

AMENDED IN ASSEMBLY APRIL 10, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2493

Introduced by Assembly Member Bloom

February 21, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2493, as amended, Bloom. Redevelopment dissolution: housing projects: bond proceeds.

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 the successor housing entity to designate the use of, and commit, proceeds from indebtedness that was issued for affordable housing purposes prior to January 1, 2011, and was backed by the Low and Moderate Income Housing Fund.

This bill would instead authorize a successor housing entity to designate the use of, and commit, proceeds from indebtedness that was issued for affordable housing purposes prior to June 28, 2011, and would require the proceeds from bonds issued between January 1, 2011, and

June 28, 2011, be used for projects meeting certain criteria established in this bill for projects, to be funded by successor agencies generally, from proceeds of bonds issued during the same period.

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 expand this authorization to include the expenditure of excess bond proceeds derived from bonds issued on or before June 28, 2011, and would require proceeds derived from bonds issued between January 1, 2011, and June 28, 2011, to be used by successor agencies only for projects meeting certain criteria.

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

1 the date of receipt of the list to object to any of the assets or
2 transfers of assets identified on the list. If the Department of
3 Finance objects to assets on the list, the entity assuming the housing
4 functions of the former redevelopment agency may request a meet
5 and confer process within five business days of receiving the
6 department objection. If the transferred asset is deemed not to be
7 a housing asset as defined in subdivision (e), it shall be returned
8 to the successor agency and the provision of Section 34178.8 may
9 apply. If a housing asset has been previously pledged to pay for
10 bonded indebtedness, the successor agency shall maintain control
11 of the asset in order to pay for the bond debt.

12 (b) If a city, county, or city and county does not elect to retain
13 the responsibility for performing housing functions previously
14 performed by a redevelopment agency, all rights, powers, assets,
15 duties, and obligations associated with the housing activities of
16 the agency, excluding enforceable obligations retained by the
17 successor agency and any amounts in the Low and Moderate
18 Income Housing Fund, shall be transferred as follows:

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

22 (2) If there is one local housing authority in the territorial
23 jurisdiction of the former redevelopment agency, to that local
24 housing authority.

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

29 (c) Commencing on the operative date of this part, the entity
30 that assumes the housing functions formerly performed by the
31 redevelopment agency and receives the transferred housing assets
32 may enforce affordability covenants and perform related activities
33 pursuant to applicable provisions of the Community
34 Redevelopment Law (Part 1 (commencing with Section 33000)),
35 including, but not limited to, Section 33418.

36 (d) Except as specifically provided in Section 34191.4, any
37 funds transferred to the city, county, or city and county or
38 designated entity pursuant to this section, together with any funds
39 generated from housing assets, as defined in subdivision (e), shall
40 be maintained in a separate Low and Moderate Income Housing

1 Asset Fund which is hereby created in the accounts of the entity
2 assuming the housing functions pursuant to this section. Funds in
3 this account shall be used in accordance with applicable
4 housing-related provisions of the Community Redevelopment Law
5 (Part 1 (commencing with Section 33000)).

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

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

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

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

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

33 (5) A stream of rents or other payments from housing tenants
34 or operators of low- and moderate-income housing financed with
35 any source of funds that are used to maintain, operate, and enforce
36 the affordability of housing or for enforceable obligations
37 associated with low- and moderate-income housing.

38 (6) (A) Repayments of loans or deferrals owed to the Low and
39 Moderate Income Housing Fund pursuant to subparagraph (G) of
40 paragraph (1) of subdivision (d) of Section 34171, which shall be

1 used consistent with the affordable housing requirements in the
2 Community Redevelopment Law (Part 1 (commencing with
3 Section 33000)).

4 (B) Loan or deferral repayments shall not be made prior to the
5 2013–14 fiscal year. Beginning in the 2013–14 fiscal year, the
6 maximum repayment amount authorized each fiscal year for
7 repayments made pursuant to this paragraph and subdivision (b)
8 of Section 34191.4 combined shall be equal to one-half of the
9 increase between the amount distributed to taxing entities pursuant
10 to paragraph (4) of subdivision (a) of Section 34183 in that fiscal
11 year and the amount distributed to taxing entities pursuant to that
12 paragraph in the 2012–13 base year. Loan or deferral repayments
13 made pursuant to this paragraph shall take priority over amounts
14 to be repaid pursuant to subdivision (b) of Section 34191.4.

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

27 (g) (1) (A) The entity assuming the housing functions pursuant
28 to this section may designate the use of and commit indebtedness
29 obligation proceeds that remain after the satisfaction of enforceable
30 obligations that have been approved in a Recognized Obligation
31 Payment Schedule and that are consistent with the indebtedness
32 obligation covenants. The proceeds shall be derived from
33 indebtedness obligations that were issued for the purposes of
34 affordable housing prior to June 28, 2011. Bond proceeds derived
35 from bonds issued between January 1, 2011, and June 28, 2011,
36 shall only be used for projects that meet the criteria set forth in
37 subparagraph (A) or (B) of paragraph (1) of subdivision (c) of
38 Section 34191.4. Enforceable obligations may be satisfied by the
39 creation of reserves for the projects that are the subject of the
40 enforceable obligation that are consistent with the contractual

1 obligations for those projects, or by expending funds to complete
2 the projects.

