

AMENDED IN ASSEMBLY APRIL 22, 2014

AMENDED IN ASSEMBLY APRIL 3, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1582

Introduced by Assembly Member Mullin

February 3, 2014

An act to amend Section 34177 of the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1582, as amended, Mullin. Redevelopment: successor agencies: Recognized Obligation Payment Schedule.

The Community Redevelopment Law authorized the establishment of redevelopment agencies in communities to address the effects of blight, as defined. Existing law dissolved redevelopment 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. Existing law requires a successor agency to, among other things, prepare a Recognized Obligation Payment Schedule for payments on enforceable obligations for each 6-month fiscal period.

This bill would revise the timeline for the preparation of the required Recognized Obligation Payment Schedule to provide that the successor agency prepare a schedule for ~~an annual~~ *a 12-month* fiscal period, *and would authorize the Recognized Obligation Payment Schedule to be amended by the oversight board if the amendment is approved at least 90 days before the date of the next property tax distribution.*

Vote: majority. Appropriation: no. Fiscal committee: no.
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 February 1, 2012, 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 (d) 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. In recognition
22 of the fact that the timing of the California Supreme Court’s ruling
23 in the case California Redevelopment Association v. Matosantos
24 (2011) 53 Cal.4th 231 delayed the preparation by successor
25 agencies and the approval by oversight boards of the January 1,
26 2012, through June 30, 2012, Recognized Obligation Payment
27 Schedule, a successor agency may amend the Enforceable
28 Obligation Payment Schedule to authorize the continued payment
29 of enforceable obligations until the time that the January 1, 2012,
30 through June 30, 2012, Recognized Obligation Payment Schedule
31 has been approved by the oversight board and by the Department
32 of Finance. The successor agency may utilize reasonable estimates
33 and projections to support payment amounts for enforceable
34 obligations if the successor agency submits appropriate supporting

1 documentation of the basis for the estimate or projection to the
2 Department of Finance and the auditor-controller.

3 (2) The Department of Finance and the Controller shall each
4 have the authority to require any documents associated with the
5 enforceable obligations to be provided to them in a manner of their
6 choosing. Any taxing entity, the department, and the Controller
7 shall each have standing to file a judicial action to prevent a
8 violation under this part and to obtain injunctive or other
9 appropriate relief.

10 (3) Commencing on the date the Recognized Obligation Payment
11 Schedule is valid pursuant to subdivision (l), only those payments
12 listed in the Recognized Obligation Payment Schedule may be
13 made by the successor agency from the funds specified in the
14 Recognized Obligation Payment Schedule. In addition, after it
15 becomes valid, the Recognized Obligation Payment Schedule shall
16 supersede the Statement of Indebtedness, which shall no longer
17 be prepared nor have any effect under the Community
18 Redevelopment Law (Part 1 (commencing with Section 33000)).

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

24 (5) From February 1, 2012, to July 1, 2012, a successor agency
25 shall have no authority and is hereby prohibited from accelerating
26 payment or making any lump-sum payments that are intended to
27 prepay loans unless such accelerated repayments were required
28 prior to the effective date of this part.

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

32 (c) Perform obligations required pursuant to any enforceable
33 obligation.

34 (d) Remit unencumbered balances of redevelopment agency
35 funds to the county auditor-controller for distribution to the taxing
36 entities, including, but not limited to, the unencumbered balance
37 of the Low and Moderate Income Housing Fund of a former
38 redevelopment agency. In making the distribution, the county
39 auditor-controller shall utilize the same methodology for allocation

1 and distribution of property tax revenues provided in Section
2 34188.

3 (e) Dispose of assets and properties of the former redevelopment
4 agency as directed by the oversight board; provided, however, that
5 the oversight board may instead direct the successor agency to
6 transfer ownership of certain assets pursuant to subdivision (a) of
7 Section 34181. The disposal is to be done expeditiously and in a
8 manner aimed at maximizing value. Proceeds from asset sales and
9 related funds that are no longer needed for approved development
10 projects or to otherwise wind down the affairs of the agency, each
11 as determined by the oversight board, shall be transferred to the
12 county auditor-controller for distribution as property tax proceeds
13 under Section 34188. The requirements of this subdivision shall
14 not apply to a successor agency that has been issued a finding of
15 completion by the Department of Finance pursuant to Section
16 34179.7.

