

AMENDED IN SENATE JUNE 4, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1963**

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**Introduced by Assembly Members Atkins and Dickinson**

February 19, 2014

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An act to amend ~~Section~~ *Sections 34176 and 34191.3* of, and to repeal *Section 34178.8* of, the Health and Safety Code, relating to redevelopment, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1963, as amended, Atkins. Redevelopment.

The

(1) *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, subject to review by oversight boards. The oversight board is required to direct a successor agency to, and a successor agency is required to, among other things, dispose of assets and properties of the former redevelopment agency as directed by the oversight board. Existing law suspends this requirement, except as it applies to the transfer of assets and properties for governmental use, until the Department of Finance has approved a long-range property management plan, as specified. Upon approval of a long-range property management plan, the plan governs and

supersedes, all other provisions relating to the disposition and use of the real property assets of the former redevelopment agency. If the department has not approved a long-range property management plan by January 1, 2015, existing law requires the property of a former redevelopment agency to be disposed of according to law.

This bill would instead require the property of a former redevelopment agency to be disposed of according to law if the department has not approved a long-range property management plan by January 1, 2016.

*(2) Existing law requires the Controller to review the activities of successor agencies in the state to determine if an asset transfer has occurred after January 31, 2012, between the successor agency and the city, county, or city and county that created a redevelopment agency, or any other public agency, that was not made pursuant to an enforceable obligation on an approved and valid Recognized Obligation Payment Schedule, and if so, to order the return of the asset, except as specified. Existing law further requires an affected local agency, upon receiving such an order from the Controller, to reverse the transfer and return the applicable assets to the successor agency.*

*This bill would repeal those requirements and make a conforming change.*

~~This~~

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

Vote:  $\frac{2}{3}$ . 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 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

1 retained by the successor agency, shall be transferred to the city,  
2 county, or city and county.

3 (2) The housing successor shall submit to the Department of  
4 Finance by August 1, 2012, a list of all housing assets that contains  
5 an explanation of how the assets meet the criteria specified in  
6 subdivision (e). The Department of Finance shall prescribe the  
7 format for the submission of the list. The list shall include assets  
8 transferred between February 1, 2012, and the date upon which  
9 the list is created. The department shall have up to 30 days from  
10 the date of receipt of the list to object to any of the assets or  
11 transfers of assets identified on the list. If the Department of  
12 Finance objects to assets on the list, the housing successor may  
13 request a meet and confer process within five business days of  
14 receiving the department objection. If the transferred asset is  
15 deemed not to be a housing asset as defined in subdivision (e), it  
16 shall be returned to the successor agency ~~and the provision of~~  
17 ~~Section 34178.8 may apply.~~ If a housing asset has been previously  
18 pledged to pay for bonded indebtedness, the successor agency shall  
19 maintain control of the asset in order to pay for the bond debt.

20 (3) For purposes of this section and Section 34176.1, “housing  
21 successor” means the entity assuming the housing function of a  
22 former redevelopment agency pursuant to this section.

23 (b) If a city, county, or city and county does not elect to retain  
24 the responsibility for performing housing functions previously  
25 performed by a redevelopment agency, all rights, powers, assets,  
26 duties, and obligations associated with the housing activities of  
27 the agency, excluding enforceable obligations retained by the  
28 successor agency and any amounts in the Low and Moderate  
29 Income Housing Fund, shall be transferred as follows:

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

33 (2) If there is one local housing authority in the territorial  
34 jurisdiction of the former redevelopment agency, to that local  
35 housing authority.

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

1 (c) Commencing on the operative date of this part, the housing  
2 successor may enforce affordability covenants and perform related  
3 activities pursuant to applicable provisions of the Community  
4 Redevelopment Law (Part 1 (commencing with Section 33000)),  
5 including, but not limited to, Section 33418.

6 (d) Except as specifically provided in Section 34191.4, any  
7 funds transferred to the housing successor, together with any funds  
8 generated from housing assets, as defined in subdivision (e), shall  
9 be maintained in a separate Low and Moderate Income Housing  
10 Asset Fund which is hereby created in the accounts of the housing  
11 successor.

12 (e) For purposes of this part, “housing asset” includes all of the  
13 following:

14 (1) Any real property, interest in, or restriction on the use of  
15 real property, whether improved or not, and any personal property  
16 provided in residences, including furniture and appliances, all  
17 housing-related files and loan documents, office supplies, software  
18 licenses, and mapping programs, that were acquired for low- and  
19 moderate-income housing purposes, either by purchase or through  
20 a loan, in whole or in part, with any source of funds.

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

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

32 (4) Any funds derived from rents or operation of properties  
33 acquired for low- and moderate-income housing purposes by other  
34 parties that were financed with any source of funds, including  
35 residual receipt payments from developers, conditional grant  
36 repayments, cost savings and proceeds from refinancing, and  
37 principal and interest payments from homebuyers subject to  
38 enforceable income limits.

39 (5) A stream of rents or other payments from housing tenants  
40 or operators of low- and moderate-income housing financed with

1 any source of funds that are used to maintain, operate, and enforce  
2 the affordability of housing or for enforceable obligations  
3 associated with low- and moderate-income housing.

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

10 (B) Loan or deferral repayments shall not be made prior to the  
11 2013–14 fiscal year. Beginning in the 2013–14 fiscal year, the  
12 maximum repayment amount authorized each fiscal year for  
13 repayments made pursuant to this paragraph and subdivision (b)  
14 of Section 34191.4 combined shall be equal to one-half of the  
15 increase between the amount distributed to taxing entities pursuant  
16 to paragraph (4) of subdivision (a) of Section 34183 in that fiscal  
17 year and the amount distributed to taxing entities pursuant to that  
18 paragraph in the 2012–13 base year. Loan or deferral repayments  
19 made pursuant to this paragraph shall take priority over amounts  
20 to be repaid pursuant to subdivision (b) of Section 34191.4.