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

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

30 (h) Subdivisions (d) and (e) of Section 33334.3 and any other
31 applicable sections of the Community Redevelopment Law shall
32 apply for purposes of funding administrative and planning costs
33 associated with the implementation of this section. For this purpose,
34 the term “Low and Moderate Income Housing Fund” shall mean
35 the “Low and Moderate Income Housing Asset Fund.” This section
36 shall not be construed to provide any stream of tax increment
37 financing.

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

1 34191.4. The following provisions shall apply to any successor
2 agency that has been issued a finding of completion by the
3 Department of Finance:

4 (a) All real property and interests in real property identified in
5 subparagraph (C) of paragraph (5) of subdivision (c) of Section
6 34179.5 shall be transferred to the Community Redevelopment
7 Property Trust Fund of the successor agency upon approval by the
8 Department of Finance of the long-range property management
9 plan submitted by the successor agency pursuant to subdivision
10 (b) of Section 34191.7 unless that property is subject to the
11 requirements of any existing enforceable obligation.

12 (b) (1) Notwithstanding subdivision (d) of Section 34171, upon
13 application by the successor agency and approval by the oversight
14 board, loan agreements entered into between the redevelopment
15 agency and the city, county, or city and county that created by the
16 redevelopment agency shall be deemed to be enforceable
17 obligations provided that the oversight board makes a finding that
18 the loan was for legitimate redevelopment purposes.

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

30 (A) Loan repayments shall not be made prior to the 2013–14
31 fiscal year. Beginning in the 2013–14 fiscal year, the maximum
32 repayment amount authorized each fiscal year for repayments
33 made pursuant to this subdivision and paragraph (7) of subdivision
34 (e) of Section 34176 combined shall be equal to one-half of the
35 increase between the amount distributed to the taxing entities
36 pursuant to paragraph (4) of subdivision (a) of Section 34183 in
37 that fiscal year and the amount distributed to taxing entities
38 pursuant to that paragraph in the 2012–13 base year. Loan or
39 deferral repayments made pursuant to this subdivision shall be

1 second in priority to amounts to be repaid pursuant to paragraph
2 (7) of subdivision (e) of Section 34176.

3 (B) Repayments received by the city, county or city and county
4 that formed the redevelopment agency shall first be used to retire
5 any outstanding amounts borrowed and owed to the Low and
6 Moderate Income Housing Fund of the former redevelopment
7 agency for purposes of the Supplemental Educational Revenue
8 Augmentation Fund and shall be distributed to the Low and
9 Moderate Income Housing Asset Fund established by subdivision
10 (d) of Section 34176.

11 (C) Twenty percent of any loan repayment shall be deducted
12 from the loan repayment amount and shall be transferred to the
13 Low and Moderate Income Housing Asset Fund, after all
14 outstanding loans from the Low and Moderate Income Housing
15 Fund for purposes of the Supplemental Educational Revenue
16 Augmentation Fund have been paid.

17 (c) (1) Bond proceeds derived from bonds issued on or before
18 June 28, 2011, shall be used for the purposes for which the bonds
19 were sold.

20 (A) Bond proceeds derived from bonds issued between January
21 1, 2011, and June 28, 2011, shall only be used for projects which
22 meet the following criteria, as determined by a resolution issued
23 by the oversight board:

24 (i) The project shall be consistent with the sustainable
25 communities strategy adopted by the appropriate metropolitan
26 planning organization.

27 (ii) Two or more significant planning or implementation actions
28 shall have occurred on or before December 31, 2010. The term
29 “significant planning and implementation actions” means any of
30 the following:

31 (I) An action approved by the governing body of the city, the
32 board of the former redevelopment agency, or the planning
33 commission directly related to the planning or implementation of
34 the project.

35 (II) The project is included within an approved city or
36 redevelopment agency planning document, including, but not
37 limited to, a redevelopment agency five-year implementation plan,
38 capital improvement plan, master plan, or other planning document.

39 (III) The expenditure of more than twenty-five thousand dollars
40 (\$25,000) on planning related activities for the project within one

1 fiscal year, or fifty thousand dollars (\$50,000) in total, over
2 multiple fiscal years.

3 (iii) Documentation dated on or before December 31, 2010,
4 shall be provided indicating the intention to finance all or a portion
5 of the project with the future issuance of long-term debt, *or*
6 *documentation showing that the issuance of long-term*
7 *redevelopment agency debt was being planned on or before*
8 *December 31, 2010.*

9 (iv) Each construction contract over one hundred thousand
10 dollars (\$100,000) shall include a provision that prevailing wage
11 will be paid by the contractor and all of that contractor's
12 subcontractors.

13 (v) For each construction contract over two hundred fifty
14 thousand dollars (\$250,000), the successor agency shall require
15 prospective contractors to submit a standardized questionnaire and
16 financial statements as part of their bid package, to establish the
17 contractor's financial ability and experience in performing large
18 construction projects.

19 (B) Any city that funded an eligible project, meeting the criteria
20 listed in clauses (i) to (iii), inclusive, of subparagraph (A) with
21 funds other than redevelopment funds, ~~within the two years prior~~
22 ~~to~~ *between June 28, 2011 and* the effective date of the act adding
23 this paragraph, shall be eligible to be reimbursed utilizing 2011
24 bond proceeds, if the project meets the purpose for which the bonds
25 were issued.

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

39 (B) If remaining bond proceeds cannot be spent in a manner
40 consistent with the bond covenants pursuant to subparagraph (A),

- 1 the proceeds shall be used to defease the bonds or to purchase
- 2 those same outstanding bonds on the open market for cancellation.

O