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

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

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

26 (i) Continue to oversee development of properties until the
27 contracted work has been completed or the contractual obligations
28 of the former redevelopment agency can be transferred to other
29 parties. Bond proceeds shall be used for the purposes for which
30 bonds were sold unless the purposes can no longer be achieved,
31 in which case, the proceeds may be used to defease the bonds.

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

35 (1) Estimated amounts for successor agency administrative costs
36 for the upcoming ~~six-month~~ *12-month* fiscal period.

37 (2) Proposed sources of payment for the costs identified in
38 paragraph (1).

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

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

5 (l) (1) Before each ~~annual~~ *12-month* fiscal period, to correspond
6 with the former agency's fiscal year, prepare a Recognized
7 Obligation Payment Schedule in accordance with the requirements
8 of this paragraph. For each recognized obligation, the Recognized
9 Obligation Payment Schedule shall identify one or more of the
10 following sources of payment:

11 (A) Low and Moderate Income Housing Fund.

12 (B) Bond proceeds.

13 (C) Reserve balances.

14 (D) Administrative cost allowance.

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

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

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

25 (A) A Recognized Obligation Payment Schedule is prepared
26 by the successor agency for the enforceable obligations of the
27 former redevelopment agency. The initial schedule shall project
28 the dates and amounts of scheduled payments for each enforceable
29 obligation for the remainder of the time period during which the
30 redevelopment agency would have been authorized to obligate
31 property tax increment had the a redevelopment agency not been
32 dissolved.

33 (B) The Recognized Obligation Payment Schedule is submitted
34 to and duly approved by the oversight board. The successor agency
35 shall submit a copy of the Recognized Obligation Payment
36 Schedule to the county administrative officer, the county
37 auditor-controller, and the Department of Finance at the same time
38 that the successor agency submits the Recognized Obligation
39 Payment Schedule to the oversight board for approval.

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

5 (3) The Recognized Obligation Payment Schedule shall be
 6 forward looking to the next fiscal year, for fiscal years commencing
 7 on or after January 1, 2015. The first Recognized Obligation
 8 Payment Schedule shall be submitted to the Controller’s office
 9 and the Department of Finance by April 15, 2012, for the period
 10 of January 1, 2012, to June 30, 2012, inclusive. This Recognized
 11 Obligation Payment Schedule shall include all payments made by
 12 the former redevelopment agency between January 1, 2012, through
 13 January 31, 2012, and shall include all payments proposed to be
 14 made by the successor agency from February 1, 2012, through
 15 June 30, 2012. Former redevelopment agency enforceable
 16 obligation payments due, and reasonable or necessary
 17 administrative costs due or incurred, prior to January 1, 2012, shall
 18 be made from property tax revenues received in the spring of 2011
 19 property tax distribution, and from other revenues and balances
 20 transferred to the successor agency.

21 (4) *The Recognized Obligation Payment Schedule may be*
 22 *amended by the oversight board as long as the amendment is*
 23 *approved at least 90 days before the date of the next property tax*
 24 *distribution.*

25 (m) The Recognized Obligation Payment Schedule for the period
 26 of January 1, 2013, to June 30, 2013, shall be submitted by the
 27 successor agency, after approval by the oversight board, no later
 28 than September 1, 2012. Commencing with the Recognized
 29 Obligation Payment Schedule covering the period July 1, 2013,
 30 through December 31, 2013, successor agencies shall submit an
 31 oversight board-approved Recognized Obligation Payment
 32 Schedule to the Department of Finance and to the county
 33 auditor-controller no fewer than 90 days before the date of property
 34 tax distribution. The Department of Finance shall make its
 35 determination of the enforceable obligations and the amounts and
 36 funding sources of the enforceable obligations no later than 45
 37 days after the Recognized Obligation Payment Schedule is
 38 submitted. Within five business days of the department’s
 39 determination, a successor agency may request additional review
 40 by the department and an opportunity to meet and confer on

1 disputed items. The meet and confer period may vary; an untimely
2 submittal of a Recognized Obligation Payment Schedule may result
3 in a meet and confer period of less than 30 days. The department
4 shall notify the successor agency and the county auditor-controllers
5 as to the outcome of its review at least 15 days before the date of
6 property tax distribution.

