

AMENDED IN SENATE APRIL 23, 2014

AMENDED IN SENATE APRIL 7, 2014

SENATE BILL

No. 1404

Introduced by Senator Leno

February 21, 2014

An act to amend ~~Section~~ *Sections 33333.7 and 34180* of the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1404, as amended, Leno. San Francisco redevelopment: successor agencies: housing.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined. Existing law dissolved redevelopment agencies as of February 1, 2012, and provides for the designation of successor agencies that are required to wind down the affairs of the dissolved redevelopment agencies and to, among other things, make payments due for enforceable obligations. Existing law provides that the city, county, or city and county that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency. Existing law requires the entity assuming the housing functions of the former redevelopment agency to perform various functions.

Existing law authorized the former Redevelopment Agency of the City and County of San Francisco, subject to the approval of the board of supervisors of that city and county, to incur indebtedness exclusively for specified Low and Moderate Income Housing Fund activities until January 1, 2014, or until the agency replaced all of the housing units demolished prior to the enactment of the replacement housing

obligations, and to receive tax increment revenues to repay indebtedness incurred for those activities until no later than January 1, 2044, as specified.

This bill would state findings and declarations relating to the obligation of the successor agency to the former Redevelopment Agency of the City and County of San Francisco to replace specified affordable housing units, *and the necessity of a special statute*.

This bill would instead authorize the successor agency of the City and County of San Francisco, subject to the approval of the oversight board of the City and County of San Francisco, to continue to receive property tax increment from specified redevelopment project areas, and to incur indebtedness pursuant to specified amended redevelopment plans, to fulfill the obligation to replace specified affordable housing units.

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
 2 following:

3 (a) Under the authority granted by the Legislature in Senate Bill
 4 No. 2113 (Chapter 661 of the Statutes of 2000), the former
 5 Redevelopment Agency of the City and County of San Francisco
 6 sought, prior to its dissolution, to redress the demolition of a
 7 substantial number of residential dwelling units affordable to very
 8 low, low-, and moderate-income households during the agency’s
 9 earlier urban renewal efforts. In 2003, the California Department
 10 of Housing and Community Development determined that the
 11 former Redevelopment Agency must replace a net loss of 6,709
 12 affordable units.

13 (b) Prior to its dissolution, the Redevelopment Agency of the
 14 City and County of San Francisco sought and received state and
 15 local authorization to assume the replacement housing obligations
 16 acknowledged in Senate Bill No. 2113 (Chapter 661 of the Statutes
 17 of 2000). Between 2005 and 2009, the Board of Supervisors of
 18 the City and County of San Francisco amended six redevelopment
 19 plans to extend the time for the receipt and expenditure of tax
 20 increment for the sole purpose of funding the replacement housing
 21 obligations. San Francisco Ordinance No. 256-09 (December 18,

1 2009), amending Yerba Buena Center Redevelopment Plan, San
2 Francisco Ordinance No. 316-08 (December 19, 2008), amending
3 Western Addition A-2 Redevelopment Plan, San Francisco
4 Ordinance No. 115-07 (May 18, 2007), amending Rincon
5 Point-South Beach Redevelopment Plan, and San Francisco
6 Ordinance No. 15-05 (January 21, 2005), amending the
7 Embarcadero-Lower Market (Golden Gateway) Redevelopment
8 Plan, the Hunters Point Redevelopment Plan, and the India Basin
9 Redevelopment Plan. Under these redevelopment plan
10 amendments, the Redevelopment Agency was able to finance the
11 construction of 867 affordable units.

12 (c) It is the intent of the Legislature to confirm that the
13 replacement of the remaining 5842 units that the former
14 Redevelopment Agency of the City and County of San Francisco
15 destroyed and did not replace is a statutory obligation that ~~agencies~~
16 remains under Assembly Bill No. 26 (Chapter 5 of the First
17 Extraordinary Session of the Statutes of 2011), as amended by
18 Assembly Bill No. 1484 (Chapter 26 of the Statutes of 2012).
19 Furthermore, the Legislature finds that the ability of the Successor
20 Agency to the Redevelopment Agency of the City and County of
21 San Francisco to fulfill this replacement housing obligation is
22 dependent on its ability to incur indebtedness for the purpose of
23 financing the remaining unbuilt units.

