

AMENDED IN SENATE SEPTEMBER 6, 2013

AMENDED IN ASSEMBLY MARCH 12, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 564

Introduced by Assembly Member Mullin

February 20, 2013

An act to amend Sections 34191.4 and 34191.5 of the Health and Safety Code, relating to community redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

AB 564, as amended, Mullin. Community redevelopment: successor agencies.

Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies, as defined. Existing law requires successor agencies to wind down the affairs of the dissolved redevelopment agencies and to, among other things, make payments due for enforceable obligations, as defined, perform obligations required pursuant to any enforceable obligation, dispose of all assets of the former redevelopment agency, and to remit unencumbered balances of redevelopment agency funds, including housing funds, to the county auditor-controller for distribution to taxing entities. Existing law requires each successor agency to have an oversight board to approve certain actions of the successor agency, including the approval of an enforceable obligation. Existing law requires the Department of Finance to review the actions of an oversight board. Existing law prescribes when an action of an oversight board shall become effective, subject to approval by the Department of Finance.

Existing law provides that certain loan agreements entered into between a redevelopment agency and the city, county, or city and county that created the redevelopment agency are deemed enforceable obligations. Existing law provides that bond proceeds derived from bonds issued by a redevelopment agency on or before December 31, 2012, are to be used for the purposes for which the bonds are sold. Existing law provides that enforceable obligations may be satisfied by the creation of reserves for projects that are the subject of the enforceable obligation, as specified. Existing law provides that an expenditure made pursuant to these provisions constitutes the creation of excess bond proceeds obligations.

This bill would prohibit the Department of Finance from taking any future action to modify the enforceable obligations described above following the effective date of the approval of those enforceable obligations after review by the oversight board and the department.

Existing law establishes a Community Redevelopment Property Trust Fund, administered by the successor agency, to serve as the repository of the former redevelopment agency's real properties. Existing law requires the successor agency to prepare a long-range property management plan that addresses the disposition and use of the real properties of the former redevelopment agency. Existing law provides for the transfer of property, and the liquidation of property and the use of proceeds, in a specified manner.

This bill would prohibit the Department of Finance from taking any future action to modify a transfer of property, or the liquidation of property and the use of proceeds, as described above, if the transfer, liquidation, or use of proceeds is consistent with the approved plan of the successor agency.

This bill would incorporate additional changes to Sections 34191.4 and 34191.5 of the Health and Safety Code, proposed by AB 662, that would become operative only if this bill and AB 662 are chaptered and become effective January 1, 2014, and this bill is chaptered last.

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

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

- 1 SECTION 1. Section 34191.4 of the Health and Safety Code
- 2 is amended to read:

1 34191.4. The following provisions shall apply to any successor
2 agency that has been issued a finding of completion by the
3 Department of Finance:

4 (a) All real property and interests in real property identified in
5 subparagraph (C) of paragraph (5) of subdivision (c) of Section
6 34179.5 shall be transferred to the Community Redevelopment
7 Property Trust Fund of the successor agency upon approval by the
8 Department of Finance of the long-range property management
9 plan submitted by the successor agency pursuant to subdivision
10 (b) of Section 34191.5, unless that property is subject to the
11 requirements of any existing enforceable obligation.

12 (b) (1) Notwithstanding subdivision (d) of Section 34171, upon
13 application by the successor agency and approval by the oversight
14 board, loan agreements entered into between the redevelopment
15 agency and the city, county, or city and county that created by the
16 redevelopment agency shall be deemed to be enforceable
17 obligations provided that the oversight board makes a finding that
18 the loan was for legitimate redevelopment purposes.

19 (2) If the oversight board finds that the loan is an enforceable
20 obligation, the accumulated interest on the remaining principal
21 amount of the loan shall be recalculated from origination at the
22 interest rate earned by funds deposited into the Local Agency
23 Investment Fund. The loan shall be repaid to the city, county, or
24 city and county in accordance with a defined schedule over a
25 reasonable term of years at an interest rate not to exceed the interest
26 rate earned by funds deposited into the Local Agency Investment
27 Fund. The annual loan repayments provided for in the recognized
28 obligations payment schedules shall be subject to all of the
29 following limitations:

30 (A) Loan repayments shall not be made prior to the 2013–14
31 fiscal year. Beginning in the 2013–14 fiscal year, the maximum
32 repayment amount authorized each fiscal year for repayments
33 made pursuant to this subdivision and paragraph (7) of subdivision
34 (e) of Section 34176 combined shall be equal to one-half of the
35 increase between the amount distributed to the taxing entities
36 pursuant to paragraph (4) of subdivision (a) of Section 34183 in
37 that fiscal year and the amount distributed to taxing entities
38 pursuant to that paragraph in the 2012–13 base year. Loan or
39 deferral repayments made pursuant to this subdivision shall be

1 second in priority to amounts to be repaid pursuant to paragraph
 2 (7) of subdivision (e) of Section 34176.

