

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE APRIL 22, 2014

SENATE BILL

No. 1129

Introduced by Senator Steinberg
(Principal coauthor: Senator Corbett)

February 19, 2014

An act to amend Sections 33130, 34167.5, 34171, 34177, 34177.5, 34178.8, 34180, 34191.3, 34191.4, and 34191.5 of the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1129, as amended, Steinberg. Redevelopment: successor agencies to redevelopment agencies.

(1) 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, *subject to review by oversight boards*, and to, among other things, make payments due for enforceable obligations and to perform obligations required pursuant to any enforceable obligation. Existing law requires the Department of Finance to issue a finding of completion to a successor agency upon confirmation by the county auditor-controller that specified payments have been fully made by the successor agency, ~~as specified~~. Existing law prohibits a successor agency from entering into contracts with, ~~incur~~ *incurring* obligations; ~~or make~~ *making* commitments to, any entity, ~~as specified~~; ~~or to amend or modify~~ *specified; or from amending or modifying* existing agreements, obligations, or commitments with any entity, for any purpose. Existing law defines “enforceable obligation” for these purposes to generally exclude any agreements, contracts, or

arrangements between the city, county, or city and county that created the redevelopment agency and the former redevelopment agency.

This bill would authorize a successor agency, if the successor agency has received a finding of completion, to enter into, or amend existing, contracts and agreements, or otherwise administer projects in connection with enforceable obligations, if the contract, agreement, or project will not commit new property tax funds or otherwise adversely affect the flow of specified tax revenues or payments to the taxing agencies, as specified. *This bill would authorize a successor agency, if it has received a finding of completion, to utilize the proceeds of bonds issued during the 2011 calendar year, upon the approval of the oversight board, if the board, in consultation with the relevant metropolitan planning organization determines that the use of the bond proceeds is consistent with the sustainable communities strategy adopted under law by the metropolitan planning organization.*

The bill would specifically include within the definition of “enforceable obligation” an agreement entered into between the redevelopment agency prior to June 30, 2011, if the agreement relates to state highway infrastructure improvements to which the redevelopment agency committed funds pursuant to specified law.

~~(2) Existing law authorizes a successor agency to oversee the development of properties until the contracted work has been completed or the contractual obligation of the former redevelopment agency can be transferred to other parties, and requires bond proceeds to be used for the purposes for which bonds were sold, except as specified.~~

~~This bill would authorize a successor agency to utilize the proceeds of bonds issued during the 2011 calendar year, upon the approval of the oversight board, if the oversight board, in consultation with the relevant metropolitan planning organization determines that the use of the bond proceeds is consistent with the sustainable communities strategy adopted by the metropolitan planning organization.~~

~~(3) Existing law authorizes a successor agency to petition the Department of Finance to provide written confirmation that its determination relating to an enforceable obligation that provides for an irrevocable commitment of property tax revenue, as specified, is final and conclusive, and reflects the department’s approval of subsequent payments made pursuant to the enforceable obligation.~~

(2) Existing law requires a successor agency to prepare a recognized obligation payment schedule, which sets forth the minimum payment amounts and due dates of payments required by enforceable obligations

for each six-month fiscal period, that is required to be submitted to, and approved by, the oversight board, and submitted to other entities, including the Department of Finance. Existing law requires the Department of Finance to make its determination of the enforceable obligations and the amounts and funding sources of the enforceable obligations no later than 45 days after the Recognized Obligation Payment Schedule is submitted.

This bill would require the ~~removal~~ rejection of an enforceable obligation from a recognized obligation payment schedule *for a successor agency* that has received a finding of completion from the department to be submitted to the oversight board for review and approval, *and would provide that the determination of the oversight board is final and conclusive without further review by the department.*

(3) Existing law provides that, if an enforceable obligation provides for an irrevocable commitment of property tax revenue and the allocation of those revenues is expected to occur over time, the successor agency may petition the Department of Finance to provide written confirmation that its determination of the enforceable obligation as approved in a Recognized Obligation Payment Schedule is final and conclusive, and reflects the department's approval of subsequent payments made pursuant to the enforceable obligation.

This bill would require the Department of Finance to provide that written confirmation within 45 days.

(4) Existing law requires a city, county, or city and county that wishes to retain any properties or other assets for future redevelopment activities, funded from its own funds and under its own auspices, to reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base property tax for the value of the property retained, as specified.

This bill would specify that these provisions do not apply to the disposition of properties pursuant to a long-range property management plan.

(5) Existing law requires the disposition of assets and properties of the former redevelopment agency as directed by the oversight board, as specified, and suspends these requirements 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. Existing law requires 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, 2015.

This bill would prohibit the department from requiring compensation agreements as part of the approval of a long-range property management plan and would specify the criteria the department may consider in approving a long-range property management plan. The bill would additionally delete the requirement that the department approve a plan by January 1, 2015, and instead require the department to approve long-range property management plans as expeditiously as possible. *This bill would also provide that actions relating to the disposition of property after approval of a long-range property management plan do not require review by the department.*

(6) *Existing law requires the Controller to review the activities of redevelopment agencies in the state to determine whether an asset transfer has occurred after January 1, 2011, between the city or county, or city and county that created a redevelopment agency or any other public agency, and the redevelopment agency.*

This bill would require the review to be completed no later than January 1, 2016.

(7) *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.*

This bill would require the review to be completed no later than January 1, 2016.

(8) *Existing law prohibits an agency or community officer or employee who is required to participate in the formulation of, or to approve plans or policies for, the redevelopment of a project area from acquiring any interest in any property included within a project area within the community.*

This bill would provide that an agency or community officer or employee is not prohibited from acquiring an interest in property within a former redevelopment project area of a dissolved redevelopment agency, as specified.

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 33130 of the Health and Safety Code is*
2 *amended to read:*

3 33130. (a) No agency or community officer or employee who
4 in the course of his or her duties is required to participate in the
5 formulation of, or to approve plans or policies for, the
6 redevelopment of a project area shall acquire any interest in any
7 property included within a project area within the community. If
8 any such officer or employee owns or has any direct or indirect
9 financial interest in property included within a project area, that
10 officer or employee shall immediately make a written disclosure
11 of that financial interest to the agency and the legislative body and
12 the disclosure shall be entered on the minutes of the agency and
13 the legislative body. Failure to make the disclosure required by
14 this subdivision constitutes misconduct in office.

15 (b) *Subdivision (a) does not prohibit any agency or community*
16 *officer or employee from acquiring an interest in property within*
17 *a former redevelopment project area of a redevelopment agency*
18 *dissolved pursuant to Part 1.85 (commencing with Section 34170).*

19 ~~(b)~~

20 (c) Subdivision (a) does not prohibit any agency or community
21 officer or employee from acquiring an interest in property within
22 the project area for the purpose of participating as an owner or
23 reentering into business pursuant to this part if that officer or
24 employee has owned a substantially equal interest as that being
25 acquired for the three years immediately preceding the selection
26 of the project area.

27 ~~(e)~~

28 (d) A rental agreement or lease of property which meets all of
29 the following conditions is not an interest in property for purposes
30 of subdivision (a):

31 (1) The rental or lease agreement contains terms that are
32 substantially equivalent to the terms of a rental or lease agreement
33 available to any member of the general public for comparable
34 property in the project area.

35 (2) The rental or lease agreement includes a provision which
36 prohibits any subletting, sublease, or other assignment at a rate in
37 excess of the rate in the original rental or lease agreement.

1 (3) The property which is subject to the rental or lease agreement
2 is used in the pursuit of the principal business, occupation, or
3 profession of the officer or employee.

4 (4) The agency or community officer or employee who obtains
5 the rental or lease agreement immediately makes a written
6 disclosure of that fact to the agency and the legislative body.