24 (d) Authorizing the Successor Agency to the Redevelopment
25 Agency of the City and County of San Francisco to continue to
26 receive property tax revenues under the formulas of Senate Bill
27 No. 2113, which ensure that school entities receive their full share
28 of property tax revenues as if the redevelopment plans had expired,
29 will not have a fiscal impact on the state.

30 (e) San Francisco's housing situation is unique, in that median
31 rents and sales prices are among the highest in the state even though
32 it exceeded the housing production goals of the Community
33 Redevelopment Law and used local funds beyond redevelopment
34 funding to assist affordable housing development. Nonetheless,
35 San Francisco's early redevelopment activities, including the
36 removal of previously existing dwelling units serving a lower
37 income population, have compounded the effects of the private
38 market that have led to the city's current affordable housing crisis.
39 *Because of the unique circumstances relating to the replacement*
40 *of affordable housing demolished by the former Redevelopment*

1 *Agency of the City and County of San Francisco, a special law is*
2 *necessary and a general law cannot be made applicable within*
3 *the meaning of Section 16 of Article IV of the California*
4 *Constitution.*

5 (f) After dissolution of the redevelopment agency, the oversight
6 board for the City and County of San Francisco acknowledged the
7 unfulfilled replacement housing obligations of the redevelopment
8 agency and approved the successor agency's expenditures of funds
9 to fulfill those obligations (see Oversight Board Resolution
10 No. 5-2012 at pp. 5-6 (April 10, 2012)). Subsequently, the
11 oversight board approved expenditures for the replacement housing
12 obligations on each of the recognized obligation payment schedules
13 required under Redevelopment Dissolution Law and submitted to
14 the Department of Finance.

15 SEC. 2. Section 33333.7 of the Health and Safety Code is
16 amended to read:

17 33333.7. (a) The successor agency to the Redevelopment
18 Agency of the City and County of San Francisco may, subject to
19 the approval of the oversight board of the City and County of San
20 Francisco, replace all of the housing units demolished prior to the
21 enactment of the replacement housing obligations in Chapter 970
22 of the Statutes of 1975 and further described in Section 3333.7 of
23 the Health and Safety Code, as added by Chapter 661 of the
24 Statutes of 2000. The successor agency shall not use more than
25 six redevelopment project areas under redevelopment plans that
26 were amended for this purpose prior to enactment of the law
27 dissolving redevelopment agencies, and that may be merged,
28 subject to approval by the oversight board pursuant to subdivision
29 (d) of Section 34180, to fulfill these replacement housing
30 obligations.

31 (b) In addition to the powers granted to each successor agency,
32 and notwithstanding anything in Part 1.8 (commencing with
33 Section 34161) and Part 1.85 (commencing with Section 34170),
34 including, but not limited to, Sections 34162 and 34189, the
35 successor agency to the former redevelopment agency of the City
36 and County of San Francisco shall have the authority, rights, and
37 powers of the Redevelopment Agency of the City and County of
38 San Francisco, subject to the approval of the Oversight Board of
39 the City and County of San Francisco, and may incur indebtedness,
40 backed by property tax revenues from the six project areas

1 referenced in subdivision (a) exclusively for the purpose of
2 fulfilling the replacement housing obligations, provided, however,
3 that the standards for issuance of bonds specified in subdivisions
4 (c) to (h), inclusive, of Section 34177.5, as that section read on
5 December 31, 2014, shall apply to the sale of those bonds *and*
6 *shall include review and approval by the oversight board and the*
7 *Department of Finance under subdivision (b) of Section 34180*
8 *and subdivision (h) of Section 34179, respectively.* Bonds issued
9 pursuant to this subdivision may be sold pursuant to either a
10 negotiated or competitive sale. Any time limit on incurring debt
11 or receiving property tax revenues to repay that debt, pursuant to
12 this subdivision, shall not apply until the successor agency replaces
13 all of the units demolished prior to the enactment of the
14 replacement housing obligations in Chapter 970 of the Statutes of
15 1975. The successor agency may issue new bonds or other
16 obligations on a parity basis with outstanding bonds or other
17 obligations of the successor agency relating to the six project areas
18 referenced in subdivision (a), and may pledge the revenues pledged
19 to those outstanding bonds or other obligations to a new issuance
20 of bonds or other obligation, and that pledge, when made in
21 connection with the issuance of those bonds or other obligations
22 shall have the same lien priority as the pledge of outstanding bonds
23 or other obligations, and shall be valid, binding, and enforceable
24 in accordance with its terms.