3 (B) Repayments received by the city, county, or city and county
 4 that formed the redevelopment agency shall first be used to retire
 5 any outstanding amounts borrowed and owed to the Low and
 6 Moderate Income Housing Fund of the former redevelopment
 7 agency for purposes of the Supplemental Educational Revenue
 8 Augmentation Fund and shall be distributed to the Low and
 9 Moderate Income Housing Asset Fund established by subdivision
 10 (d) of Section 34176.

11 (C) Twenty percent of any loan repayment shall be deducted
 12 from the loan repayment amount and shall be transferred to the
 13 Low and Moderate Income Housing Asset Fund, after all
 14 outstanding loans from the Low and Moderate Income Housing
 15 Fund for purposes of the Supplemental Educational Revenue
 16 Augmentation Fund have been paid.

17 (3) Following the effective date of an oversight board’s approval
 18 of an enforceable obligation pursuant to this subdivision, as
 19 determined pursuant to subdivision (h) of Section 34179, the
 20 oversight board’s action shall be final and may be relied upon by
 21 all public and private entities, and, *except for an amendment to an*
 22 *enforceable obligation initiated by a successor agency*, may not
 23 be modified or reversed by any future action of the Department of
 24 Finance.

25 (c) (1) Bond proceeds derived from bonds issued on or before
 26 December 31, 2010, shall be used for the purposes for which the
 27 bonds were sold.

28 (2) (A) Notwithstanding Section 34177.3 or any other
 29 conflicting provision of law, bond proceeds in excess of the
 30 amounts needed to satisfy approved enforceable obligations shall
 31 thereafter be expended in a manner consistent with the original
 32 bond covenants. Enforceable obligations may be satisfied by the
 33 creation of reserves for projects that are the subject of the
 34 enforceable obligation and that are consistent with the contractual
 35 obligations for those projects, or by expending funds to complete
 36 the projects. An expenditure made pursuant to this paragraph shall
 37 constitute the creation of excess bond proceeds obligations to be
 38 paid from the excess proceeds. Excess bond proceeds obligations
 39 shall be listed separately on the Recognized Obligation Payment
 40 Schedule submitted by the successor agency.

1 (B) If remaining bond proceeds cannot be spent in a manner
2 consistent with the bond covenants pursuant to subparagraph (A),
3 the proceeds shall be used to defease the bonds or to purchase
4 those same outstanding bonds on the open market for cancellation.

5 (3) Following the effective date of an oversight board's approval
6 of an enforceable obligation pursuant to this subdivision, as
7 determined pursuant to subdivision (h) of Section 34179, the
8 oversight board's action shall be final and, *except for an*
9 *amendment to an enforceable obligation initiated by a successor*
10 *agency*, may be relied upon by all public and private entities, and
11 may not be modified or reversed by any future action of the
12 Department of Finance.

13 *SEC. 1.5. Section 34191.4 of the Health and Safety Code is*
14 *amended to read:*

15 34191.4. The following provisions shall apply to any successor
16 agency that has been issued a finding of completion by the
17 Department of Finance:

18 (a) All real property and interests in real property identified in
19 subparagraph (C) of paragraph (5) of subdivision (c) of Section
20 34179.5 shall be transferred to the Community Redevelopment
21 Property Trust Fund of the successor agency upon approval by the
22 Department of Finance of the long-range property management
23 plan submitted by the successor agency pursuant to subdivision
24 (b) of Section ~~34191.7~~ 34191.5 unless that property is subject to
25 the requirements of any existing enforceable obligation.