7 *SEC. 2. Section 34167.5 of the Health and Safety Code is*
8 *amended to read:*

9 34167.5. Commencing on the effective date of the act adding
10 this part, the Controller shall review the activities of redevelopment
11 agencies in the state to determine whether an asset transfer has
12 occurred after January 1, 2011, between the city or county, or city
13 and county that created a redevelopment agency or any other public
14 agency, and the redevelopment agency. *The review required by*
15 *this section shall be completed no later than January 1, 2016.* If
16 such an asset transfer did occur during that period and the
17 government agency that received the assets is not contractually
18 committed to a third party for the expenditure or encumbrance of
19 those assets, to the extent not prohibited by state and federal law,
20 the Controller shall order the available assets to be returned to the
21 redevelopment agency or, on or after October 1, 2011, to the
22 successor agency, if a successor agency is established pursuant to
23 Part 1.85 (commencing with Section 34170). Upon receiving that
24 order from the Controller, an affected local agency shall, as soon
25 as practicable, reverse the transfer and return the applicable assets
26 to the redevelopment agency or, on or after October 1, 2011, to
27 the successor agency, if a successor agency is established pursuant
28 to Part 1.85 (commencing with Section 34170). The Legislature
29 hereby finds that a transfer of assets by a redevelopment agency
30 during the period covered in this section is deemed not to be in
31 the furtherance of the Community Redevelopment Law and is
32 thereby unauthorized.

33 ~~SECTION 4.~~

34 *SEC. 3.* Section 34171 of the Health and Safety Code is
35 amended to read:

36 34171. The following terms shall have the following meanings:

37 (a) “Administrative budget” means the budget for administrative
38 costs of the successor agencies as provided in Section 34177.

39 (b) “Administrative cost allowance” means an amount that,
40 subject to the approval of the oversight board, is payable from

1 property tax revenues of up to 5 percent of the property tax
2 allocated to the successor agency on the Recognized Obligation
3 Payment Schedule covering the period January 1, 2012, through
4 June 30, 2012, and up to 3 percent of the property tax allocated to
5 the Redevelopment Obligation Retirement Fund money that is
6 allocated to the successor agency for each fiscal year thereafter;
7 provided, however, that the amount shall not be less than two
8 hundred fifty thousand dollars (\$250,000), unless the oversight
9 board reduces this amount, for any fiscal year or such lesser amount
10 as agreed to by the successor agency. However, the allowance
11 amount shall exclude, and shall not apply to, any administrative
12 costs that can be paid from bond proceeds or from sources other
13 than property tax. Administrative cost allowances shall exclude
14 any litigation expenses related to assets or obligations, settlements
15 and judgments, and the costs of maintaining assets prior to
16 disposition. Employee costs associated with work on specific
17 project implementation activities, including, but not limited to,
18 construction inspection, project management, or actual
19 construction, shall be considered project-specific costs and shall
20 not constitute administrative costs.

21 (c) “Designated local authority” shall mean a public entity
22 formed pursuant to subdivision (d) of Section 34173.

23 (d) (1) “Enforceable obligation” means any of the following:

24 (A) Bonds, as defined by Section 33602 and bonds issued
25 pursuant to Chapter 10.5 (commencing with Section 5850) of
26 Division 6 of Title 1 of the Government Code, including the
27 required debt service, reserve set-asides, and any other payments
28 required under the indenture or similar documents governing the
29 issuance of the outstanding bonds of the former redevelopment
30 agency. A reserve may be held when required by the bond
31 indenture or when the next property tax allocation will be
32 insufficient to pay all obligations due under the provisions of the
33 bond for the next payment due in the following half of the calendar
34 year.

35 (B) Loans of moneys borrowed by the redevelopment agency
36 for a lawful purpose, to the extent they are legally required to be
37 repaid pursuant to a required repayment schedule or other
38 mandatory loan terms.

39 (C) Payments required by the federal government, preexisting
40 obligations to the state or obligations imposed by state law, other

1 than passthrough payments that are made by the county
2 auditor-controller pursuant to Section 34183, or legally enforceable
3 payments required in connection with the agencies' employees,
4 including, but not limited to, pension payments, pension obligation
5 debt service, unemployment payments, or other obligations
6 conferred through a collective bargaining agreement. Costs incurred
7 to fulfill collective bargaining agreements for layoffs or
8 terminations of city employees who performed work directly on
9 behalf of the former redevelopment agency shall be considered
10 enforceable obligations payable from property tax funds. The
11 obligations to employees specified in this subparagraph shall
12 remain enforceable obligations payable from property tax funds
13 for any employee to whom those obligations apply if that employee
14 is transferred to the entity assuming the housing functions of the
15 former redevelopment agency pursuant to Section 34176. The
16 successor agency or designated local authority shall enter into an
17 agreement with the housing entity to reimburse it for any costs of
18 the employee obligations.

19 (D) Judgments or settlements entered by a competent court of
20 law or binding arbitration decisions against the former
21 redevelopment agency, other than passthrough payments that are
22 made by the county auditor-controller pursuant to Section 34183.
23 Along with the successor agency, the oversight board shall have
24 the authority and standing to appeal any judgment or to set aside
25 any settlement or arbitration decision.

26 (E) Any legally binding and enforceable agreement or contract
27 that is not otherwise void as violating the debt limit or public
28 policy. However, nothing in this act shall prohibit either the
29 successor agency, with the approval or at the direction of the
30 oversight board, or the oversight board itself from terminating any
31 existing agreements or contracts and providing any necessary and
32 required compensation or remediation for such termination. Titles
33 of or headings used on or in a document shall not be relevant in
34 determining the existence of an enforceable obligation.

35 (F) Contracts or agreements necessary for the administration or
36 operation of the successor agency, in accordance with this part,
37 including, but not limited to, agreements concerning litigation
38 expenses related to assets or obligations, settlements and
39 judgments, and the costs of maintaining assets prior to disposition,
40 and agreements to purchase or rent office space, equipment and

1 supplies, and pay-related expenses pursuant to Section 33127 and
2 for carrying insurance pursuant to Section 33134.

3 (G) Amounts borrowed from, or payments owing to, the Low
4 and Moderate Income Housing Fund of a redevelopment agency,
5 which had been deferred as of the effective date of the act adding
6 this part; provided, however, that the repayment schedule is
7 approved by the oversight board. Repayments shall be transferred
8 to the Low and Moderate Income Housing Asset Fund established
9 pursuant to subdivision (d) of Section 34176 as a housing asset
10 and shall be used in a manner consistent with the affordable
11 housing requirements of the Community Redevelopment Law (Part
12 1 (commencing with Section 33000)).

13 (2) For purposes of this part, “enforceable obligation” does not
14 include any agreements, contracts, or arrangements between the
15 city, county, or city and county that created the redevelopment
16 agency and the former redevelopment agency. However, written
17 agreements entered into (A) at the time of issuance, but in no event
18 later than December 31, 2010, of indebtedness obligations, and
19 (B) solely for the purpose of securing or repaying those
20 indebtedness obligations may be deemed enforceable obligations
21 for purposes of this part. Notwithstanding this paragraph, loan
22 agreements entered into between the redevelopment agency and
23 the city, county, or city and county that created it, within two years
24 of the date of creation of the redevelopment agency, may be
25 deemed to be enforceable obligations. Notwithstanding this
26 paragraph, an agreement entered into between the redevelopment
27 agency prior to June 30, 2011, is an enforceable obligation if the
28 agreement relates to state highway infrastructure improvements
29 to which the redevelopment agency committed funds pursuant to
30 Section 33445.

31 (3) Contracts or agreements between the former redevelopment
32 agency and other public agencies, to perform services or provide
33 funding for governmental or private services or capital projects
34 outside of redevelopment project areas that do not provide benefit
35 to the redevelopment project and thus were not properly authorized
36 under Part 1 (commencing with Section 33000) shall be deemed
37 void on the effective date of this part; provided, however, that such
38 contracts or agreements for the provision of housing properly
39 authorized under Part 1 (commencing with Section 33000) shall
40 not be deemed void.

1 (e) “Indebtedness obligations” means bonds, notes, certificates
2 of participation, or other evidence of indebtedness, issued or
3 delivered by the redevelopment agency, or by a joint exercise of
4 powers authority created by the redevelopment agency, to
5 third-party investors or bondholders to finance or refinance
6 redevelopment projects undertaken by the redevelopment agency
7 in compliance with the Community Redevelopment Law (Part 1
8 (commencing with Section 33000)).

9 (f) “Oversight board” shall mean each entity established pursuant
10 to Section 34179.

11 (g) “Recognized obligation” means an obligation listed in the
12 Recognized Obligation Payment Schedule.

13 (h) “Recognized Obligation Payment Schedule” means the
14 document setting forth the minimum payment amounts and due
15 dates of payments required by enforceable obligations for each
16 six-month fiscal period as provided in subdivision (m) of Section
17 34177.

