

Date of Hearing: April 29, 2015

**ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT**

Ed Chau, Chair

AB 1412 (Perea) – As Introduced February 27, 2015

**SUBJECT:** Redevelopment: successor agencies to redevelopment agencies

**SUMMARY:** Allows for an expedited repayment schedule of an outstanding loan agreement entered into between a former redevelopment agency (RDA) and a city or county, in specified conditions. Specifically, **this bill:**

- 1) Requires, upon application by the successor agency and approval by the oversight board, loan agreements entered into between the RDA and the city, county, or city and county that created the RDA, where the outstanding principal balance of the loan is \$1.25 million or less, to be deemed to be enforceable obligations, if the oversight board makes all of the following findings:
  - a) The loan was for legitimate redevelopment purposes;
  - b) The loan was entered into more than two years after the creation of the former RDA, and prior to January 1, 2011;
  - c) The loan was related to an indebtedness obligation;
  - d) The loan is the only debt of the former RDA remaining to be paid on the Recognized Obligation Payment Schedule (ROPS); and,
  - e) The amount distributed to the taxing entities pursuant to existing law in the previous fiscal year was less than \$250,000.
- 2) Prohibits repayments of a loan pursuant to 1), above, from being subject to the requirements of existing law that specifies the calculation schedule and maximum repayment amounts of a loan.
- 3) Provides that the accumulated interest rate shall be recalculated from origination at the interested rate of .25 percent.

**EXISTING LAW:**

- 1) Dissolves RDAs as of February 1, 2012 and institutes a process for winding down their activities (Health and Safety Code Section 34170).
- 2) Allows a city or county that authorized the creation of an RDA to elect to retain the housing assets and functions previously performed by the RDA.
- 3) Requires the entity assuming the housing functions of the former RDA to submit to the Department of Finance (DOF) by August 1, 2012, a list of all housing assets, as specified.

- 4) Allows the entity that assumed the housing functions to designate the use of and commit indebtedness obligation proceeds that remain after the satisfaction of enforceable obligations that have been approved in a ROPS and that are consistent with the indebtedness obligation covenants.
- 5) Requires the proceeds to be derived from indebtedness obligations that were issued for the purposes of affordable housing prior to January 1, 2011, and were backed by the Low- and Moderate-Income Housing Fund (Health and Safety Code Section 34176).
- 6) Allows the successor agency, upon receiving the finding of completion, to:
  - a) Retain dissolved redevelopment agency assets;
  - b) Place loan agreements between the former redevelopment agency and sponsoring entity on the ROPS, as an enforceable obligation, provided the oversight board makes a finding that the loan was for legitimate redevelopment purposes; and,
  - c) Utilize proceeds derived from bonds issued prior to January 1, 2011, in a manner consistent with the original bond covenants.
- 7) Provides that if the oversight board finds that the loan is an enforceable obligation, that the accumulated interest on the remaining principal amount of the loan shall be recalculated from the origination at the interest rate earned by funds deposited into the Local Agency Investment Fund (LAIF), and requires the loan to be repaid to the city, county, or city and county in accordance with a defined schedule over a reasonable term of years at an interest rate not to exceed the interest rate earned by funds deposited into the LAIF.
- 8) Requires annual loan repayments provided for in the ROPS to be subject to all the following limitations:
  - a) Loan repayments shall not be made prior to the 2013-14 fiscal year. Beginning in the 2013-14 fiscal year, the maximum repayment amount authorized each fiscal year for repayments made and paragraph (7) of subdivision (e) of Section 34176 combined shall be equal to one-half of the increase between the amount distributed to the taxing entities pursuant to paragraph (4) of subdivision (a) of Section 34183 in that fiscal year and the amount distributed to taxing entities pursuant to that paragraph in the 2012-13 base year, provided, however, that calculation of the amount distributed to taxing entities during the 2012-13 base year shall not include any amounts distributed to taxing entities pursuant to the due diligence review process. Loan or deferral repayments shall be second in priority to amounts to be repaid pursuant to paragraph (7) of subdivision (e) of Section 34176;
  - b) Repayments received by the city, county, or city and county that formed the RDA shall first be used to retire any outstanding amounts borrowed and owed to the Low- and Moderate-Income Housing Fund of the former RDA for purposes of the Supplemental Educational Revenue Augmentation Fund (SERAF) and shall be distributed to the Low- and Moderate-Income Housing Fund; and,
  - c) Twenty percent of any loan repayment shall be deducted from the loan repayment amount and shall be transferred to the Low- and Moderate-Income Housing Asset Fund,

after all outstanding loans from the Low- and Moderate-Income Housing Fund for purposes of the SERAF have been paid.