26 (b) (1) Notwithstanding subdivision (d) of Section 34171, upon
27 application by the successor agency and approval by the oversight
28 board, loan agreements entered into between the redevelopment
29 agency and the city, county, or city and county that created by the
30 redevelopment agency shall be deemed to be enforceable
31 obligations provided that the oversight board makes a finding that
32 the loan was for legitimate redevelopment purposes.

33 (2) If the oversight board finds that the loan is an enforceable
34 obligation, the accumulated interest on the remaining principal
35 amount of the loan shall be recalculated from origination at the
36 interest rate earned by funds deposited into the Local Agency
37 Investment Fund. The loan shall be repaid to the city, county, or
38 city and county in accordance with a defined schedule over a
39 reasonable term of years at an interest rate not to exceed the interest
40 rate earned by funds deposited into the Local Agency Investment

1 Fund. The annual loan repayments provided for in the recognized
2 ~~obligations~~ *obligation* payment schedules shall be subject to all of
3 the following limitations:

4 (A) Loan repayments shall not be made prior to the 2013–14
5 fiscal year. Beginning in the 2013–14 fiscal year, the maximum
6 repayment amount authorized each fiscal year for repayments
7 made pursuant to this subdivision and paragraph (7) of subdivision
8 (e) of Section 34176 combined shall be equal to one-half of the
9 increase between the amount distributed to the taxing entities
10 pursuant to paragraph ~~(4)~~ (5) of subdivision (a) of Section 34183
11 in that fiscal year and the amount distributed to taxing entities
12 pursuant to that paragraph in the 2012–13 ~~base-year~~ *year*;
13 *provided, however, that calculation of the amount distributed to*
14 *taxing entities during the 2012–13 base year shall not include any*
15 *amounts distributed to taxing entities pursuant to the due diligence*
16 *review process established in Sections 34179.5 to 34179.8,*
17 *inclusive. Loan or deferral repayments made pursuant to this*
18 *subdivision shall be second in priority to amounts to be repaid*
19 *pursuant to paragraph (7) of subdivision (e) of Section 34176.*

20 (B) Repayments received by the city, county, or city and county
21 that formed the redevelopment agency shall first be used to retire
22 any outstanding amounts borrowed and owed to the Low and
23 Moderate Income Housing Fund of the former redevelopment
24 agency for purposes of the Supplemental Educational Revenue
25 Augmentation Fund and shall be distributed to the Low and
26 Moderate Income Housing Asset Fund established by subdivision
27 (d) of Section 34176.

28 (C) Twenty percent of any loan repayment shall be deducted
29 from the loan repayment amount and shall be transferred to the
30 Low and Moderate Income Housing Asset Fund, after all
31 outstanding loans from the Low and Moderate Income Housing
32 Fund for purposes of the Supplemental Educational Revenue
33 Augmentation Fund have been paid.

34 (3) *Following the effective date of an oversight board's approval*
35 *of an enforceable obligation pursuant to this subdivision, as*
36 *determined pursuant to subdivision (h) of Section 34179, the*
37 *oversight board's action shall be final and may be relied upon by*
38 *all public and private entities, and, except for an amendment to*
39 *an enforceable obligation initiated by a successor agency, may*

1 *not be modified or reversed by any future action of the Department*
2 *of Finance.*

3 (c) (1) Bond proceeds derived from bonds issued on or before
4 December 31, 2010, shall be used for the purposes for which the
5 bonds were sold.

6 (2) (A) Notwithstanding Section 34177.3 or any other
7 conflicting provision of law, bond proceeds in excess of the
8 amounts needed to satisfy approved enforceable obligations shall
9 thereafter be expended in a manner consistent with the original
10 bond covenants. Enforceable obligations may be satisfied by the
11 creation of reserves for projects that are the subject of the
12 enforceable obligation and that are consistent with the contractual
13 obligations for those projects, or by expending funds to complete
14 the projects. An expenditure made pursuant to this paragraph shall
15 constitute the creation of excess bond proceeds obligations to be
16 paid from the excess proceeds. Excess bond proceeds obligations
17 shall be listed separately on the Recognized Obligation Payment
18 Schedule submitted by the successor agency.

19 (B) If remaining bond proceeds cannot be spent in a manner
20 consistent with the bond covenants pursuant to subparagraph (A),
21 the proceeds shall be used to defease the bonds or to purchase
22 those same outstanding bonds on the open market for cancellation.