18 (i) “School entity” means any entity defined as such in
19 subdivision (f) of Section 95 of the Revenue and Taxation Code.

20 (j) “Successor agency” means the successor entity to the former
21 redevelopment agency as described in Section 34173.

22 (k) “Taxing entities” means cities, counties, a city and county,
23 special districts, and school entities, as defined in subdivision (f)
24 of Section 95 of the Revenue and Taxation Code, that receive
25 passthrough payments and distributions of property taxes pursuant
26 to the provisions of this part.

27 (l) “Property taxes” include all property tax revenues, including
28 those from unitary and supplemental and roll corrections applicable
29 to tax increment.

30 (m) “Department” means the Department of Finance unless the
31 context clearly refers to another state agency.

32 (n) “Sponsoring entity” means the city, county, or city and
33 county, or other entity that authorized the creation of each
34 redevelopment agency.

35 (o) “Final judicial determination” means a final judicial
36 determination made by any state court that is not appealed, or by
37 a court of appellate jurisdiction that is not further appealed, in an
38 action by any party.

39 (p) From July 1, 2014, to July 1, 2018, inclusive, “housing entity
40 administrative cost allowance” means an amount of up to 1 percent

1 of the property tax allocated to the Redevelopment Obligation
2 Retirement Fund on behalf of the successor agency for each
3 applicable fiscal year, but not less than one hundred fifty thousand
4 dollars (\$150,000) per fiscal year.

5 (1) If a local housing authority assumed the housing functions
6 of the former redevelopment agency pursuant to paragraph (2) or
7 (3) of subdivision (b) of Section 34176, then the housing entity
8 administrative cost allowance shall be listed by the successor
9 agency on the Recognized Obligation Payment Schedule. Upon
10 approval of the Recognized Obligation Payment Schedule by the
11 oversight board and the department, the housing entity
12 administrative cost allowance shall be remitted by the successor
13 agency on each January 2 and July 1 to the local housing authority
14 that assumed the housing functions of the former redevelopment
15 agency pursuant to paragraph (2) or (3) of subdivision (b) of
16 Section 34176.

17 (2) If there are insufficient moneys in the Redevelopment
18 Obligations Retirement Fund in a given fiscal year to make the
19 payment authorized by this subdivision, the unfunded amount may
20 be listed on each subsequent Recognized Obligation Payment
21 Schedule until it has been paid in full. In these cases the five-year
22 time limit on the payments shall not apply.

23 ~~SEC. 2. Section 34177 of the Health and Safety Code is~~
24 ~~amended to read:~~

25 ~~34177. Successor agencies are required to do all of the~~
26 ~~following:~~

27 ~~(a) Continue to make payments due for enforceable obligations.~~

28 ~~(1) On and after February 1, 2012, and until a Recognized~~
29 ~~Obligation Payment Schedule becomes operative, only payments~~
30 ~~required pursuant to an enforceable obligations payment schedule~~
31 ~~shall be made. The initial enforceable obligation payment schedule~~
32 ~~shall be the last schedule adopted by the redevelopment agency~~
33 ~~under Section 34169. However, payments associated with~~
34 ~~obligations excluded from the definition of enforceable obligations~~
35 ~~by paragraph (2) of subdivision (d) of Section 34171 shall be~~
36 ~~excluded from the enforceable obligations payment schedule and~~
37 ~~be removed from the last schedule adopted by the redevelopment~~
38 ~~agency under Section 34169 prior to the successor agency adopting~~
39 ~~it as its enforceable obligations payment schedule pursuant to this~~
40 ~~subdivision. The enforceable obligation payment schedule may~~

1 be amended by the successor agency at any public meeting and
2 shall be subject to the approval of the oversight board as soon as
3 the board has sufficient members to form a quorum. In recognition
4 of the fact that the timing of the California Supreme Court's ruling
5 in the case California Redevelopment Association v. Matosantos
6 (2011) 53 Cal.4th 231 delayed the preparation by successor
7 agencies and the approval by oversight boards of the January 1,
8 2012, through June 30, 2012, Recognized Obligation Payment
9 Schedule, a successor agency may amend the Enforceable
10 Obligation Payment Schedule to authorize the continued payment
11 of enforceable obligations until the time that the January 1, 2012,
12 through June 30, 2012, Recognized Obligation Payment Schedule
13 has been approved by the oversight board and by the Department
14 of Finance.

15 (2) The Department of Finance and the Controller shall each
16 have the authority to require any documents associated with the
17 enforceable obligations to be provided to them in a manner of their
18 choosing. Any taxing entity, the department, and the Controller
19 shall each have standing to file a judicial action to prevent a
20 violation under this part and to obtain injunctive or other
21 appropriate relief.

22 (3) Commencing on the date the Recognized Obligation Payment
23 Schedule is valid pursuant to subdivision (1), only those payments
24 listed in the Recognized Obligation Payment Schedule may be
25 made by the successor agency from the funds specified in the
26 Recognized Obligation Payment Schedule. In addition, after it
27 becomes valid, the Recognized Obligation Payment Schedule shall
28 supersede the Statement of Indebtedness, which shall no longer
29 be prepared nor have any effect under the Community
30 Redevelopment Law (Part 1 (commencing with Section 33000)).

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

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

1 ~~(b) Maintain reserves in the amount required by indentures,~~
2 ~~trust indentures, or similar documents governing the issuance of~~
3 ~~outstanding redevelopment agency bonds.~~

4 ~~(c) Perform obligations required pursuant to any enforceable~~
5 ~~obligation.~~

6 ~~(d) Remit unencumbered balances of redevelopment agency~~
7 ~~funds to the county auditor-controller for distribution to the taxing~~
8 ~~entities, including, but not limited to, the unencumbered balance~~
9 ~~of the Low and Moderate Income Housing Fund of a former~~
10 ~~redevelopment agency. In making the distribution, the county~~
11 ~~auditor-controller shall utilize the same methodology for allocation~~
12 ~~and distribution of property tax revenues provided in Section~~
13 ~~34188.~~

14 ~~(e) Dispose of assets and properties of the former redevelopment~~
15 ~~agency as directed by the oversight board; provided, however, that~~
16 ~~the oversight board may instead direct the successor agency to~~
17 ~~transfer ownership of certain assets pursuant to subdivision (a) of~~
18 ~~Section 34181. The disposal is to be done expeditiously and in a~~
19 ~~manner aimed at maximizing value. Proceeds from asset sales and~~
20 ~~related funds that are no longer needed for approved development~~
21 ~~projects or to otherwise wind down the affairs of the agency, each~~
22 ~~as determined by the oversight board, shall be transferred to the~~
23 ~~county auditor-controller for distribution as property tax proceeds~~
24 ~~under Section 34188. The requirements of this subdivision shall~~
25 ~~not apply to a successor agency that has been issued a finding of~~
26 ~~completion by the Department of Finance pursuant to Section~~
27 ~~34179.7.~~

28 ~~(f) Enforce all former redevelopment agency rights for the~~
29 ~~benefit of the taxing entities, including, but not limited to,~~
30 ~~continuing to collect loans, rents, and other revenues that were due~~
31 ~~to the redevelopment agency.~~

32 ~~(g) Effectuate transfer of housing functions and assets to the~~
33 ~~appropriate entity designated pursuant to Section 34176.~~

34 ~~(h) Expeditiously wind down the affairs of the redevelopment~~
35 ~~agency pursuant to the provisions of this part and in accordance~~
36 ~~with the direction of the oversight board.~~

37 ~~(i) (1) Continue to oversee development of properties until the~~
38 ~~contracted work has been completed or the contractual obligations~~
39 ~~of the former redevelopment agency can be transferred to other~~
40 ~~parties. Bond proceeds shall be used for the purposes for which~~

