

AMENDED IN SENATE MAY 6, 2014
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 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

1 increment for the sole purpose of funding the replacement housing
2 obligations. San Francisco Ordinance No. 256-09 (December 18,
3 2009), amending Yerba Buena Center Redevelopment Plan, San
4 Francisco Ordinance No. 316-08 (December 19, 2008), amending
5 Western Addition A-2 Redevelopment Plan, San Francisco
6 Ordinance No. 115-07 (May 18, 2007), amending Rincon
7 Point-South Beach Redevelopment Plan, and San Francisco
8 Ordinance No. 15-05 (January 21, 2005), amending the
9 Embarcadero-Lower Market (Golden Gateway) Redevelopment
10 Plan, the Hunters Point Redevelopment Plan, and the India Basin
11 Redevelopment Plan. Under these redevelopment plan
12 amendments, the Redevelopment Agency was able to finance the
13 construction of 867 affordable units.

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

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

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

1 Because of the unique circumstances relating to the replacement
2 of affordable housing demolished by the former Redevelopment
3 Agency of the City and County of San Francisco, a special law is
4 necessary and a general law cannot be made applicable within the
5 meaning of Section 16 of Article IV of the California Constitution.

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

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

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

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

1 indebtedness, backed by property tax revenues from the six project
2 areas referenced in subdivision (a) exclusively for the purpose of
3 fulfilling the replacement housing obligations, provided, however,
4 ~~that the obligations.~~ *The standards for issuance of bonds specified*
5 *in subdivisions (c) to (h), inclusive, of Section 34177.5, as that*
6 *section read on December 31, 2014, shall apply to the sale of those*
7 *bonds and shall include review and approval by the oversight board*
8 *and the Department of Finance under subdivision (b) of Section*
9 *34180 and subdivision (h) of Section 34179, respectively. The*
10 *successor agency, in seeking approval for issuance of bonds by*
11 *the oversight board and the Department of Finance, shall report*
12 *on the number of replacement units that it has funded and*
13 *completed since enactment of Chapter 661 of the Statutes of 2000.*
14 Bonds issued pursuant to this subdivision may be sold pursuant
15 to either a negotiated or competitive sale. Any time limit on
16 incurring debt or receiving property tax revenues to repay that
17 debt, pursuant to this subdivision, shall not apply until the successor
18 agency replaces all of the units demolished prior to the enactment
19 of the replacement housing obligations in Chapter 970 of the
20 Statutes of 1975. The successor agency may issue new bonds or
21 other obligations on a parity basis with outstanding bonds or other
22 obligations of the successor agency relating to the six project areas
23 referenced in subdivision ~~(a)~~, (a) and may pledge the revenues
24 pledged to those outstanding bonds or other obligations to a new
25 issuance of bonds or other obligation, and that pledge, when made
26 in connection with the issuance of those bonds or other obligations
27 shall have the same lien priority as the pledge of outstanding bonds
28 or other obligations, and shall be valid, binding, and enforceable
29 in accordance with its terms.

30 (c) Annual revenues authorized under this section shall not
31 exceed the amount necessary to fund the activities of the successor
32 agency in fulfilling these replacement housing obligations. The
33 agency shall neither collect nor spend more than 10 percent for
34 the planning and administrative costs authorized pursuant to
35 subdivision (e) of Section 33334.3. Property tax revenues allocated
36 to the successor agency pursuant to this section shall be distributed
37 from the funds that are available for distribution to nonschool
38 entities from the Redevelopment Property Tax Trust Fund, created
39 pursuant to Section 34170.5, after all preexisting legal
40 commitments and statutory obligations funded from that revenue,

1 excluding replacement housing obligations described in this
 2 section, are made pursuant to Part 1.85 (commencing with Section
 3 34170) of Division 24. Property tax revenues allocated to the
 4 successor agency pursuant to this section shall not include any
 5 moneys that, notwithstanding the replacement housing obligations
 6 described in this section, are payable to a school district that
 7 maintains kindergarten and grades 1 to 12, inclusive, community
 8 college districts, or to the Educational Revenue Augmentation
 9 Fund, pursuant to paragraph (4) of subdivision (a) of Section
 10 34183.

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

22 SEC. 3. Section 34180 of the Health and Safety Code is
 23 amended to read:

24 34180. All of the following successor agency actions shall first
 25 be approved by the oversight board:

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

33 (b) The issuance of bonds or other indebtedness or the pledge
 34 or agreement for the pledge of property tax revenues (formerly tax
 35 increment prior to the effective date of this part) pursuant to Section
 36 33333.7 and subdivision (a) of Section 34177.5.

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

40 (d) Merging of project areas.

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

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

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

17 (g) Establishment of the Recognized Obligation Payment
18 Schedule.

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

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

33 (j) Any document submitted by a successor agency to an
34 oversight board for approval by any provision of this part shall
35 also be submitted to the county administrative officer, the county
36 auditor-controller, and the Department of Finance at the same time
37 that the successor agency submits the document to the oversight
38 board.

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