

ASSEMBLY BILL

No. 981

Introduced by Assembly Member Bloom

February 22, 2013

An act to amend Sections 34176 and 34191.4 of the Health and Safety Code, relating to community redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

AB 981, as introduced, Bloom. Redevelopment dissolution.

Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies to wind down the affairs of the dissolved redevelopment agencies and to, among other things, make payments due for enforceable obligations and to perform obligations required pursuant to any enforceable obligation. Existing law provides for the transfer of housing assets and functions previously performed by the dissolved redevelopment agency to one of several specified public entities. Existing law authorizes that entity to designate the use of, and commit, indebtedness obligation proceeds that were issued for affordable housing purposes prior to January 1, 2011, and were backed by the Low and Moderate Income Housing Fund.

This bill would instead authorize that entity to designate the use of, and commit, indebtedness obligation proceeds that were issued prior to June 28, 2011.

Existing law authorizes the Department of Finance to issue a finding of completion to a successor agency that completes a due diligence review and meets other requirements. Upon receiving a finding of completion, a successor agency is authorized to expend excess bond

proceeds derived from bonds issued on or before December 31, 2010, in a manner consistent with the original bond covenants.

The bill would modify this authorization to include the expenditure of excess bond proceeds derived from bonds issued on or before June 28, 2011.

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 34176 of the Health and Safety Code is
2 amended to read:

3 34176. (a) (1) The city, county, or city and county that
4 authorized the creation of a redevelopment agency may elect to
5 retain the housing assets and functions previously performed by
6 the redevelopment agency. If a city, county, or city and county
7 elects to retain the authority to perform housing functions
8 previously performed by a redevelopment agency, all rights,
9 powers, duties, obligations, and housing assets, as defined in
10 subdivision (e), excluding any amounts on deposit in the Low and
11 Moderate Income Housing Fund and enforceable obligations
12 retained by the successor agency, shall be transferred to the city,
13 county, or city and county.

14 (2) The entity assuming the housing functions of the former
15 redevelopment agency shall submit to the Department of Finance
16 by August 1, 2012, a list of all housing assets that contains an
17 explanation of how the assets meet the criteria specified in
18 subdivision (e). The Department of Finance shall prescribe the
19 format for the submission of the list. The list shall include assets
20 transferred between February 1, 2012, and the date upon which
21 the list is created. The department shall have up to 30 days from
22 the date of receipt of the list to object to any of the assets or
23 transfers of assets identified on the list. If the Department of
24 Finance objects to assets on the list, the entity assuming the housing
25 functions of the former redevelopment agency may request a meet
26 and confer process within five business days of receiving the
27 department objection. If the transferred asset is deemed not to be
28 a housing asset as defined in subdivision (e), it shall be returned
29 to the successor agency and the provision of Section 34178.8 may
30 apply. If a housing asset has been previously pledged to pay for

1 bonded indebtedness, the successor agency shall maintain control
2 of the asset in order to pay for the bond debt.

3 (b) If a city, county, or city and county does not elect to retain
4 the responsibility for performing housing functions previously
5 performed by a redevelopment agency, all rights, powers, assets,
6 duties, and obligations associated with the housing activities of
7 the agency, excluding enforceable obligations retained by the
8 successor agency and any amounts in the Low and Moderate
9 Income Housing Fund, shall be transferred as follows:

10 (1) If there is no local housing authority in the territorial
11 jurisdiction of the former redevelopment agency, to the Department
12 of Housing and Community Development.

13 (2) If there is one local housing authority in the territorial
14 jurisdiction of the former redevelopment agency, to that local
15 housing authority.

16 (3) If there is more than one local housing authority in the
17 territorial jurisdiction of the former redevelopment agency, to the
18 local housing authority selected by the city, county, or city and
19 county that authorized the creation of the redevelopment agency.

20 (c) Commencing on the operative date of this part, the entity
21 that assumes the housing functions formerly performed by the
22 redevelopment agency and receives the transferred housing assets
23 may enforce affordability covenants and perform related activities
24 pursuant to applicable provisions of the Community
25 Redevelopment Law (Part 1 (commencing with Section 33000)),
26 including, but not limited to, Section 33418.

27 (d) Except as specifically provided in Section 34191.4, any
28 funds transferred to the city, county, or city and county or
29 designated entity pursuant to this section, together with any funds
30 generated from housing assets, as defined in subdivision (e), shall
31 be maintained in a separate Low and Moderate Income Housing
32 Asset Fund which is hereby created in the accounts of the entity
33 assuming the housing functions pursuant to this section. Funds in
34 this account shall be used in accordance with applicable
35 housing-related provisions of the Community Redevelopment Law
36 (Part 1 (commencing with Section 33000)).