(Health and Safety Code Section 34191.4)

- 9) Requires, after DOF issues a finding of completion, 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, and requires the report to be submitted to the oversight board and DOF for approval no later than six months following the issuance to the successor agency of the finding of completion (Health and Safety Code Section 34191.5).

**FISCAL EFFECT:** Unknown.

**COMMENTS:**

Background: In 2011, the Legislature approved and the Governor signed two measures, ABX1 26 and ABX1 27 that together dissolved redevelopment agencies as they existed at the time and created a voluntary redevelopment program on a smaller scale. In response, the California Redevelopment Association (CRA), League of California Cities, along with other parties, filed suit challenging the two measures. The Supreme Court denied the petition for peremptory writ of mandate with respect to ABX1 26. However, the Court did grant CRA's petition with respect to ABX1 27. As a result, all RDAs were required to dissolve as of February 1, 2012.

When RDAs were dissolved, successor agencies were established to wind up the RDAs' obligations. Successor agencies were required to effectuate the transfer of an RDA's housing functions and assets to a "housing successor." Cities and counties were given the option of acting as housing successors and taking over the housing assets of their jurisdiction's RDA. If they did not wish to take on this role, the local housing authority was required to act as housing successor. A housing successor is authorized to designate the use of and commit indebtedness obligation proceeds that remain after the satisfaction of enforceable obligations that have been approved in a ROPS and that are consistent with the indebtedness obligation covenants.

Affordable housing: Prior to their dissolution, redevelopment generated up to \$1 billion a year for affordable housing in the state. Redevelopment agencies were required to set- a-side 20% of tax increment generated in a project area to increase, improve, or rehabilitate affordable housing for low, very-low, and moderate income families and individuals. Existing law requires twenty percent of any loan repayment provided for in the ROPS to be deducted from the loan repayment amount and transferred to the Low- and Moderate-Income Housing Asset Fund, after all outstanding loans from the Low- and Moderate-Income Housing Fund, for purposes of the SERAF, have been paid.

Purpose of this bill: According to the author, "the City of San Joaquin has sponsored AB 1412 because it has a \$1 million loan that cannot be repaid until 2050 under existing law. AB 1412 would allow the loan to be repaid by 2022 (estimated). The City's annual General Fund budget is less than \$1 million, so additional revenues are greatly needed to fund services for its citizens, who have higher rates of poverty and unemployment compared to the rest of the State.

Eligible sponsoring entity loans will be repaid faster without a maximum annual loan repayment amount, enabling successor agencies to be terminated earlier. Tax revenues will no longer be

needed to fund the administrative activities of the successor agency, and instead will be distributed to affected taxing entities that provide services to the community, such as schools and local government agencies."

The sponsor of the bill, the City of San Joaquin, argues that the bill "is important to the City and a win-win for all as payment acceleration of the loan repayment schedule will bring greater cash flow more quickly to both the City and the affected taxing entities...with a General Fund of less than \$1 million, any added revenue to the City is heartily welcome...this legislation will help complete the wind-down process regarding the former RDA."

Loan agreement and repayment under existing RDA dissolution law: The City of San Joaquin and the RDA entered into a loan agreement, dated February 11, 2010, whereby the City and the RDA recognized that the RDA had borrowed funds from the City for RDA programs and operations. The outstanding principal amount owed to the City under the loan agreement, as of February 1, 2012, (the date of dissolution of the former RDA), was \$1,028,723. This loan agreement formalized loans made by the City to the RDA since 1998 to fund redevelopment programs and operations. In part, the loan helped the RDA pay off debts after bonds issued in 1997 went into default.

In a subsequent ratification and amendment to the loan agreement dated February 11, 2014, the parties to the agreement mutually agreed as follows: (1) The parties acknowledged and agreed that the loan was for legitimate redevelopment purposes; (2) the parties agree that the conditions precedent in the Dissolution Act for repayment of the loan have been met and that the loan agreement shall be deemed to be an "enforceable obligation"; and, (3) the parties acknowledged and agreed that the repayment of amounts owing to the City under the loan agreement shall be subject to the limitations and restrictions set forth in Health and Safety Code 34191.4 (b) [specifies provisions that apply to a successor agency that has been issued a finding of completion by DOF and the process for repayment of loan agreements].

