

Appendix C

THE EFFECT OF RDA DISSOLUTION AND RESTRICTIONS

Effective February 1, 2012, all redevelopment agencies and redevelopment agency components of community development agencies will be dissolved [H&S §34172(a)(1)] and no longer exist as a public body, corporate or politic. Authority to transact business or exercise powers previously granted under the Community Redevelopment Law (Part 1, commencing with H&S §33000) is withdrawn from former RDAs [H&S §31472(b)]. Examples of authority withdrawn from community redevelopment agencies includes, incurring new indebtedness or expanding existing monetary or legal obligations, amending agreements, entering into contracts (for complete restrictions see H&S §34161 through 34165).

Any actions taken by the RDA that conflict with the referenced above are considered void.

No legislative body or local government shall have the statutory authority to create or otherwise establish a new redevelopment agency or community development commission [H&S §34166]. The Supreme Court invalidated the bill's provision allowing that a community in which an agency has been dissolved may create a new agency once the successor entity has paid off all the former agency's enforceable obligations [H&S §34172(a)(2)].

Despite this dissolution, community development commissions retain their authority to act in its capacity as a housing authority. Community development commissions derive their authority solely from federal or local laws, or from state laws other than the Community Redevelopment Law [H&S §34172 (a)].

The city, county, or city and county that authorized the creation of a RDA may elect to retain the housing assets and functions, rights, powers, duties, and obligations, excluding any amounts on deposit in the Low and Moderate Income Housing Fund which shall be transferred to the city, county, or city and county [H&S §34176(a)].

If no one elects to retain the responsibility for performing housing functions, all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the agency, (excluding any amounts in the Low and Moderate Income Housing Fund), shall be transferred as follows:

“Where there is one local housing authority in the territorial jurisdiction of the former redevelopment agency, the housing functions shall be transferred to that local housing authority. “

Regarding enforceable obligations, such enforcement can be made by mail or electronically. Internet website of the schedule and schedule amendments is sufficient to meet this requirement.

The Enforceable Obligation Payment Schedule must include the following information for each obligation (The Redevelopment Dissolution Act AB1X 26):

“Where there is no local housing authority in the territorial jurisdiction of the former redevelopment agency, transfer shall be made to the Department of Housing and Community Development. “

“Where there is more than one local housing authority in the territorial jurisdiction of the former redevelopment agency, transfer shall be made to the local housing authority selected by the city, county, or city and county that authorized the creation of the redevelopment agency. “

Regarding RDA responsibilities, the State developed further policies and procedures for dissolution. Until a Successor Agency is authorized, RDAs are required to make all scheduled payments for enforceable obligations (defined in H&S §34167(d)) and to perform all required activities related to continuing disclosures and the preservation of tax-exempt status of interest payable on outstanding bonds. For complete responsibilities, see H&S §34169 (a) through (h).

Furthermore, the revenue and assets of RDAs that are not needed to pay for enforceable obligations of the RDA are to be preserved for use by local governments to fund meeting by August 29, 2011 (within 60 days of effective date) [H&S §34169(g)(1)]. In addition, the local governments are required to post the schedule on the agency or its sponsoring community's website. The schedule may be amended at any public meeting of the agency and amendments must be posted on the agency's website at least three (3) days prior to making a payment pursuant to such amendments. Core government services, such as police, fire and schools must be maintained [H&S §34167(a)].

Perhaps most importantly, RDAs must also adopt an Enforceable Obligation Payment Schedule at a public meeting.

In addition, the RDA is also required to transmit the Enforceable Obligation Payment Schedule to the County Auditor-Controller, the State Controller, and the Department of Finance.

The following information must be transmitted by the RDA to the County Auditor-Controller, the State Controller, and the Department of Finance:

- The project name associated with the obligation
- The payee

- A short description of the nature of the work, product, service, facility, or other thing of value for which payment is to be made
- The amount of payments to be made, by month, through December 2012

RDAs are also required to prepare a preliminary draft of the initial ROPS and provide it to their Successor Agency by January 30, 2012.

Successor Agencies must continue to make payments due for enforceable obligations of the former RDA, per the Redevelopment Dissolution Act (AB1X 26)

Successor Agencies were also defined by the State following the Supreme Court's decision.

