

Senate Bill No. 1404

Passed the Senate August 29, 2014

Secretary of the Senate

Passed the Assembly August 19, 2014

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1404, 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.

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

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

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

(b) Prior to its dissolution, the Redevelopment Agency of the City and County of San Francisco sought and received state and local authorization to assume the replacement housing obligations acknowledged in Senate Bill No. 2113 (Chapter 661 of the Statutes of 2000). Between 2005 and 2009, the Board of Supervisors of the City and County of San Francisco amended six redevelopment plans to extend the time for the receipt and expenditure of tax increment for the sole purpose of funding the replacement housing obligations. San Francisco Ordinance No. 256-09 (December 18, 2009), amending Yerba Buena Center Redevelopment Plan, San Francisco Ordinance No. 316-08 (December 19, 2008), amending Western Addition A-2 Redevelopment Plan, San Francisco Ordinance No. 115-07 (May 18, 2007), amending Rincon Point-South Beach Redevelopment Plan, and San Francisco Ordinance No. 15-05 (January 21, 2005), amending the Embarcadero-Lower Market (Golden Gateway) Redevelopment Plan, the Hunters Point Redevelopment Plan, and the India Basin

Redevelopment Plan. Under these redevelopment plan amendments, the Redevelopment Agency was able to finance the construction of 867 affordable units.

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

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

(e) San Francisco's housing situation is unique, in that median rents and sales prices are among the highest in the state even though it exceeded the housing production goals of the Community Redevelopment Law and used local funds beyond redevelopment funding to assist affordable housing development. Nonetheless, San Francisco's early redevelopment activities, including the removal of previously existing dwelling units serving a lower income population, have compounded the effects of the private market that have led to the city's current affordable housing crisis. Because of the unique circumstances relating to the replacement of affordable housing demolished by the former Redevelopment Agency of the City and County of San Francisco, a special law is necessary and a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

(f) After dissolution of the redevelopment agency, the oversight board for the City and County of San Francisco acknowledged the unfulfilled replacement housing obligations of the redevelopment agency and approved the successor agency's expenditures of funds to fulfill those obligations (see Oversight Board Resolution

No. 5-2012 at pp. 5-6 (April 10, 2012)). Subsequently, the oversight board approved expenditures for the replacement housing obligations on each of the recognized obligation payment schedules required under Redevelopment Dissolution Law and submitted to the Department of Finance.

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

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

(b) In addition to the powers granted to each successor agency, and notwithstanding anything in Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170), including, but not limited to, Sections 34162 and 34189, the successor agency to the former redevelopment agency of the City and County of San Francisco shall have the authority, rights, and powers of the Redevelopment Agency of the City and County of San Francisco to incur indebtedness, backed by property tax revenues from the six project areas referenced in subdivision (a) exclusively for the purpose of fulfilling the replacement housing obligations. The standards for issuance of bonds specified in subdivisions (c) to (h), inclusive, of Section 34177.5, as that section read on December 31, 2014, shall apply to the sale of those bonds and shall include review and approval by the oversight board and the Department of Finance under subdivision (b) of Section 34180 and subdivision (h) of Section 34179, respectively. The successor agency, in seeking approval for issuance of bonds by the oversight board and the Department of Finance, shall report on the number of replacement units that it has funded and completed since

enactment of Chapter 661 of the Statutes of 2000. Bonds issued pursuant to this subdivision may be sold pursuant to either a negotiated or competitive sale. Any time limit on incurring debt or receiving property tax revenues to repay that debt, pursuant to this subdivision, shall not apply until the successor agency replaces all of the units demolished prior to the enactment of the replacement housing obligations in Chapter 970 of the Statutes of 1975. The successor agency may issue new bonds or other obligations on a parity basis with outstanding bonds or other obligations of the successor agency relating to the six project areas referenced in subdivision (a) and may pledge the revenues pledged to those outstanding bonds or other obligations to a new issuance of bonds or other obligation, and that pledge, when made in connection with the issuance of those bonds or other obligations shall have the same lien priority as the pledge of outstanding bonds or other obligations, and shall be valid, binding, and enforceable in accordance with its terms.

(c) Annual revenues authorized under this section shall not exceed the amount necessary to fund the activities of the successor agency in fulfilling these replacement housing obligations. The agency shall neither collect nor spend more than 10 percent for the planning and administrative costs authorized pursuant to subdivision (e) of Section 33334.3. Property tax revenues allocated to the successor agency pursuant to this section shall be distributed from the funds that are otherwise available for distribution to the City and County of San Francisco, as a taxing entity, from the Redevelopment Property Tax Trust Fund, created pursuant to Section 34170.5, after all preexisting legal commitments and statutory obligations funded from that revenue, excluding replacement housing obligations described in this section, are made pursuant to Part 1.85 (commencing with Section 34170) of Division 24. Property tax revenues allocated to the successor agency pursuant to this section shall not include any moneys that, notwithstanding the replacement housing obligations described in this section, are payable to local agencies other than the City and County of San Francisco, a school district that maintains kindergarten and grades 1 to 12, inclusive, community college districts, or to the Educational Revenue Augmentation Fund, pursuant to paragraph (4) of subdivision (a) of Section 34183.

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

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

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

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

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

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

(d) Merging of project areas.

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

(f) (1) If a city, county, or city and county wishes to retain any properties or other assets for future redevelopment activities, funded from its own funds and under its own auspices, it must reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base

property tax, as determined pursuant to Section 34188, for the value of the property retained.

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

(g) Establishment of the Recognized Obligation Payment Schedule.

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

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

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

SEC. 3.5. Section 34180 of the Health and Safety Code is amended to read:

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

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

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

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

(d) Merging of project areas.

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

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

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

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

(g) Establishment of the Recognized Obligation Payment Schedule.

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

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

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

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

Approved _____, 2014

Governor