25 (c) Annual revenues authorized under this section shall not
26 exceed the amount necessary to fund the activities of the successor
27 agency in fulfilling these replacement housing obligations. The
28 agency shall neither collect nor spend more than 10 percent for
29 the planning and administrative costs authorized pursuant to
30 subdivision (e) of Section 33334.3. ~~Revenues received under this~~
31 ~~subdivision shall not exceed the amount of tax increment received~~
32 ~~and allocated to the agency pursuant to the amended redevelopment~~
33 ~~plans, less the amount necessary to pay prior outstanding~~
34 ~~indebtedness, and less the amount of the project area's property~~
35 ~~tax revenue that school entities are entitled to receive pursuant to~~
36 ~~Chapter 3 (commencing with Section 75) and Chapter 6~~
37 ~~(commencing with Section 95) of Part 0.5 of Division 1 of the~~
38 ~~Revenue and Taxation Code if the plan had not been amended.~~
39 ~~Additionally, revenues collected under this paragraph are subject~~
40 ~~to the payments to affected taxing entities pursuant to Section~~

1 ~~33607~~. *Property tax revenues allocated to the successor agency*
 2 *pursuant to this section shall be distributed from the funds that*
 3 *are available for distribution to nonschool entities from the*
 4 *Redevelopment Property Tax Trust Fund, created pursuant to*
 5 *Section 34170.5, after all preexisting legal commitments and*
 6 *statutory obligations funded from that revenue, excluding*
 7 *replacement housing obligations described in this section, are*
 8 *made pursuant to Part 1.85 (commencing with Section 34170) of*
 9 *Division 24. Property tax revenues allocated to the successor*
 10 *agency pursuant to this section shall not include any moneys that,*
 11 *notwithstanding the replacement housing obligations described*
 12 *in this section, are payable to a school district that maintains*
 13 *kindergarten and grades 1 to 12, inclusive, community college*
 14 *districts, or to the Educational Revenue Augmentation Fund,*
 15 *pursuant to paragraph (4) of subdivision (a) of Section 34183.*

16 (d) The activities conducted with revenues received under this
 17 ~~paragraph~~ section shall be consistent with the affordable housing
 18 requirements of this part and the policies and objectives of the
 19 community’s housing element, and shall address the unmet housing
 20 needs of very low, low- and moderate-income households. The
 21 activities shall also be consistent with the community’s most
 22 recently approved consolidated and annual action plans submitted
 23 to the United States Department of Housing and Urban
 24 Development. No less than 50 percent of the revenues received
 25 shall be devoted to assisting in the development of housing that is
 26 affordable to very low income households.

27 *SEC. 3. Section 34180 of the Health and Safety Code is*
 28 *amended to read:*

29 34180. All of the following successor agency actions shall first
 30 be approved by the oversight board:

31 (a) The establishment of new repayment terms for outstanding
 32 loans where the terms have not been specified prior to the date of
 33 this part. An oversight board shall not have the authority to
 34 reestablish loan agreements between the successor agency and the
 35 city, county, or city and county that formed the redevelopment
 36 agency except as provided in Chapter 9 (commencing with Section
 37 34191.1).

38 (b) The issuance of bonds or other indebtedness or the pledge
 39 or agreement for the pledge of property tax revenues (formerly tax

1 increment prior to the effective date of this part) pursuant to *Section*
2 *33333.7 and* subdivision (a) of Section 34177.5.

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

6 (d) Merging of project areas.

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

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

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

23 (g) Establishment of the Recognized Obligation Payment
24 Schedule.

25 (h) A request by the successor agency to enter into an agreement
26 with the city, county, or city and county that formed the
27 redevelopment agency that it is succeeding. An oversight board
28 shall not have the authority to reestablish loan agreements between
29 the successor agency and the city, county, or city and county that
30 formed the redevelopment agency except as provided in Chapter
31 9 (commencing with Section 34191.1). Any actions to reestablish
32 any other agreements that are in furtherance of enforceable
33 obligations, with the city, county, or city and county that formed
34 the redevelopment agency are invalid until they are included in an
35 approved and valid Recognized Obligation Payment Schedule.

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

39 (j) Any document submitted by a successor agency to an
40 oversight board for approval by any provision of this part shall

- 1 also be submitted to the county administrative officer, the county
- 2 auditor-controller, and the Department of Finance at the same time
- 3 that the successor agency submits the document to the oversight
- 4 board.