The Successor Agency will be the Sponsoring Community of the RDA unless it elects not to serve in that capacity. In that case, pursuant to H&S §34173 the Successor Agency will be the first taxing entity submitting to the County Auditor-Controller a duly adopted resolution electing to become the Successor Agency. For special rules applied to successor agencies for RDAs in the form of a Joint Powers Authority (JPA) see H&S §34173.

Successor Agencies to the former redevelopment agencies are granted authority, rights, powers, duties and obligations previously vested with the former redevelopment agencies, under the Community Redevelopment Law that remains in existence [H&S §34173 (a and b)].

All assets, properties, contracts, leases, books and records, buildings, and equipment of the former RDA are transferred on February 1, 2012, to the control of the Successor Agency [H&S 34175(b)]. Successor Agency's liability is limited to the extent of the total sum of property tax revenues it receives and the value of assets transferred to it [H&S 34173(e)].

Pledges of revenues associated with enforceable obligations of the former redevelopment agencies are to be honored. The cessation of any RDA shall not affect either the pledge, the legal existence of that pledge, or the stream of revenues available to meet the requirements of the pledge [H&S 34175 (a)].

The actions of the Successor Agency will be directed, monitored, and approved, by a seven member Oversight Board (for a complete list of Successor Agency responsibilities see H&S §34177). Examples of Successor Agency responsibilities include:

- enforce all former RDA rights for the benefit of the taxing entities
- expeditiously dispose of assets and properties of the former RDA as directed by the Oversight Board
- transfer these funds to the county auditor-controller for distribution as property tax proceeds.

A ROPS shall not be deemed valid unless all of the following conditions have been met:

- effectuate the transfer of assets to the appropriate entity designated pursuant to H&S §34176;
- remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities, including, but not limited to:
 - the unencumbered balance of the Low and Moderate Income Housing Fund (In making the distribution, the county auditor-controller shall utilize the same methodology for allocation and distribution of property tax revenues provided in H&S §34188.)
- Prepare a Recognized Obligation Payment Schedule for each six month period of each fiscal year, including identifying one or more sources of payment [H&S §34177(l)(1)] for all Enforceable Obligations of the former RDA;
- Prepare administrative budgets for Oversight Board approval and pay administrative costs (See “Administrative Cost Allowance” in definition of Terms).

The proposed administrative budget shall include all of the following:

1. Estimated amounts for Successor Agency administrative costs for the upcoming six-month fiscal period.
2. Proposed sources of payment for the costs [H&S §34177(l)(1)]
3. Proposals for arrangements for administrative and operations services provided by a city, county, city and county, or other entity.
4. Provide administrative cost estimates, to the county auditor-controller for each six-month fiscal period. The cost estimates are based on the approved administrative budget and are paid from property tax revenues deposited in the RPTTF.
5. ROPS: By March 1, 2012, a draft ROPS prepared by the Successor Agency for the enforceable obligations of the former RDA.

Commencing on the operative date of this part, agreements, contracts, or arrangements between the city or county, or city and county that created the RDA and the RDA are invalid and shall not be binding on the Successor Agency. This is provided, however, for property tax increments had such a RDA not been dissolved, and shall be reviewed and certified, as to its accuracy by an external auditor designated pursuant to H&S §34182.

The certified ROPS is submitted to and duly approved by the Oversight Board.

A copy of the approved ROPS is submitted to the county auditor-controller and to both the SCO and the DOF and is posted on the Successor Agency’s Internet web site.

The ROPS may be amended by the Successor Agency at any public meeting and shall be subject to the approval of the Oversight Board as soon as the board has sufficient members to form a quorum.

The DOF and the SCO shall each have the authority to require any documents associated with the recognized obligations to be provided to them in a manner of their choosing. Any taxing entity, the DOF and the SCO shall each have standing to file a judicial review.

Nothing in the act adding this part is to be construed as preventing a Successor Agency, with the prior approval of the Oversight Board, as described in H&S§34179, from making payments for enforceable obligations from sources other than those listed in the ROPS.

An entity wishing to enter or reenter into agreements with the city, county, or city and county that formed the RDA that it is succeeding may do so upon obtaining the approval of its Oversight Board.