23 (3) *Following the effective date of an oversight board's approval*
24 *of an enforceable obligation pursuant to this subdivision, as*
25 *determined pursuant to subdivision (h) of Section 34179, the*
26 *oversight board's action shall be final and, except for an*
27 *amendment to an enforceable obligation initiated by a successor*
28 *agency, may be relied upon by all public and private entities, and*
29 *may not be modified or reversed by any future action of the*
30 *Department of Finance.*

31 (d) *Notwithstanding subdivision (b) of Section 34163, if a*
32 *successor agency has received a finding of completion, the*
33 *successor agency may enter into, or amend existing, contracts and*
34 *agreements, or otherwise administer projects in connection with*
35 *enforceable obligations approved pursuant to subdivision (m) of*
36 *Section 34177, if the contract, agreement, or project will not*
37 *commit new property tax funds, and will not otherwise reduce*
38 *property tax revenues or payments made pursuant to paragraph*
39 *(4) of subdivision (a) of Section 34183 to the taxing agencies. This*
40 *subdivision is declaratory of existing law.*

1 SEC. 2. Section 34191.5 of the Health and Safety Code is
2 amended to read:

3 34191.5. (a) There is hereby established a Community
4 Redevelopment Property Trust Fund, administered by the successor
5 agency, to serve as the repository of the former redevelopment
6 agency’s real properties identified in subparagraph (C) of paragraph
7 (5) of subdivision (c) of Section 34179.5.

8 (b) The successor agency shall prepare a long-range property
9 management plan that addresses the disposition and use of the real
10 properties of the former redevelopment agency. The report shall
11 be submitted to the oversight board and the Department of Finance
12 for approval no later than six months following the issuance to the
13 successor agency of the finding of completion.

14 (c) The long-range property management plan shall do all of
15 the following:

16 (1) Include an inventory of all properties in the trust. The
17 inventory shall consist of all of the following information:

18 (A) The date of the acquisition of the property and the value of
19 the property at that time, and an estimate of the current value of
20 the property.

21 (B) The purpose for which the property was acquired.

22 (C) Parcel data, including address, lot size, and current zoning
23 in the former agency redevelopment plan or specific, community,
24 or general plan.

25 (D) An estimate of the current value of the parcel including, if
26 available, any appraisal information.

27 (E) An estimate of any lease, rental, or any other revenues
28 generated by the property, and a description of the contractual
29 requirements for the disposition of those funds.

30 (F) The history of environmental contamination, including
31 designation as a brownfield site, any related environmental studies,
32 and history of any remediation efforts.

33 (G) A description of the property’s potential for transit-oriented
34 development and the advancement of the planning objectives of
35 the successor agency.

36 (H) A brief history of previous development proposals and
37 activity, including the rental or lease of property.

38 (2) Address the use or disposition of all of the properties in the
39 trust. Permissible uses include the retention of the property for
40 governmental use pursuant to subdivision (a) of Section 34181,

1 the retention of the property for future development, the sale of
2 the property, or the use of the property to fulfill an enforceable
3 obligation. The plan shall separately identify and list properties in
4 the trust dedicated to governmental use purposes and properties
5 retained for purposes of fulfilling an enforceable obligation. With
6 respect to the use or disposition of all other properties, all of the
7 following shall apply:

8 (A) If the plan directs the use or liquidation of the property for
9 a project identified in an approved redevelopment plan, the property
10 shall transfer to the city, county, or city and county.

11 (B) If the plan directs the liquidation of the property or the use
12 of revenues generated from the property, such as lease or parking
13 revenues, for any purpose other than to fulfill an enforceable
14 obligation or other than that specified in subparagraph (A), the
15 proceeds from the sale shall be distributed as property tax to the
16 taxing entities.

17 (C) Property shall not be transferred to a successor agency, city,
18 county, or city and county, unless the long-range property
19 management plan has been approved by the oversight board and
20 the Department of Finance.

21 (d) After approval by the Department of Finance, an action
22 taken pursuant to subparagraph (A) or (B) of paragraph (2) of
23 subdivision (c) that is consistent with the approved plan may not
24 be modified or reversed by future action of the Department of
25 Finance, and may be relied upon by all public and private entities.