1 ~~bonds were sold unless the purposes can no longer be achieved,~~
2 ~~in which case, the proceeds may be used to defease the bonds.~~
3 ~~(2) Utilize, in accordance with paragraph (1) the proceeds of~~
4 ~~bonds issued during the year 2011, upon approval of the oversight~~
5 ~~board, if the oversight board, in consultation with the appropriate~~
6 ~~metropolitan planning organization, determines that the use of the~~
7 ~~bond proceeds is consistent with the sustainable communities~~
8 ~~strategy adopted by the metropolitan planning organization.~~
9 ~~(j) Prepare a proposed administrative budget and submit it to~~
10 ~~the oversight board for its approval. The proposed administrative~~
11 ~~budget shall include all of the following:~~
12 ~~(1) Estimated amounts for successor agency administrative costs~~
13 ~~for the upcoming six-month fiscal period.~~
14 ~~(2) Proposed sources of payment for the costs identified in~~
15 ~~paragraph (1).~~
16 ~~(3) Proposals for arrangements for administrative and operations~~
17 ~~services provided by a city, county, city and county, or other entity.~~
18 ~~(k) Provide administrative cost estimates, from its approved~~
19 ~~administrative budget that are to be paid from property tax revenues~~
20 ~~deposited in the Redevelopment Property Tax Trust Fund, to the~~
21 ~~county auditor-controller for each six-month fiscal period.~~
22 ~~(l) (1) Before each six-month fiscal period, prepare a~~
23 ~~Recognized Obligation Payment Schedule in accordance with the~~
24 ~~requirements of this paragraph. For each recognized obligation,~~
25 ~~the Recognized Obligation Payment Schedule shall identify one~~
26 ~~or more of the following sources of payment:~~
27 ~~(A) Low and Moderate Income Housing Fund.~~
28 ~~(B) Bond proceeds.~~
29 ~~(C) Reserve balances.~~
30 ~~(D) Administrative cost allowance.~~
31 ~~(E) The Redevelopment Property Tax Trust Fund, but only to~~
32 ~~the extent no other funding source is available or when payment~~
33 ~~from property tax revenues is required by an enforceable obligation~~
34 ~~or by this part.~~
35 ~~(F) Other revenue sources, including rents, concessions, asset~~
36 ~~sale proceeds, interest earnings, and any other revenues derived~~
37 ~~from the former redevelopment agency, as approved by the~~
38 ~~oversight board in accordance with this part.~~
39 ~~(2) A Recognized Obligation Payment Schedule shall not be~~
40 ~~deemed valid unless all of the following conditions have been met:~~

1 ~~(A) A Recognized Obligation Payment Schedule is prepared~~
2 ~~by the successor agency for the enforceable obligations of the~~
3 ~~former redevelopment agency. The initial schedule shall project~~
4 ~~the dates and amounts of scheduled payments for each enforceable~~
5 ~~obligation for the remainder of the time period during which the~~
6 ~~redevelopment agency would have been authorized to obligate~~
7 ~~property tax increment had the redevelopment agency not been~~
8 ~~dissolved.~~

9 ~~(B) The Recognized Obligation Payment Schedule is submitted~~
10 ~~to and duly approved by the oversight board. The successor agency~~
11 ~~shall submit a copy of the Recognized Obligation Payment~~
12 ~~Schedule to the county administrative officer, the county~~
13 ~~auditor-controller, and the Department of Finance at the same time~~
14 ~~that the successor agency submits the Recognized Obligation~~
15 ~~Payment Schedule to the oversight board for approval.~~

16 ~~(C) A copy of the approved Recognized Obligation Payment~~
17 ~~Schedule is submitted to the county auditor-controller and both~~
18 ~~the Controller's office and the Department of Finance and be posted~~
19 ~~on the successor agency's Internet Web site.~~

20 ~~(3) The Recognized Obligation Payment Schedule shall be~~
21 ~~forward looking to the next six months. The first Recognized~~
22 ~~Obligation Payment Schedule shall be submitted to the Controller's~~
23 ~~office and the Department of Finance by April 15, 2012, for the~~
24 ~~period of January 1, 2012, to June 30, 2012, inclusive. This~~
25 ~~Recognized Obligation Payment Schedule shall include all~~
26 ~~payments made by the former redevelopment agency between~~
27 ~~January 1, 2012, through January 31, 2012, and shall include all~~
28 ~~payments proposed to be made by the successor agency from~~
29 ~~February 1, 2012, through June 30, 2012. Former redevelopment~~
30 ~~agency enforceable obligation payments due, and reasonable or~~
31 ~~necessary administrative costs due or incurred, prior to January 1,~~
32 ~~2012, shall be made from property tax revenues received in the~~
33 ~~spring of 2011 property tax distribution, and from other revenues~~
34 ~~and balances transferred to the successor agency.~~

35 ~~(m) The Recognized Obligation Payment Schedule for the period~~
36 ~~of January 1, 2013, to June 30, 2013, shall be submitted by the~~
37 ~~successor agency, after approval by the oversight board, no later~~
38 ~~than September 1, 2012. Commencing with the Recognized~~
39 ~~Obligation Payment Schedule covering the period July 1, 2013,~~
40 ~~through December 31, 2013, successor agencies shall submit an~~

1 oversight board-approved Recognized Obligation Payment
 2 Schedule to the Department of Finance and to the county
 3 auditor-controller no fewer than 90 days before the date of property
 4 tax distribution. The Department of Finance shall make its
 5 determination of the enforceable obligations and the amounts and
 6 funding sources of the enforceable obligations no later than 45
 7 days after the Recognized Obligation Payment Schedule is
 8 submitted. Within five business days of the department's
 9 determination, a successor agency may request additional review
 10 by the department and an opportunity to meet and confer on
 11 disputed items. The meet and confer period may vary; an untimely
 12 submittal of a Recognized Obligation Payment Schedule may result
 13 in a meet and confer period of less than 30 days. The department
 14 shall notify the successor agency and the county auditor-controllers
 15 as to the outcome of its review at least 15 days before the date of
 16 property tax distribution.

17 (1) The successor agency shall submit a copy of the Recognized
 18 Obligation Payment Schedule to the Department of Finance
 19 electronically, and the successor agency shall complete the
 20 Recognized Obligation Payment Schedule in the manner provided
 21 for by the department. A successor agency shall be in
 22 noncompliance with this paragraph if it only submits to the
 23 department an electronic message or a letter stating that the
 24 oversight board has approved a Recognized Obligation Payment
 25 Schedule.

26 (2) If a successor agency does not submit a Recognized
 27 Obligation Payment Schedule by the deadlines provided in this
 28 subdivision, the city, county, or city and county that created the
 29 redevelopment agency shall be subject to a civil penalty equal to
 30 ten thousand dollars (\$10,000) per day for every day the schedule
 31 is not submitted to the department. The civil penalty shall be paid
 32 to the county auditor-controller for allocation to the taxing entities
 33 under Section 34183. If a successor agency fails to submit a
 34 Recognized Obligation Payment Schedule by the deadline, any
 35 creditor of the successor agency or the Department of Finance or
 36 any affected taxing entity shall have standing to and may request
 37 a writ of mandate to require the successor agency to immediately
 38 perform this duty. Those actions may be filed only in the County
 39 of Sacramento and shall have priority over other civil matters.
 40 Additionally, if an agency does not submit a Recognized Obligation

1 ~~Payment Schedule within 10 days of the deadline, the maximum~~
2 ~~administrative cost allowance for that period shall be reduced by~~
3 ~~25 percent.~~

4 ~~(3) If a successor agency fails to submit to the department an~~
5 ~~oversight board-approved Recognized Obligation Payment~~
6 ~~Schedule that complies with all requirements of this subdivision~~
7 ~~within five business days of the date upon which the Recognized~~
8 ~~Obligation Payment Schedule is to be used to determine the amount~~
9 ~~of property tax allocations, the department may determine if any~~
10 ~~amount should be withheld by the county auditor-controller for~~
11 ~~payments for enforceable obligations from distribution to taxing~~
12 ~~entities, pending approval of a Recognized Obligation Payment~~
13 ~~Schedule. The county auditor-controller shall distribute the portion~~
14 ~~of any of the sums withheld pursuant to this paragraph to the~~
15 ~~affected taxing entities in accordance with paragraph (4) of~~
16 ~~subdivision (a) of Section 34183 upon notice by the department~~
17 ~~that a portion of the withheld balances are in excess of the amount~~
18 ~~of enforceable obligations. The county auditor-controller shall~~
19 ~~distribute withheld funds to the successor agency only in~~
20 ~~accordance with a Recognized Obligation Payment Schedule~~
21 ~~approved by the department. County auditor-controllers shall lack~~
22 ~~the authority to withhold any other amounts from the allocations~~
23 ~~provided for under Section 34183 or 34188, unless required by a~~
24 ~~court order.~~

25 ~~(n) Cause a postaudit of the financial transactions and records~~
26 ~~of the successor agency to be made at least annually by a certified~~
27 ~~public accountant.~~

28 *SEC. 4. Section 34177 of the Health and Safety Code is*
29 *amended to read:*

30 34177. Successor agencies are required to do all of the
31 following:

32 (a) Continue to make payments due for enforceable obligations.