37 (e) For purposes of this part, "housing asset" includes all of the
38 following:

39 (1) Any real property, interest in, or restriction on the use of
40 real property, whether improved or not, and any personal property

1 provided in residences, including furniture and appliances, all
2 housing-related files and loan documents, office supplies, software
3 licenses, and mapping programs, that were acquired for low- and
4 moderate-income housing purposes, either by purchase or through
5 a loan, in whole or in part, with any source of funds.

6 (2) Any funds that are encumbered by an enforceable obligation
7 to build or acquire low- and moderate-income housing, as defined
8 by the Community Redevelopment Law (Part 1 (commencing with
9 Section 33000)) unless required in the bond covenants to be used
10 for repayment purposes of the bond.

11 (3) Any loan or grant receivable, funded from the Low and
12 Moderate Income Housing Fund, from homebuyers, homeowners,
13 nonprofit or for-profit developers, and other parties that require
14 occupancy by persons of low or moderate income as defined by
15 the Community Redevelopment Law (Part 1 (commencing with
16 Section 33000)).

17 (4) Any funds derived from rents or operation of properties
18 acquired for low- and moderate-income housing purposes by other
19 parties that were financed with any source of funds, including
20 residual receipt payments from developers, conditional grant
21 repayments, cost savings and proceeds from refinancing, and
22 principal and interest payments from homebuyers subject to
23 enforceable income limits.

24 (5) A stream of rents or other payments from housing tenants
25 or operators of low- and moderate-income housing financed with
26 any source of funds that are used to maintain, operate, and enforce
27 the affordability of housing or for enforceable obligations
28 associated with low- and moderate-income housing.

29 (6) (A) Repayments of loans or deferrals owed to the Low and
30 Moderate Income Housing Fund pursuant to subparagraph (G) of
31 paragraph (1) of subdivision (d) of Section 34171, which shall be
32 used consistent with the affordable housing requirements in the
33 Community Redevelopment Law (Part 1 (commencing with
34 Section 33000)).

35 (B) Loan or deferral repayments shall not be made prior to the
36 2013–14 fiscal year. Beginning in the 2013–14 fiscal year, the
37 maximum repayment amount authorized each fiscal year for
38 repayments made pursuant to this paragraph and subdivision (b)
39 of Section 34191.4 combined shall be equal to one-half of the
40 increase between the amount distributed to taxing entities pursuant

1 to paragraph (4) of subdivision (a) of Section 34183 in that fiscal
2 year and the amount distributed to taxing entities pursuant to that
3 paragraph in the 2012–13 base year. Loan or deferral repayments
4 made pursuant to this paragraph shall take priority over amounts
5 to be repaid pursuant to subdivision (b) of Section 34191.4.

6 (f) If a development includes both low- and moderate-income
7 housing that meets the definition of a housing asset under
8 subdivision (e) and other types of property use, including, but not
9 limited to, commercial use, governmental use, open space, and
10 parks, the oversight board shall consider the overall value to the
11 community as well as the benefit to taxing entities of keeping the
12 entire development intact or dividing the title and control over the
13 property between the housing successor and the successor agency
14 or other public or private agencies. The disposition of those assets
15 may be accomplished by a revenue-sharing arrangement as
16 approved by the oversight board on behalf of the affected taxing
17 entities.

18 (g) (1) (A) The entity assuming the housing functions pursuant
19 to this section may designate the use of and commit indebtedness
20 obligation proceeds that remain after the satisfaction of enforceable
21 obligations that have been approved in a Recognized Obligation
22 Payment Schedule and that are consistent with the indebtedness
23 obligation covenants. The proceeds shall be derived from
24 indebtedness obligations that were issued for the purposes of
25 affordable housing prior to ~~January 1, 2011, and were backed by~~
26 ~~the Low and Moderate Income Housing Fund June 28, 2011.~~
27 Enforceable obligations may be satisfied by the creation of reserves
28 for the projects that are the subject of the enforceable obligation
29 that are consistent with the contractual obligations for those
30 projects, or by expending funds to complete the projects.