The Successor Agency was issued a finding of completion by DOF on March 8, 2013. On April 24, 2013, the Successor Agency applied for and the Oversight Board approved the loan agreement, and made a finding that the loan of funds to the RDA under the loan agreement was for legitimate purposes. The loan agreement was subsequently approved by DOF on January 28, 2015. The approved terms of the loan agreement allow for the payment of \$1,028,723 bearing an interest rate of 0.249% as determined by the current LAIF rate.

Under existing law, the loan is estimated by the City to not be fully repaid until the year 2050. If the provisions of AB 1412 took effect, the City estimates that the loan will be repaid by fiscal year 2021-22.

The City notes that the Successor Agency sent a letter to and met with DOF requesting that they consider allowing the Successor Agency to make payments on the outstanding loan in excess of the maximum annual amounts set by the formula in existing law. However, DOF denied the Successor Agency's request, stating that they do not have the authority to allow for any other repayment amount outside of what is defined in the statute.

Accelerated loan repayment: This bill would allow a qualifying loan between a former RDA and its sponsoring city or county to be recognized as an enforceable obligation and accelerate repayment of that loan. In order to qualify, the outstanding balance of the loan must be \$1.25 million or less and the oversight board must approve the application and make all of the

following findings: (1) The loan was for legitimate redevelopment purposes; (2) the loan was entered into more than two years after the creation of the former RDA, and prior to January 1, 2011; (3) the loan was related to a indebtedness obligation; (4) the loan is the only debt of the former RDA remaining to be paid on the ROPS; and, (5) the amount distributed to the taxing entities in the previous fiscal year was less than \$250,000.

The bill exempts repayment of the loan from portions of existing law related to the maximum annual loan repayment amount based on growth in the Redevelopment Property Tax Trust Fund revenues, and the requirement that 20% of any loan repayment shall be deducted from the loan repayment amount and transferred to a Low- and Moderate-Income Housing Asset Fund. The bill specifies that the accumulated interest rate shall be recalculated from origination at the interest rate of .25%.

Staff comment: AB 1412 would, during the term of the proposed accelerated repayment plan, prioritize the repayment of the City of San Joaquin's loan ahead of payments to other taxing entities such as the county and school districts. Under existing law, the loan would not enter repayment until 2025, and would be paid off by 2050. Under AB 1412, it would enter repayment in 2016 and would be paid off by approximately 2022. Accelerating the loan repayment will result in a temporary reduction in property tax going to the other taxing agencies, including schools, during the time of the loan repayment. However, according to the author, accelerated repayment will eventually increase funds disbursed to affected taxing entities by about \$5.2 million, primarily from not having to pay over two decades' worth of administrative costs for the successor agency (as it is required to terminate its existence within one year of the final debt payment), as well as from accumulating less interest on the loan.

AB 1484 (Committee on Budget), Chapter 26, Statutes of 2012, addressed numerous issues related to the dissolution of RDAs. Among other things, it clarified certain matters associated with the dissolution of RDAs and addressed substantive issues related to administrative processes, affordable housing activities, use of existing bond proceeds, and the disposition or retention of former RDA assets. It also placed loan agreements between the former RDA and the sponsoring entity on the ROPS as an enforceable obligation, and specified repayment terms, including that 20% of the loan repayment amount be transferred to the Low- and Moderate-Income Housing Asset Fund.

This bill also creates an exemption for the City of San Joaquin from the requirement that 20% of any loan repayment be deducted from the loan repayment amount and transferred to the Low- and Moderate-Income Housing Asset Fund. As applied to the City, this would be approximately \$215,000 that would go to the City's General Fund, as opposed to the Low- and Moderate-Income Housing Asset Fund.

Affordable housing lost significant funding after RDA dissolution, and the 20% transfer ensures that at least some housing asset funds are used for their intended purpose. The City states that the amount of taxing entity savings will be minimally impacted if the bill is amended to require 20% of the loan repayment amount to be deposited into the Low- and Moderate-Income Housing Asset Fund. The Committee may wish to consider whether it is appropriate to exempt the City of San Joaquin from this requirement.

Committee amendments: The Committee may wish to accept the following amendments:

1. An amendment narrowing the bill to only apply to the City of San Joaquin.
2. An amendment providing that the City of San Joaquin is not exempt from provisions in existing law that require 20% of any loan repayment to be deducted from the loan repayment amount and transferred to the Low and Moderate Income Housing Asset Fund, after all outstanding loans from the Low and Moderate Income Housing Fund for purposes of the Supplemental Educational Revenue Augmentation Fund have been paid.

Double-referral: This bill was double-referred to the Assembly Local Government Committee, where it passed 9-0 on April 15, 2015.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

City of San Joaquin (Sponsor)

**Opposition**

None on file

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