33 (1) On and after February 1, 2012, and until a Recognized
34 Obligation Payment Schedule becomes operative, only payments
35 required pursuant to an enforceable obligations payment schedule
36 shall be made. The initial enforceable obligation payment schedule
37 shall be the last schedule adopted by the redevelopment agency
38 under Section 34169. However, payments associated with
39 obligations excluded from the definition of enforceable obligations
40 by paragraph (2) of subdivision (d) of Section 34171 shall be

1 excluded from the enforceable obligations payment schedule and
2 be removed from the last schedule adopted by the redevelopment
3 agency under Section 34169 prior to the successor agency adopting
4 it as its enforceable obligations payment schedule pursuant to this
5 subdivision. The enforceable obligation payment schedule may
6 be amended by the successor agency at any public meeting and
7 shall be subject to the approval of the oversight board as soon as
8 the board has sufficient members to form a quorum. In recognition
9 of the fact that the timing of the California Supreme Court's ruling
10 in the case California Redevelopment Association v. Matosantos
11 (2011) 53 Cal.4th 231 delayed the preparation by successor
12 agencies and the approval by oversight boards of the January 1,
13 2012, through June 30, 2012, Recognized Obligation Payment
14 Schedule, a successor agency may amend the Enforceable
15 Obligation Payment Schedule to authorize the continued payment
16 of enforceable obligations until the time that the January 1, 2012,
17 through June 30, 2012, Recognized Obligation Payment Schedule
18 has been approved by the oversight board and by the Department
19 of Finance. The successor agency may utilize reasonable estimates
20 and projections to support payment amounts for enforceable
21 obligations if the successor agency submits appropriate supporting
22 documentation of the basis for the estimate or projection to the
23 Department of Finance and the auditor-controller.

24 (2) The Department of Finance and the Controller shall each
25 have the authority to require any documents associated with the
26 enforceable obligations to be provided to them in a manner of their
27 choosing. Any taxing entity, the department, and the Controller
28 shall each have standing to file a judicial action to prevent a
29 violation under this part and to obtain injunctive or other
30 appropriate relief.

31 (3) Commencing on the date the Recognized Obligation Payment
32 Schedule is valid pursuant to subdivision (1), only those payments
33 listed in the Recognized Obligation Payment Schedule may be
34 made by the successor agency from the funds specified in the
35 Recognized Obligation Payment Schedule. In addition, after it
36 becomes valid, the Recognized Obligation Payment Schedule shall
37 supersede the Statement of Indebtedness, which shall no longer
38 be prepared nor have any effect under the Community
39 Redevelopment Law (Part 1 (commencing with Section 33000)).

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

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

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

14 (c) Perform obligations required pursuant to any enforceable
15 obligation.

16 (d) Remit unencumbered balances of redevelopment agency
17 funds to the county auditor-controller for distribution to the taxing
18 entities, including, but not limited to, the unencumbered balance
19 of the Low and Moderate Income Housing Fund of a former
20 redevelopment agency. In making the distribution, the county
21 auditor-controller shall utilize the same methodology for allocation
22 and distribution of property tax revenues provided in Section
23 34188.

24 (e) Dispose of assets and properties of the former redevelopment
25 agency as directed by the oversight board; provided, however, that
26 the oversight board may instead direct the successor agency to
27 transfer ownership of certain assets pursuant to subdivision (a) of
28 Section 34181. The disposal is to be done expeditiously and in a
29 manner aimed at maximizing value. Proceeds from asset sales and
30 related funds that are no longer needed for approved development
31 projects or to otherwise wind down the affairs of the agency, each
32 as determined by the oversight board, shall be transferred to the
33 county auditor-controller for distribution as property tax proceeds
34 under Section 34188. The requirements of this subdivision shall
35 not apply to a successor agency that has been issued a finding of
36 completion by the Department of Finance pursuant to Section
37 34179.7.

38 (f) Enforce all former redevelopment agency rights for the
39 benefit of the taxing entities, including, but not limited to,

1 continuing to collect loans, rents, and other revenues that were due
2 to the redevelopment agency.

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

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

8 (i) Continue to oversee development of properties until the
9 contracted work has been completed or the contractual obligations
10 of the former redevelopment agency can be transferred to other
11 parties. Bond proceeds shall be used for the purposes for which
12 bonds were sold unless the purposes can no longer be achieved,
13 in which case, the proceeds may be used to defease the bonds.

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

17 (1) Estimated amounts for successor agency administrative costs
18 for the upcoming six-month fiscal period.

19 (2) Proposed sources of payment for the costs identified in
20 paragraph (1).

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

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

27 (l) (1) Before each six-month fiscal period, prepare a
28 Recognized Obligation Payment Schedule in accordance with the
29 requirements of this paragraph. For each recognized obligation,
30 the Recognized Obligation Payment Schedule shall identify one
31 or more of the following sources of payment:

32 (A) Low and Moderate Income Housing Fund.

33 (B) Bond proceeds.

34 (C) Reserve balances.

35 (D) Administrative cost allowance.

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

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

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

7 (A) A Recognized Obligation Payment Schedule is prepared
8 by the successor agency for the enforceable obligations of the
9 former redevelopment agency. The initial schedule shall project
10 the dates and amounts of scheduled payments for each enforceable
11 obligation for the remainder of the time period during which the
12 redevelopment agency would have been authorized to obligate
13 property tax increment had the a redevelopment agency not been
14 dissolved.

15 (B) The Recognized Obligation Payment Schedule is submitted
16 to and duly approved by the oversight board. The successor agency
17 shall submit a copy of the Recognized Obligation Payment
18 Schedule to the county administrative officer, the county
19 auditor-controller, and the Department of Finance at the same time
20 that the successor agency submits the Recognized Obligation
21 Payment Schedule to the oversight board for approval.

22 (C) A copy of the approved Recognized Obligation Payment
23 Schedule is submitted to the county auditor-controller, the
24 Controller's office, and the Department of Finance, and is posted
25 on the successor agency's Internet Web site.

26 (3) The Recognized Obligation Payment Schedule shall be
27 forward looking to the next six months. The first Recognized
28 Obligation Payment Schedule shall be submitted to the Controller's
29 office and the Department of Finance by April 15, 2012, for the
30 period of January 1, 2012, to June 30, 2012, inclusive. This
31 Recognized Obligation Payment Schedule shall include all
32 payments made by the former redevelopment agency between
33 January 1, 2012, through January 31, 2012, and shall include all
34 payments proposed to be made by the successor agency from
35 February 1, 2012, through June 30, 2012. Former redevelopment
36 agency enforceable obligation payments due, and reasonable or
37 necessary administrative costs due or incurred, prior to January 1,
38 2012, shall be made from property tax revenues received in the
39 spring of 2011 property tax distribution, and from other revenues
40 and balances transferred to the successor agency.

1 (m) The Recognized Obligation Payment Schedule for the period
2 of January 1, 2013, to June 30, 2013, shall be submitted by the
3 successor agency, after approval by the oversight board, no later
4 than September 1, 2012. Commencing with the Recognized
5 Obligation Payment Schedule covering the period July 1, 2013,
6 through December 31, 2013, successor agencies shall submit an
7 oversight board-approved Recognized Obligation Payment
8 Schedule to the Department of Finance and to the county
9 auditor-controller no fewer than 90 days before the date of property
10 tax distribution. The Department of Finance shall make its
11 determination of the enforceable obligations and the amounts and
12 funding sources of the enforceable obligations no later than 45
13 days after the Recognized Obligation Payment Schedule is
14 submitted. Within five business days of the department's
15 determination, a successor agency may request additional review
16 by the department and an opportunity to meet and confer on
17 disputed items. The meet and confer period may vary; an untimely
18 submittal of a Recognized Obligation Payment Schedule may result
19 in a meet and confer period of less than 30 days. The department
20 shall notify the successor agency and the county auditor-controllers
21 as to the outcome of its review at least 15 days before the date of
22 property tax distribution.