7 (1) The successor agency shall submit a copy of the Recognized
8 Obligation Payment Schedule to the Department of Finance
9 electronically, and the successor agency shall complete the
10 Recognized Obligation Payment Schedule in the manner provided
11 for by the department. A successor agency shall be in
12 noncompliance with this paragraph if it only submits to the
13 department an electronic message or a letter stating that the
14 oversight board has approved a Recognized Obligation Payment
15 Schedule.

16 (2) If a successor agency does not submit a Recognized
17 Obligation Payment Schedule by the deadlines provided in this
18 subdivision, the city, county, or city and county that created the
19 redevelopment agency shall be subject to a civil penalty equal to
20 ten thousand dollars (\$10,000) per day for every day the schedule
21 is not submitted to the department. The civil penalty shall be paid
22 to the county auditor-controller for allocation to the taxing entities
23 under Section 34183. If a successor agency fails to submit a
24 Recognized Obligation Payment Schedule by the deadline, any
25 creditor of the successor agency or the Department of Finance or
26 any affected taxing entity shall have standing to and may request
27 a writ of mandate to require the successor agency to immediately
28 perform this duty. Those actions may be filed only in the County
29 of Sacramento and shall have priority over other civil matters.
30 Additionally, if an agency does not submit a Recognized Obligation
31 Payment Schedule within 10 days of the deadline, the maximum
32 administrative cost allowance for that period shall be reduced by
33 25 percent.

34 (3) If a successor agency fails to submit to the department an
35 oversight board-approved Recognized Obligation Payment
36 Schedule that complies with all requirements of this subdivision
37 within five business days of the date upon which the Recognized
38 Obligation Payment Schedule is to be used to determine the amount
39 of property tax allocations, the department may determine if any
40 amount should be withheld by the county auditor-controller for

1 payments for enforceable obligations from distribution to taxing
 2 entities, pending approval of a Recognized Obligation Payment
 3 Schedule. The county auditor-controller shall distribute the portion
 4 of any of the sums withheld pursuant to this paragraph to the
 5 affected taxing entities in accordance with paragraph (4) of
 6 subdivision (a) of Section 34183 upon notice by the department
 7 that a portion of the withheld balances are in excess of the amount
 8 of enforceable obligations. The county auditor-controller shall
 9 distribute withheld funds to the successor agency only in
 10 accordance with a Recognized Obligation Payment Schedule
 11 approved by the department. County auditor-controllers shall lack
 12 the authority to withhold any other amounts from the allocations
 13 provided for under Section 34183 or 34188 unless required by a
 14 court order.

15 (4) (A) The Recognized Obligation Payment Schedule payments
 16 required pursuant to this subdivision may be scheduled beyond
 17 the existing Recognized Obligation Payment Schedule cycle upon
 18 a showing that a lender requires cash on hand beyond the
 19 Recognized Obligation Payment Schedule cycle.

20 (B) When a payment is shown to be due during the Recognized
 21 Obligation Payment Schedule period, but an invoice or other billing
 22 document has not yet been received, the successor agency may
 23 utilize reasonable estimates and projections to support payment
 24 amounts for enforceable obligations if the successor agency submits
 25 appropriate supporting documentation of the basis for the estimate
 26 or projection to the department and the auditor-controller.

27 (C) A Recognized Obligation Payment Schedule may also
 28 include appropriation of moneys from bonds subject to passage
 29 during the Recognized Obligation Payment Schedule cycle when
 30 an enforceable obligation requires the agency to issue the bonds
 31 and use the proceeds to pay for project expenditures.

32 (n) Cause a postaudit of the financial transactions and records
 33 of the successor agency to be made at least annually by a certified
 34 public accountant.

35 (o) *The changes made by the act that added this subdivision*
 36 *shall not be construed to alter the semiannual distribution of*
 37 *Redevelopment Property Tax Trust Fund payments made in*
 38 *accordance with the projected payment schedule of the approved*
 39 *Recognized Obligation Payment Schedule.*

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