21 (f) If a development includes both low- and moderate-income  
22 housing that meets the definition of a housing asset under  
23 subdivision (e) and other types of property use, including, but not  
24 limited to, commercial use, governmental use, open space, and  
25 parks, the oversight board shall consider the overall value to the  
26 community as well as the benefit to taxing entities of keeping the  
27 entire development intact or dividing the title and control over the  
28 property between the housing successor and the successor agency  
29 or other public or private agencies. The disposition of those assets  
30 may be accomplished by a revenue-sharing arrangement as  
31 approved by the oversight board on behalf of the affected taxing  
32 entities.

33 (g) (1) (A) The housing successor may designate the use of  
34 and commit indebtedness obligation proceeds that remain after the  
35 satisfaction of enforceable obligations that have been approved in  
36 a Recognized Obligation Payment Schedule and that are consistent  
37 with the indebtedness obligation covenants. The proceeds shall be  
38 derived from indebtedness obligations that were issued for the  
39 purposes of affordable housing prior to January 1, 2011, and were  
40 backed by the Low and Moderate Income Housing Fund.

1 Enforceable obligations may be satisfied by the creation of reserves  
2 for the projects that are the subject of the enforceable obligation  
3 that are consistent with the contractual obligations for those  
4 projects, or by expending funds to complete the projects.

5 (B) The housing successor shall provide notice to the successor  
6 agency of any designations of use or commitments of funds  
7 specified in subparagraph (A) that it wishes to make at least 20  
8 days before the deadline for submission of the Recognized  
9 Obligation Payment Schedule to the oversight board. Commitments  
10 and designations shall not be valid and binding on any party until  
11 they are included in an approved and valid Recognized Obligation  
12 Payment Schedule. The review of these designations and  
13 commitments by the successor agency, oversight board, and  
14 Department of Finance shall be limited to a determination that the  
15 designations and commitments are consistent with bond covenants  
16 and that there are sufficient funds available.

17 (2) Funds shall be used and committed in a manner consistent  
18 with the purposes of the Low and Moderate Income Housing Asset  
19 Fund. Notwithstanding any other law, the successor agency shall  
20 retain and expend the excess housing obligation proceeds at the  
21 discretion of the housing successor, provided that the successor  
22 agency ensures that the proceeds are expended in a manner  
23 consistent with the indebtedness obligation covenants and with  
24 any requirements relating to the tax status of those obligations.  
25 The amount expended shall not exceed the amount of indebtedness  
26 obligation proceeds available and such expenditure shall constitute  
27 the creation of excess housing proceeds expenditures to be paid  
28 from the excess proceeds. Excess housing proceeds expenditures  
29 shall be listed separately on the Recognized Obligation Payment  
30 Schedule submitted by the successor agency.

31 (h) This section shall not be construed to provide any stream of  
32 tax increment financing.

33 *SEC. 2. Section 34178.8 of the Health and Safety Code is*  
34 *repealed.*

35 ~~34178.8. Commencing on the effective date of the act adding~~  
36 ~~this section, the Controller shall review the activities of successor~~  
37 ~~agencies in the state to determine if an asset transfer has occurred~~  
38 ~~after January 31, 2012, between the successor agency and the city,~~  
39 ~~county, or city and county that created a redevelopment agency,~~  
40 ~~or any other public agency, that was not made pursuant to an~~

1 enforceable obligation on an approved and valid Recognized  
 2 Obligation Payment Schedule. If such an asset transfer did occur,  
 3 to the extent not prohibited by state and federal law, the Controller  
 4 shall order the available assets to be returned to the successor  
 5 agency. Upon receiving that order from the Controller, an affected  
 6 local agency shall, as soon as practicable, reverse the transfer and  
 7 return the applicable assets to the successor agency. This section  
 8 shall not apply to housing assets as defined in subdivision (e) of  
 9 Section 34176.

10 SECTION 4.

11 SEC. 3. Section 34191.3 of the Health and Safety Code is  
 12 amended to read:

13 34191.3. Notwithstanding Section 34191.1, the requirements  
 14 specified in subdivision (e) of Section 34177 and subdivision (a)  
 15 of Section 34181 shall be suspended, except as those provisions  
 16 apply to the transfers for governmental use, until the Department  
 17 of Finance has approved a long-range property management plan  
 18 pursuant to subdivision (b) of Section 34191.5, at which point the  
 19 plan shall govern, and supersede all other provisions relating to,  
 20 the disposition and use of the real property assets of the former  
 21 redevelopment agency. If the department has not approved a plan  
 22 by January 1, 2016, subdivision (e) of Section 34177 and  
 23 subdivision (a) of Section 34181 shall be operative with respect  
 24 to that successor agency.

25 ~~SEC. 2.~~

26 SEC. 4. This act is an urgency statute necessary for the  
 27 immediate preservation of the public peace, health, or safety within  
 28 the meaning of Article IV of the Constitution and shall go into  
 29 immediate effect. The facts constituting the necessity are:

30 Because the Legislature’s intent in passing Assembly Bill 1484  
 31 (Chapter 26 of the Statutes of 2012) was to prevent the “fire sale”  
 32 of property through the approval of long-range property  
 33 management plans, it is crucial that each successor agency that  
 34 receives a finding of completion is also able to receive an approval  
 35 for that successor agency’s long-range property management plan  
 36 as quickly as possible.