23 (1) The successor agency shall submit a copy of the Recognized
24 Obligation Payment Schedule to the Department of Finance
25 electronically, and the successor agency shall complete the
26 Recognized Obligation Payment Schedule in the manner provided
27 for by the department. A successor agency shall be in
28 noncompliance with this paragraph if it only submits to the
29 department an electronic message or a letter stating that the
30 oversight board has approved a Recognized Obligation Payment
31 Schedule.

32 (2) If a successor agency does not submit a Recognized
33 Obligation Payment Schedule by the deadlines provided in this
34 subdivision, the city, county, or city and county that created the
35 redevelopment agency shall be subject to a civil penalty equal to
36 ten thousand dollars (\$10,000) per day for every day the schedule
37 is not submitted to the department. The civil penalty shall be paid
38 to the county auditor-controller for allocation to the taxing entities
39 under Section 34183. If a successor agency fails to submit a
40 Recognized Obligation Payment Schedule by the deadline, any

1 creditor of the successor agency or the Department of Finance or
2 any affected taxing entity shall have standing to and may request
3 a writ of mandate to require the successor agency to immediately
4 perform this duty. Those actions may be filed only in the County
5 of Sacramento and shall have priority over other civil matters.
6 Additionally, if an agency does not submit a Recognized Obligation
7 Payment Schedule within 10 days of the deadline, the maximum
8 administrative cost allowance for that period shall be reduced by
9 25 percent.

10 (3) If a successor agency fails to submit to the department an
11 oversight board-approved Recognized Obligation Payment
12 Schedule that complies with all requirements of this subdivision
13 within five business days of the date upon which the Recognized
14 Obligation Payment Schedule is to be used to determine the amount
15 of property tax allocations, the department may determine if any
16 amount should be withheld by the county auditor-controller for
17 payments for enforceable obligations from distribution to taxing
18 entities, pending approval of a Recognized Obligation Payment
19 Schedule. The county auditor-controller shall distribute the portion
20 of any of the sums withheld pursuant to this paragraph to the
21 affected taxing entities in accordance with paragraph (4) of
22 subdivision (a) of Section 34183 upon notice by the department
23 that a portion of the withheld balances are in excess of the amount
24 of enforceable obligations. The county auditor-controller shall
25 distribute withheld funds to the successor agency only in
26 accordance with a Recognized Obligation Payment Schedule
27 approved by the department. County auditor-controllers shall lack
28 the authority to withhold any other amounts from the allocations
29 provided for under Section 34183 or 34188 unless required by a
30 court order.

31 (4) (A) The Recognized Obligation Payment Schedule payments
32 required pursuant to this subdivision may be scheduled beyond
33 the existing Recognized Obligation Payment Schedule cycle upon
34 a showing that a lender requires cash on hand beyond the
35 Recognized Obligation Payment Schedule cycle.

36 (B) When a payment is shown to be due during the Recognized
37 Obligation Payment Schedule period, but an invoice or other billing
38 document has not yet been received, the successor agency may
39 utilize reasonable estimates and projections to support payment
40 amounts for enforceable obligations if the successor agency submits

1 appropriate supporting documentation of the basis for the estimate
2 or projection to the department and the auditor-controller.

3 (C) A Recognized Obligation Payment Schedule may also
4 include appropriation of moneys from bonds subject to passage
5 during the Recognized Obligation Payment Schedule cycle when
6 an enforceable obligation requires the agency to issue the bonds
7 and use the proceeds to pay for project expenditures.

8 (5) *Prior to the rejection of an enforceable obligation from a*
9 *recognized obligation payment schedule for a successor agency*
10 *that has received a finding of completion from the Department of*
11 *Finance under Section 34179.7, the Department of Finance shall*
12 *submit the proposed rejection to the oversight board for review*
13 *and approval, whose determination shall be final and conclusive*
14 *without further review by the Department of Finance.*

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

18 ~~SEC. 3.~~

19 SEC. 5. Section 34177.5 of the Health and Safety Code is
20 amended to read:

21 34177.5. (a) In addition to the powers granted to each
22 successor agency, and notwithstanding anything in the act adding
23 this part, including, but not limited to, Sections 34162 and 34189,
24 a successor agency shall have the authority, rights, and powers of
25 the redevelopment agency to which it succeeded solely for the
26 following purposes:

27 (1) For the purpose of issuing bonds or incurring other
28 indebtedness to refund the bonds or other indebtedness of its former
29 redevelopment agency or of the successor agency to provide
30 savings to the successor agency, provided that (A) the total interest
31 cost to maturity on the refunding bonds or other indebtedness plus
32 the principal amount of the refunding bonds or other indebtedness
33 shall not exceed the total remaining interest cost to maturity on
34 the bonds or other indebtedness to be refunded plus the remaining
35 principal of the bonds or other indebtedness to be refunded, and
36 (B) the principal amount of the refunding bonds or other
37 indebtedness shall not exceed the amount required to defease the
38 refunded bonds or other indebtedness, to establish customary debt
39 service reserves, and to pay related costs of issuance. If the
40 foregoing conditions are satisfied, the initial principal amount of

1 the refunding bonds or other indebtedness may be greater than the
2 outstanding principal amount of the bonds or other indebtedness
3 to be refunded. The successor agency may pledge to the refunding
4 bonds or other indebtedness the revenues pledged to the bonds or
5 other indebtedness being refunded, and that pledge, when made
6 in connection with the issuance of such refunding bonds or other
7 indebtedness, shall have the same lien priority as the pledge of the
8 bonds or other obligations to be refunded, and shall be valid,
9 binding, and enforceable in accordance with its terms.

10 (2) For the purpose of issuing bonds or other indebtedness to
11 finance debt service spikes, including balloon maturities, provided
12 that (A) the existing indebtedness is not accelerated, except to the
13 extent necessary to achieve substantially level debt service, and
14 (B) the principal amount of the bonds or other indebtedness shall
15 not exceed the amount required to finance the debt service spikes,
16 including establishing customary debt service reserves and paying
17 related costs of issuance.

18 (3) For the purpose of amending an existing enforceable
19 obligation under which the successor agency is obligated to
20 reimburse a political subdivision of the state for the payment of
21 debt service on a bond or other obligation of the political
22 subdivision, or to pay all or a portion of the debt service on the
23 bond or other obligation of the political subdivision to provide
24 savings to the successor agency, provided that (A) the enforceable
25 obligation is amended in connection with a refunding of the bonds
26 or other obligations of the political subdivision so that the
27 enforceable obligation will apply to the refunding bonds or other
28 refunding indebtedness of the political subdivision, (B) the total
29 interest cost to maturity on the refunding bonds or other
30 indebtedness plus the principal amount of the refunding bonds or
31 other indebtedness shall not exceed the total remaining interest
32 cost to maturity on the bonds or other indebtedness to be refunded
33 plus the remaining principal of the bonds or other indebtedness to
34 be refunded, and (C) the principal amount of the refunding bonds
35 or other indebtedness shall not exceed the amount required to
36 defease the refunded bonds or other indebtedness, to establish
37 customary debt service reserves and to pay related costs of
38 issuance. The pledge set forth in that amended enforceable
39 obligation, when made in connection with the execution of the
40 amendment of the enforceable obligation, shall have the same lien

1 priority as the pledge in the enforceable obligation prior to its
2 amendment and shall be valid, binding, and enforceable in
3 accordance with its terms.

4 (4) For the purpose of issuing bonds or incurring other
5 indebtedness to make payments under enforceable obligations
6 when the enforceable obligations include the irrevocable pledge
7 of property tax increment, formerly tax increment revenues prior
8 to the effective date of this part, or other funds and the obligation
9 to issue bonds secured by that pledge. The successor agency may
10 pledge to the bonds or other indebtedness the property tax revenues
11 and other funds described in the enforceable obligation, and that
12 pledge, when made in connection with the issuance of the bonds
13 or the incurring of other indebtedness, shall be valid, binding, and
14 enforceable in accordance with its terms. This paragraph shall not
15 be deemed to authorize a successor agency to increase the amount
16 of property tax revenues pledged under an enforceable obligation
17 or to pledge any property tax revenue not already pledged pursuant
18 to an enforceable obligation. This paragraph does not constitute a
19 change in, but is declaratory of, the existing law.