31 (B) The entity assuming the housing functions pursuant to this
32 section shall provide notice to the successor agency of any
33 designations of use or commitments of funds specified in
34 subparagraph (A) that it wishes to make at least 20 days before
35 the deadline for submission of the Recognized Obligation Payment
36 Schedule to the oversight board. Commitments and designations
37 shall not be valid and binding on any party until they are included
38 in an approved and valid Recognized Obligation Payment
39 Schedule. The review of these designations and commitments by
40 the successor agency, oversight board, and Department of Finance

1 shall be limited to a determination that the designations and
2 commitments are consistent with bond covenants and that there
3 are sufficient funds available.

4 (2) Funds shall be used and committed in a manner consistent
5 with the purposes of the Low and Moderate Income Housing Asset
6 Fund. Notwithstanding any other law, the successor agency shall
7 retain and expend the excess housing obligation proceeds at the
8 discretion of the succeeding housing entity, provided that the
9 successor agency ensures that the proceeds are expended in a
10 manner consistent with the indebtedness obligation covenants and
11 with any requirements relating to the tax status of those obligations.
12 The amount expended shall not exceed the amount of indebtedness
13 obligation proceeds available and such expenditure shall constitute
14 the creation of excess housing proceeds expenditures to be paid
15 from the excess proceeds. Excess housing proceeds expenditures
16 shall be listed separately on the Recognized Obligation Payment
17 Schedule submitted by the successor agency.

18 (h) Subdivisions (d) and (e) of Section 33334.3 and any other
19 applicable sections of the Community Redevelopment Law shall
20 apply for purposes of funding administrative and planning costs
21 associated with the implementation of this section. For this purpose,
22 the term “Low and Moderate Income Housing Fund” shall mean
23 the “Low and Moderate Income Housing Asset Fund.” This section
24 shall not be construed to provide any stream of tax increment
25 financing.

26 SEC. 2. Section 34191.4 of the Health and Safety Code is
27 amended to read:

28 34191.4. The following provisions shall apply to any successor
29 agency that has been issued a finding of completion by the
30 Department of Finance:

31 (a) All real property and interests in real property identified in
32 subparagraph (C) of paragraph (5) of subdivision (c) of Section
33 34179.5 shall be transferred to the Community Redevelopment
34 Property Trust Fund of the successor agency upon approval by the
35 Department of Finance of the long-range property management
36 plan submitted by the successor agency pursuant to subdivision
37 (b) of Section 34191.7 unless that property is subject to the
38 requirements of any existing enforceable obligation.

39 (b) (1) Notwithstanding subdivision (d) of Section 34171, upon
40 application by the successor agency and approval by the oversight

1 board, loan agreements entered into between the redevelopment
2 agency and the city, county, or city and county that created by the
3 redevelopment agency shall be deemed to be enforceable
4 obligations provided that the oversight board makes a finding that
5 the loan was for legitimate redevelopment purposes.

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

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

29 (B) Repayments received by the city, county or city and county
30 that formed the redevelopment agency shall first be used to retire
31 any outstanding amounts borrowed and owed to the Low and
32 Moderate Income Housing Fund of the former redevelopment
33 agency for purposes of the Supplemental Educational Revenue
34 Augmentation Fund and shall be distributed to the Low and
35 Moderate Income Housing Asset Fund established by subdivision
36 (d) of Section 34176.

37 (C) Twenty percent of any loan repayment shall be deducted
38 from the loan repayment amount and shall be transferred to the
39 Low and Moderate Income Housing Asset Fund, after all
40 outstanding loans from the Low and Moderate Income Housing

1 Fund for purposes of the Supplemental Educational Revenue
2 Augmentation Fund have been paid.

3 (c) (1) Bond proceeds derived from bonds issued on or before
4 ~~December 31, 2010~~ *June 28, 2011*, shall be used for the purposes
5 for which the bonds were sold.

6 (2) (A) Notwithstanding Section 34177.3 or any other
7 conflicting provision of law, bond proceeds in excess of the
8 amounts needed to satisfy approved enforceable obligations shall
9 thereafter be expended in a manner consistent with the original
10 bond covenants. Enforceable obligations may be satisfied by the
11 creation of reserves for projects that are the subject of the
12 enforceable obligation and that are consistent with the contractual
13 obligations for those projects, or by expending funds to complete
14 the projects. An expenditure made pursuant to this paragraph shall
15 constitute the creation of excess bond proceeds obligations to be
16 paid from the excess proceeds. Excess bond proceeds obligations
17 shall be listed separately on the Recognized Obligation Payment
18 Schedule submitted by the successor agency.

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