city, county, or city and county that created by the
8 redevelopment agency shall be deemed to be enforceable
9 obligations provided that the oversight board makes a finding that
10 the loan was for legitimate redevelopment purposes.

11 (2) If the oversight board finds that the loan is an enforceable
12 obligation, the accumulated interest on the remaining principal
13 amount of the loan shall be recalculated from origination at the
14 interest rate earned by funds deposited into the Local Agency
15 Investment Fund. The loan shall be repaid to the city, county, or
16 city and county in accordance with a defined schedule over a
17 reasonable term of years at an interest rate not to exceed the interest
18 rate earned by funds deposited into the Local Agency Investment
19 Fund. The annual loan repayments provided for in the recognized
20 obligations payment schedules shall be subject to all of the
21 following limitations:

22 (A) Loan repayments shall not be made prior to the 2013–14
23 fiscal year. Beginning in the 2013–14 fiscal year, the maximum
24 repayment amount authorized each fiscal year for repayments
25 made pursuant to this subdivision and paragraph (7) of subdivision
26 (e) of Section 34176 combined shall be equal to one-half of the
27 increase between the amount distributed to the taxing entities
28 pursuant to paragraph (4) of subdivision (a) of Section 34183 in
29 that fiscal year and the amount distributed to taxing entities
30 pursuant to that paragraph in the 2012–13 base year. Loan or
31 deferral repayments made pursuant to this subdivision shall be
32 second in priority to amounts to be repaid pursuant to paragraph
33 (7) of subdivision (e) of Section 34176.

34 (B) Repayments received by the city, county or city and county
35 that formed the redevelopment agency shall first be used to retire
36 any outstanding amounts borrowed and owed to the Low and
37 Moderate Income Housing Fund of the former redevelopment
38 agency for purposes of the Supplemental Educational Revenue
39 Augmentation Fund and shall be distributed to the Low and

1 Moderate Income Housing Asset Fund established by subdivision
2 (d) of Section 34176.

3 (C) Twenty percent of any loan repayment shall be deducted
4 from the loan repayment amount and shall be transferred to the
5 Low and Moderate Income Housing Asset Fund, after all
6 outstanding loans from the Low and Moderate Income Housing
7 Fund for purposes of the Supplemental Educational Revenue
8 Augmentation Fund have been paid.

9 (3) *Following the effective date of an oversight board's approval*
10 *of an enforceable obligation pursuant to this subdivision, as*
11 *determined pursuant to subdivision (h) of Section 34179, the*
12 *oversight board's action shall be final and may be relied upon by*
13 *all public and private entities, and may not be modified or reversed*
14 *by any future action of the Department of Finance.*

15 (c) (1) Bond proceeds derived from bonds issued on or before
16 December 31, 2010, shall be used for the purposes for which the
17 bonds were sold.

18 (2) (A) Notwithstanding Section 34177.3 or any other
19 conflicting provision of law, bond proceeds in excess of the
20 amounts needed to satisfy approved enforceable obligations shall
21 thereafter be expended in a manner consistent with the original
22 bond covenants. Enforceable obligations may be satisfied by the
23 creation of reserves for projects that are the subject of the
24 enforceable obligation and that are consistent with the contractual
25 obligations for those projects, or by expending funds to complete
26 the projects. An expenditure made pursuant to this paragraph shall
27 constitute the creation of excess bond proceeds obligations to be
28 paid from the excess proceeds. Excess bond proceeds obligations
29 shall be listed separately on the Recognized Obligation Payment
30 Schedule submitted by the successor agency.

31 (B) If remaining bond proceeds cannot be spent in a manner
32 consistent with the bond covenants pursuant to subparagraph (A),
33 the proceeds shall be used to defease the bonds or to purchase
34 those same outstanding bonds on the open market for cancellation.

35 (3) *Following the effective date of an oversight board's approval*
36 *of an enforceable obligation pursuant to this subdivision, as*
37 *determined pursuant to subdivision (h) of Section 34179, the*
38 *oversight board's action shall be final and may be relied upon by*
39 *all public and private entities, and may not be modified or reversed*
40 *by any future action of the Department of Finance.*

1 SEC. 2. Section 34191.5 of the Health and Safety Code is
2 amended to read:

3 34191.5. (a) There is hereby established a Community
4 Redevelopment Property Trust Fund, administered by the successor
5 agency, to serve as the repository of the former redevelopment
6 agency's real properties identified in subparagraph (C) of paragraph
7 (5) of subdivision (c) of Section 34179.5.

8 (b) The successor agency shall prepare a long-range property
9 management plan that addresses the disposition and use of the real
10 properties of the former redevelopment agency. The report shall
11 be submitted to the oversight board and the Department of Finance
12 for approval no later than six months following the issuance to the
13 successor agency of the finding of completion.

14 (c) The long-range property management plan shall do all of
15 the following:

16 (1) Include an inventory of all properties in the trust. The
17 inventory shall consist of all of the following information:

18 (A) The date of the acquisition of the property and the value of
19 the property at that time, and an estimate of the current value of
20 the property.

21 (B) The purpose for which the property was acquired.

22 (C) Parcel data, including address, lot size, and current zoning
23 in the former agency redevelopment plan or specific, community,
24 or general plan.

25 (D) An estimate of the current value of the parcel including, if
26 available, any appraisal information.

27 (E) An estimate of any lease, rental, or any other revenues
28 generated by the property, and a description of the contractual
29 requirements for the disposition of those funds.

30 (F) The history of environmental contamination, including
31 designation as a brownfield site, any related environmental studies,
32 and history of any remediation efforts.

33 (G) A description of the property's potential for transit-oriented
34 development and the advancement of the planning objectives of
35 the successor agency.

36 (H) A brief history of previous development proposals and
37 activity, including the rental or lease of property.

38 (2) Address the use or disposition of all of the properties in the
39 trust. Permissible uses include the retention of the property for
40 governmental use pursuant to subdivision (a) of Section 34181,

1 the retention of the property for future development, the sale of
2 the property, or the use of the property to fulfill an enforceable
3 obligation. The plan shall separately identify and list properties in
4 the trust dedicated to governmental use purposes and properties
5 retained for purposes of fulfilling an enforceable obligation. With
6 respect to the use or disposition of all other properties, all of the
7 following shall apply:

8 (A) If the plan directs the use or liquidation of the property for
9 a project identified in an approved redevelopment plan, the property
10 shall transfer to the city, county, or city and county.

11 (B) If the plan directs the liquidation of the property or the use
12 of revenues generated from the property, such as lease or parking
13 revenues, for any purpose other than to fulfill an enforceable
14 obligation or other than that specified in subparagraph (A), the
15 proceeds from the sale shall be distributed as property tax to the
16 taxing entities.

17 (C) Property shall not be transferred to a successor agency, city,
18 county, or city and county, unless the long-range property
19 management plan has been approved by the oversight board and
20 the Department of Finance.

21 *(d) After approval by the Department of Finance, an action*
22 *taken pursuant to subparagraph (A) or (B) of paragraph (2) of*
23 *subdivision (c) that is consistent with the approved plan may not*
24 *be modified or reversed by future action of the Department of*
25 *Finance, and may be relied upon by all public and private entities.*