20 (b) The refunding bonds authorized under this section may be
21 issued under the authority of Article 11 (commencing with Section
22 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the
23 Government Code, and the refunding bonds may be sold at public
24 or private sale, or to a joint powers authority pursuant to the
25 Marks-Roos Local Bond Pooling Act (Article 4 (commencing with
26 Section 6584) of Chapter 5 of Division 7 of Title 1 of the
27 Government Code).

28 (c) (1) Prior to incurring any bonds or other indebtedness
29 pursuant to this section, the successor agency may subordinate to
30 the bonds or other indebtedness the amount required to be paid to
31 an affected taxing entity pursuant to paragraph (1) of subdivision
32 (a) of Section 34183, provided that the affected taxing entity has
33 approved the subordinations pursuant to this subdivision.

34 (2) At the time the successor agency requests an affected taxing
35 entity to subordinate the amount to be paid to it, the successor
36 agency shall provide the affected taxing entity with substantial
37 evidence that sufficient funds will be available to pay both the debt
38 service on the bonds or other indebtedness and the payments
39 required by paragraph (1) of subdivision (a) of Section 34183,
40 when due.

1 (3) Within 45 days after receipt of the agency's request, the
2 affected taxing entity shall approve or disapprove the request for
3 subordination. An affected taxing entity may disapprove a request
4 for subordination only if it finds, based upon substantial evidence,
5 that the successor agency will not be able to pay the debt service
6 payments and the amount required to be paid to the affected taxing
7 entity. If the affected taxing entity does not act within 45 days after
8 receipt of the agency's request, the request to subordinate shall be
9 deemed approved and shall be final and conclusive.

10 (d) An action may be brought pursuant to Chapter 9
11 (commencing with Section 860) of Title 10 of Part 2 of the Code
12 of Civil Procedure to determine the validity of bonds or other
13 obligations authorized by this section, the pledge of revenues to
14 those bonds or other obligations authorized by this section, the
15 legality and validity of all proceedings theretofore taken and, as
16 provided in the resolution of the legislative body of the successor
17 agency authorizing the bonds or other obligations authorized by
18 this section, proposed to be taken for the authorization, execution,
19 issuance, sale, and delivery of the bonds or other obligations
20 authorized by this section, and for the payment of debt service on
21 the bonds or the payment of amounts under other obligations
22 authorized by this section. Subdivision (c) of Section 33501 shall
23 not apply to any such action. The Department of Finance shall be
24 notified of the filing of any action as an affected party.

25 (e) Notwithstanding any other law, including, but not limited
26 to, Section 33501, an action to challenge the issuance of bonds,
27 the incurrence of indebtedness, the amendment of an enforceable
28 obligation, or the execution of a financing agreement by a successor
29 agency shall be brought within 30 days after the date on which the
30 oversight board approves the resolution of the successor agency
31 approving the issuance of bonds, the incurrence of indebtedness,
32 the amendment of an enforceable obligation, or the execution of
33 a financing agreement authorized under this section.

34 (f) The actions authorized in this section shall be subject to the
35 approval of the oversight board, as provided in Section 34180.
36 Additionally, an oversight board may direct the successor agency
37 to commence any of the transactions described in subdivision (a)
38 so long as the successor agency is able to recover its related costs
39 in connection with the transaction. After a successor agency, with
40 approval of the oversight board, issues any bonds, incurs any

1 indebtedness, or executes an amended enforceable obligation
2 pursuant to subdivision (a), the oversight board shall not
3 unilaterally approve any amendments to or early termination of
4 the bonds, indebtedness, or enforceable obligation. If, under the
5 authority granted to it by subdivision (h) of Section 34179, the
6 Department of Finance either reviews and approves or fails to
7 request review within five business days of an oversight board
8 approval of an action authorized by this section, the scheduled
9 payments on the bonds or other indebtedness shall be listed in the
10 Recognized Obligation Payment Schedule and shall not be subject
11 to further review and approval by the department or the Controller.
12 The department may extend its review time to 60 days for actions
13 authorized in this section and may seek the assistance of the
14 Treasurer in evaluating proposed actions under this section.

15 (g) Any bonds, indebtedness, or amended enforceable obligation
16 authorized by this section shall be considered indebtedness incurred
17 by the dissolved redevelopment agency, with the same legal effect
18 as if the bonds, indebtedness, financing agreement, or amended
19 enforceable obligation had been issued, incurred, or entered into
20 prior to June 29, 2011, in full conformity with the applicable
21 provisions of the Community Redevelopment Law that existed
22 prior to that date, shall be included in the successor agency's
23 Recognized Obligation Payment Schedule, and shall be secured
24 by a pledge of, and lien on, and shall be repaid from moneys
25 deposited from time to time in the Redevelopment Property Tax
26 Trust Fund established pursuant to subdivision (c) of Section
27 34172, as provided in paragraph (2) of subdivision (a) of Section
28 34183. Property tax revenues pledged to any bonds, indebtedness,
29 or amended enforceable obligations authorized by this section are
30 taxes allocated to the successor agency pursuant to subdivision (b)
31 of Section 33670 and Section 16 of Article XVI of the California
32 Constitution.

33 (h) The successor agency shall make diligent efforts to ensure
34 that the lowest long-term cost financing is obtained. The financing
35 shall not provide for any bullets or spikes and shall not use variable
36 rates. The successor agency shall make use of an independent
37 financial advisor in developing financing proposals and shall make
38 the work products of the financial advisor available to the
39 Department of Finance at its request.

1 (i) ~~(1)~~—If an enforceable obligation provides for an irrevocable
2 commitment of property tax revenue and where allocation of such
3 revenues is expected to occur over time, the successor agency may
4 petition the Department of Finance to provide written confirmation
5 *within 45 days* that its determination of such enforceable obligation
6 as approved in a Recognized Obligation Payment Schedule is final
7 and conclusive, and reflects the department’s approval of
8 subsequent payments made pursuant to the enforceable obligation.
9 If the confirmation is granted, then the department’s review of
10 such payments in future Recognized Obligation Payment Schedules
11 shall be limited to confirming that they are required by the prior
12 enforceable obligation.

13 ~~(2) Prior to removal of an enforceable obligation from a~~
14 ~~recognized obligation payment schedule for a successor agency~~
15 ~~that has received a finding of completion from the Department of~~
16 ~~Finance under Section 34179.7, the action shall be submitted to~~
17 ~~the oversight board for review and approval.~~

18 (j) The successor agency may request that the department
19 provide a written determination to waive the two-year statute of
20 limitations on an action to review the validity of the adoption or
21 amendment of a redevelopment plan pursuant to subdivision (c)
22 of Section 33500 or on any findings or determinations made by
23 the agency pursuant to subdivision (d) of Section 33500. The
24 department at its discretion may provide a waiver if it determines
25 it is necessary for the agency to fulfill an enforceable obligation.

26 *SEC. 6. Section 34178.8 of the Health and Safety Code is*
27 *amended to read:*

28 34178.8. Commencing on the effective date of the act adding
29 this section, the Controller shall review the activities of successor
30 agencies in the state to determine if an asset transfer has occurred
31 after January 31, 2012, between the successor agency and the city,
32 county, or city and county that created a redevelopment agency,
33 or any other public agency, that was not made pursuant to an
34 enforceable obligation on an approved and valid Recognized
35 Obligation Payment Schedule. *The review required by this section*
36 *shall be completed no later than January 1, 2016.* If such an asset
37 transfer did occur, to the extent not prohibited by state and federal
38 law, the Controller shall order the available assets to be returned
39 to the successor agency. Upon receiving that order from the
40 Controller, an affected local agency shall, as soon as practicable,

1 reverse the transfer and return the applicable assets to the successor
2 agency. This section shall not apply to housing assets as defined
3 in subdivision (e) of Section 34176.