26 *SEC. 2.5. Section 34191.5 of the Health and Safety Code is*
27 *amended to read:*

28 34191.5. (a) There is hereby established a Community
29 Redevelopment Property Trust Fund, administered by the successor
30 agency, to serve as the repository of the former redevelopment
31 agency's real properties identified in subparagraph (C) of paragraph
32 (5) of subdivision (c) of Section 34179.5.

33 (b) The successor agency shall prepare a long-range property
34 management plan that addresses the disposition and use of the real
35 properties of the former redevelopment agency. The report shall
36 be submitted to the oversight board and the Department of Finance
37 for approval no later than six months following the issuance to the
38 successor agency of the finding of completion.

39 (c) The long-range property management plan shall do all of
40 the following:

- 1 (1) Include an inventory of all properties in the trust. The
2 inventory shall consist of all of the following information:
- 3 (A) The date of the acquisition of the property and the value of
4 the property at that time, and an estimate of the current value of
5 the property.
- 6 (B) The purpose for which the property was acquired.
- 7 (C) Parcel data, including address, lot size, and current zoning
8 in the former agency redevelopment plan or specific, community,
9 or general plan.
- 10 (D) An estimate of the current value of the parcel including, if
11 available, any appraisal information.
- 12 (E) An estimate of any lease, rental, or any other revenues
13 generated by the property, and a description of the contractual
14 requirements for the disposition of those funds.
- 15 (F) The history of environmental contamination, including
16 designation as a brownfield site, any related environmental studies,
17 and history of any remediation efforts.
- 18 (G) A description of the property's potential for transit-oriented
19 development and the advancement of the planning objectives of
20 the successor agency.
- 21 (H) A brief history of previous development proposals and
22 activity, including the rental or lease of property.
- 23 (2) Address the use or disposition of all of the properties in the
24 trust. Permissible uses include the retention of the property for
25 governmental use pursuant to subdivision (a) of Section 34181,
26 the retention of the property for future development, the sale of
27 the property, or the use of the property to fulfill an enforceable
28 obligation. The plan shall separately identify and list properties in
29 the trust dedicated to governmental use purposes and properties
30 retained for purposes of fulfilling an enforceable obligation. With
31 respect to the use or disposition of all other properties, all of the
32 following shall apply:
- 33 (A) (i) If the plan directs the use or liquidation of the property
34 for a project identified in an approved redevelopment plan, the
35 property shall transfer to the city, county, or city and county.
- 36 (ii) *For purposes of this subparagraph, the term "identified in*
37 *an approved redevelopment plan" includes properties listed in a*
38 *community plan or a five-year implementation plan.*
- 39 (B) If the plan directs the liquidation of the property or the use
40 of revenues generated from the property, such as lease or parking

1 revenues, for any purpose other than to fulfill an enforceable
2 obligation or other than that specified in subparagraph (A), the
3 proceeds from the sale shall be distributed as property tax to the
4 taxing entities.

5 (C) Property shall not be transferred to a successor agency, city,
6 county, or city and county, unless the long-range property
7 management plan has been approved by the oversight board and
8 the Department of Finance.

9 *(d) After approval by the Department of Finance, an action*
10 *taken pursuant to subparagraph (A) or (B) of paragraph (2) of*
11 *subdivision (c) that is consistent with the approved plan may not*
12 *be modified or reversed by future action of the Department of*
13 *Finance, and may be relied upon by all public and private entities.*

14 *SEC. 3. (a) Section 1.5 of this bill incorporates amendments*
15 *to Section 34191.4 of the Health and Safety Code proposed by*
16 *both this bill and Assembly Bill 662. It shall become operative*
17 *only if (1) both bills are enacted and become effective on or before*
18 *January 1, 2014, (2) each bill amends Section 34191.4 of the*
19 *Health and Safety Code, and (3) this bill is enacted after Assembly*
20 *Bill 662, in which case Section 1 of this bill shall not become*
21 *operative.*

22 *(b) Section 2.5 of this bill incorporates amendments to Section*
23 *34191.5 of the Health and Safety Code proposed by both this bill*
24 *and Assembly Bill 662. It shall become operative only if (1) both*
25 *bills are enacted and become effective on or before January 1,*
26 *2014, (2) each bill amends Section 34191.5 of the Health and*
27 *Safety Code, and (3) this bill is enacted after Assembly Bill 662,*
28 *in which case Section 2 of this bill shall not become operative.*

O