

AMENDED IN ASSEMBLY JUNE 12, 2014

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.

This bill would incorporate additional changes to Section 34180 of the Health and Safety Code proposed by SB 1129 that would become operative if this bill and SB 1129 are both enacted and this bill is enacted last.

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

1 local authorization to assume the replacement housing obligations
2 acknowledged in Senate Bill No. 2113 (Chapter 661 of the Statutes
3 of 2000). Between 2005 and 2009, the Board of Supervisors of
4 the City and County of San Francisco amended six redevelopment
5 plans to extend the time for the receipt and expenditure of tax
6 increment for the sole purpose of funding the replacement housing
7 obligations. San Francisco Ordinance No. 256-09 (December 18,
8 2009), amending Yerba Buena Center Redevelopment Plan, San
9 Francisco Ordinance No. 316-08 (December 19, 2008), amending
10 Western Addition A-2 Redevelopment Plan, San Francisco
11 Ordinance No. 115-07 (May 18, 2007), amending Rincon
12 Point-South Beach Redevelopment Plan, and San Francisco
13 Ordinance No. 15-05 (January 21, 2005), amending the
14 Embarcadero-Lower Market (Golden Gateway) Redevelopment
15 Plan, the Hunters Point Redevelopment Plan, and the India Basin
16 Redevelopment Plan. Under these redevelopment plan
17 amendments, the Redevelopment Agency was able to finance the
18 construction of 867 affordable units.

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

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

37 (e) San Francisco's housing situation is unique, in that median
38 rents and sales prices are among the highest in the state even though
39 it exceeded the housing production goals of the Community
40 Redevelopment Law and used local funds beyond redevelopment

1 funding to assist affordable housing development. Nonetheless,
2 San Francisco's early redevelopment activities, including the
3 removal of previously existing dwelling units serving a lower
4 income population, have compounded the effects of the private
5 market that have led to the city's current affordable housing crisis.
6 Because of the unique circumstances relating to the replacement
7 of affordable housing demolished by the former Redevelopment
8 Agency of the City and County of San Francisco, a special law is
9 necessary and a general law cannot be made applicable within the
10 meaning of Section 16 of Article IV of the California Constitution.

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

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

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

37 (b) In addition to the powers granted to each successor agency,
38 and notwithstanding anything in Part 1.8 (commencing with
39 Section 34161) and Part 1.85 (commencing with Section 34170),
40 including, but not limited to, Sections 34162 and 34189, the

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

33 (c) Annual revenues authorized under this section shall not
34 exceed the amount necessary to fund the activities of the successor
35 agency in fulfilling these replacement housing obligations. The
36 agency shall neither collect nor spend more than 10 percent for
37 the planning and administrative costs authorized pursuant to
38 subdivision (e) of Section 33334.3. Property tax revenues allocated
39 to the successor agency pursuant to this section shall be distributed
40 from the funds that are *otherwise* available for distribution to

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

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

5 *SEC. 3.5. 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 *Section*
19 *33333.7 and* 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. 4. Section 3.5 of this bill incorporates amendments to*
26 *Section 34180 of the Health and Safety Code proposed by both*
27 *this bill and Senate Bill 1129. It shall only become operative if (1)*
28 *both bills are enacted and become effective on or before January*
29 *1, 2015, (2) each bill amends Section 34180 of the Health and*
30 *Safety Code, and (3) this bill is enacted after Senate Bill 1129, in*
31 *which case Section 3 of this bill shall not become operative.*