4 ~~SEC. 4.~~

5 *SEC. 7.* Section 34180 of the Health and Safety Code is
6 amended to read:

7 34180. All of the following successor agency actions shall first
8 be approved by the oversight board:

9 (a) The establishment of new repayment terms for outstanding
10 loans where the terms have not been specified prior to the date of
11 this part. An oversight board shall not have the authority to
12 reestablish loan agreements between the successor agency and the
13 city, county, or city and county that formed the redevelopment
14 agency except as provided in Chapter 9 (commencing with Section
15 34191.1).

16 (b) The issuance of bonds or other indebtedness or the pledge
17 or agreement for the pledge of property tax revenues (formerly tax
18 increment prior to the effective date of this part) pursuant to
19 subdivision (a) of Section 34177.5.

20 (c) Setting aside of amounts in reserves as required by
21 indentures, trust indentures, or similar documents governing the
22 issuance of outstanding redevelopment agency bonds.

23 (d) Merging of project areas.

24 (e) Continuing the acceptance of federal or state grants, or other
25 forms of financial assistance from either public or private sources,
26 if that assistance is conditioned upon the provision of matching
27 funds, by the successor entity as successor to the former
28 redevelopment agency, in an amount greater than 5 percent.

29 (f) (1) If a city, county, or city and county wishes to retain any
30 properties or other assets for future redevelopment activities,
31 funded from its own funds and under its own auspices, it must
32 reach a compensation agreement with the other taxing entities to
33 provide payments to them in proportion to their shares of the base
34 property tax, as determined pursuant to Section 34188, for the
35 value of the property retained.

36 (2) If no other agreement is reached on valuation of the retained
37 assets, the value will be the fair market value as of the 2011
38 property tax lien date as determined by an independent appraiser
39 approved by the oversight board.

1 (3) This subdivision does not apply to the disposition of
2 properties pursuant to a long-range property management plan.

3 (g) Establishment of the Recognized Obligation Payment
4 Schedule.

5 (h) A request by the successor agency to enter into an agreement
6 with the city, county, or city and county that formed the
7 redevelopment agency that it is succeeding. An oversight board
8 shall not have the authority to reestablish loan agreements between
9 the successor agency and the city, county, or city and county that
10 formed the redevelopment agency except as provided in Chapter
11 9 (commencing with Section 34191.1). Any actions to reestablish
12 any other agreements that are in furtherance of enforceable
13 obligations, with the city, county, or city and county that formed
14 the redevelopment agency are invalid until they are included in an
15 approved and valid Recognized Obligation Payment Schedule.

16 (i) A request by a successor agency or taxing entity to pledge,
17 or to enter into an agreement for the pledge of, property tax
18 revenues pursuant to subdivision (b) of Section 34178.

19 (j) Any document submitted by a successor agency to an
20 oversight board for approval by any provision of this part shall
21 also be submitted to the county administrative officer, the county
22 auditor-controller, and the Department of Finance at the same time
23 that the successor agency submits the document to the oversight
24 board.

25 ~~SEC. 5.~~

26 *SEC. 8.* Section 34191.3 of the Health and Safety Code is
27 amended to read:

28 34191.3. Notwithstanding Section 34191.1, the requirements
29 specified in subdivision (e) of Section 34177 and subdivision (a)
30 of Section 34181 shall be suspended, except as those provisions
31 apply to the transfers for governmental use, until the Department
32 of Finance has approved a long-range property management plan
33 pursuant to subdivision (b) of Section 34191.5, at which point the
34 plan shall govern, and supersede all other provisions relating to,
35 the disposition and use of the real property assets of the former
36 redevelopment agency, including, but not limited to, subdivision
37 (f) of Section 34180.

38 ~~SEC. 6.~~

39 *SEC. 9.* Section 34191.4 of the Health and Safety Code is
40 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 34191.5 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 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 obligation payment schedules shall be subject to all of the following
29 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, provided,
39 however, that calculation of the amount distributed to taxing
40 entities during the 2012–13 base year shall not include any amounts

1 distributed to taxing entities pursuant to the due diligence review
2 process established in Sections 34179.5 to 34179.8, inclusive.
3 Loan or deferral repayments made pursuant to this subdivision
4 shall be second in priority to amounts to be repaid pursuant to
5 paragraph (7) of subdivision (e) of Section 34176.

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

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

20 (c) (1) Bond proceeds derived from bonds issued on or before
21 December 31, 2010, shall be used for the purposes for which the
22 bonds were sold. *Bond proceeds derived from bonds issued during*
23 *the year 2011 may be used for the purposes for which the bonds*
24 *were issued upon approval of the oversight board, if the oversight*
25 *board, in consultation with the appropriate metropolitan planning*
26 *organization, determines that the use of the bond proceeds is*
27 *consistent with the sustainable communities strategy adopted by*
28 *the metropolitan planning organization in accordance with Section*
29 *65080 of the Government Code.*

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

1 shall be listed separately on the Recognized Obligation Payment
2 Schedule submitted by the successor agency.

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

7 ~~(d) Notwithstanding subdivision (b) of Section 34163, if a~~
8 ~~successor agency has received a finding of completion, In addition~~
9 ~~to any other authority granted by this part, the successor agency~~
10 ~~may enter into, or amend existing, contracts and agreements, or~~
11 ~~otherwise administer projects in connection with enforceable~~
12 ~~obligations approved pursuant to subdivision (m) of Section 34177,~~
13 ~~including the substitution of private developer capital in a~~
14 ~~disposition and development agreement that has been deemed an~~
15 ~~enforceable obligation, if the contract, agreement, or project will~~
16 ~~not commit new property tax funds, and will not otherwise reduce~~
17 ~~property tax revenues or payments made pursuant to paragraph~~
18 ~~(4) of subdivision (a) of Section 34183 to the taxing agencies.~~

19 ~~SEC. 7.~~

20 *SEC. 10.* Section 34191.5 of the Health and Safety Code is
21 amended to read:

22 34191.5. (a) There is hereby established a Community
23 Redevelopment Property Trust Fund, administered by the successor
24 agency, to serve as the repository of the former redevelopment
25 agency's real properties identified in subparagraph (C) of paragraph
26 (5) of subdivision (c) of Section 34179.5.

27 (b) The successor agency shall prepare a long-range property
28 management plan that addresses the disposition and use of the real
29 properties of the former redevelopment agency. The report shall
30 be submitted to the oversight board and the Department of Finance
31 for approval no later than six months following the issuance to the
32 successor agency of the finding of completion.

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

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

37 (A) The date of the acquisition of the property and the value of
38 the property at that time, and an estimate of the current value of
39 the property.

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

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

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

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

9 (F) The history of environmental contamination, including
10 designation as a brownfield site, any related environmental studies,
11 and history of any remediation efforts.

12 (G) A description of the property’s potential for transit-oriented
13 development and the advancement of the planning objectives of
14 the successor agency.

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

17 (2) Address the use or disposition of all of the properties in the
18 trust. Permissible uses include the retention of the property for
19 governmental use pursuant to subdivision (a) of Section 34181,
20 the retention of the property for future development, the sale of
21 the property, or the use of the property to fulfill an enforceable
22 obligation. The plan shall separately identify and list properties in
23 the trust dedicated to governmental use purposes and properties
24 retained for purposes of fulfilling an enforceable obligation. With
25 respect to the use or disposition of all other properties, all of the
26 following shall apply:

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

30 (ii) For purposes of this subparagraph, the term “identified in
31 an approved redevelopment plan” includes properties listed in a
32 community plan or a five-year implementation plan.

33 (B) If the plan directs the liquidation of the property or the use
34 of revenues generated from the property, such as lease or parking
35 revenues, for any purpose other than to fulfill an enforceable
36 obligation or other than that specified in subparagraph (A), the
37 proceeds from the sale shall be distributed as property tax to the
38 taxing entities.

39 (C) Property shall not be transferred to a successor agency, city,
40 county, or city and county, unless the long-range property

1 management plan has been approved by the oversight board and
2 the Department of Finance.

3 (d) The department shall not require a compensation agreement
4 or agreements *as described in subdivision (f) of Section 34180* as
5 part of the approval of a long-range property management plan.

6 (e) The department shall only consider whether the long-range
7 property management plan makes a good faith effort to address
8 the requirements set forth in subdivision (c).

9 (f) The department shall approve long-range property
10 management plans as expeditiously as possible.

11 (g) *Actions relating to the disposition of property after approval*
12 *of a long-range property management plan shall not require review*
13 *by the department.*

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