However, any of the following agreements are valid and may bind the Successor Agency:

- A duly authorized written agreement entered into at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and solely for the purpose of securing or repaying those indebtedness obligations.
- A written agreement between a redevelopment agency and the city, county, or city and county that created it that provided loans or other startup funds for the redevelopment agency that were entered into within two years of the formation of the redevelopment agency.
- A joint exercise of powers agreement, in which the RDA is a member of the joint powers authority.

The State also defined the Oversight Board. Oversight Boards have fiduciary responsibilities to holders of enforceable obligations and taxing entities that benefit from distributions of property tax and other revenues pursuant to H&S §34188. They have the authority to appeal any judgment or to set aside settlement or arbitration decision [H&S §34171(d)(1)(D)] and also, approve the administrative cost allowance (The Redevelopment Dissolution Act).

However, upon assignment to the Successor Agency by operation of the act adding this part, the Successor Agency's rights, duties, and performance obligations under that joint exercise of powers agreement shall be limited by the constraints imposed on successor agencies by the act adding this part.

Regarding Oversight Boards as defined by law [H&S §§34179, 34180, 34181], the names of Oversight Board members, along with their elected chairperson, not filled by May 15, 2012 or any position that remains vacant for more than 60 days may result in Governor appointment to fill any vacancies [H&S §34179 (b)]. Any individual may simultaneously be appointed to up to five Oversight Boards and may hold an office in a city, county, city and county, special district, school district, or community college district unless the offices are incompatible. These appointments shall be reported to the DOF by May 1, 2012.

Each Successor Agency will have an Oversight Board consisting of seven (7) appointed members [H&S §34179(a)(1) through (10)]. This Board directs the Successor Agencies in winding down redevelopment activities pursuant to H&S §34181 and must approve certain actions taken by the Successor Agencies as defined in H&S §34180.

Because the DOF may review any action of the Oversight Board, all actions shall not be effective for three business days (pending a request for review by the department). If the DOF makes a request to review an action, the DOF will have 10 days from the date of the request to approve the action or return it to the Oversight Board for reconsideration. If this happens, the action cannot be effective until the DOF approves. This means the Oversight Board will have to resubmit to the DOF until approved. Each Oversight Board shall designate an official to whom the DOF may make a request. In doing so, the Oversight Board is responsible to provide the DOF with the telephone number and e-mail contact information.

Transferred memorandums of understanding and the right of any employee organization representing such employees to provide representation, shall continue as long as the memorandum of understanding would have been in force, pursuant to its own terms.

There are further stipulations in the Redevelopment Dissolution Act.

On or after July 1, 2016 Counties that have more than one Oversight Board shall only have one Oversight Board [H&S §34179(j)].

If the Oversight Board has vacancies not filled by July 15, 2016 or any position that remains vacant for more than 60 days, the Governor may appoint individuals to fill any Oversight Board member position [H&S §34179(k)].

Oversight Boards will cease to exist when all of the indebtedness of the dissolved redevelopment agency has been repaid [H&S §34179(m)]. Regarding Stabilization of Labor and Employment Relations, the Successor Agency (H&S §34190) is an attempt to stabilize the labor and employment relations of RDA and successor agencies. This act is not intended to relieve any RDA of its obligations prior to the dissolution. A RDA shall retain the authority to meet and confer over matters within the scope of representation [H&S §34190(b)].

Successor Agencies shall:

1. Become the employer of all employees of the RDA
2. Assume the obligations under any memorandum of understanding between the RDA and the employee organization as of the date of the RDA dissolution;

3. Assume costs incurred by the local agency employer representatives in performing those duties and responsibilities are not reimbursable as state-mandated costs as of the date of the RDAs dissolution [H&S §34190(e)];
4. Retain the authority to bargain over matters within the scope of representation {§34190(f)}.

After the expiration of the transferred memorandum of understanding, the Successor Agency shall continue to be subject to the provisions of the Meyers-Milias-Brown Act

Note: The purpose of the Meyers-Milias-Brown Act is to promote full communication between public employers and their employees by providing a reasonable method of resolving disputes regarding wages, hours, other terms and conditions of employment between public employers and public employee organizations.

Individuals that are formerly employed by RDAs that are subsequently employed by successor agencies shall, for a minimum of two years, transfer their status and classification in the civil service system of the RDA to the Successor Agency.

The law may require the County Auditor-Controller to reduce the amount of pass-through payments to certain ATEs.

AB 1X 26 grants the State Controller's Office oversight over the County Auditor-Controller