

Date of Hearing: April 30, 2014

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Ed Chau, Chair

AB 2493 (Bloom) – As Amended: April 10, 2014

SUBJECT: Redevelopment dissolution: housing projects: bond proceeds.

SUMMARY: Allows successor agencies greater flexibility for bond obligation proceeds issued between January 1, 2011 and June 28, 2011, under specified conditions. Specifically, this bill:

- 1) Extends, from January 1, 2011 to June 28, 2011, the date by which an entity that has assumed the housing functions in the winding down of redevelopment can designate the use of, and commit, indebtedness obligation proceeds that were issued for affordable housing purposes.
- 2) Requires bond proceeds derived from bonds issued between January 1, 2011, and June 28, 2011, to only be used for projects which meet the criteria as determined by a resolution issued by the oversight board:
 - a) The project shall be consistent with the sustainable communities strategy adopted by the appropriate metropolitan planning organization (MPO);
 - b) Two or more significant planning or implementation actions shall have occurred on or before December 31, 2010. The term significant planning or implementation actions means any of the following:
 - i) An action approved by the governing body of the city, the board of the former redevelopment agency (RDA), or the planning commission directly related to the planning or implementation of the project;
 - ii) The project is included within an approved city or RDA planning document, including, but not limited to, an RDA five-year implementation plan, capital improvement plan, master plan, or other planning document; or,
 - iii) The expenditure of more than \$25,000 on planning related activities for the project within one fiscal year, of \$50,000 in total, over multiple years.
 - c) Documentation dated on or before December 31, 2010, shall be provided indicating the intention to finance all or a portion of the project with the future issuance of long-term debt, or documentation showing that the issuance of long-term RDA debt was being planned on or before December 31, 2010;
 - d) Each construction contract over \$100,000 shall include a provision that prevailing wage will be paid by the contractor and all of that contractor's subcontractors;
 - e) For each construction contract over \$250,000, the successor agency shall require prospective contractors to submit a standardized questionnaire and financial statements as part of their bid package, to establish the contractor's financial ability and experience in performing large construction projects.

- 3) Allows, upon the issuance of a finding of completion by the Department of Finance (DOF), that any city that funded an eligible project, meeting the criteria listed in 2) a) through 2) c), above, inclusive, with funds other than RDA funds, within the two years prior to the effective date of this act, shall be eligible to be reimbursed utilizing 2011 bond proceeds, if the project meets the purpose for which the bonds were issued.
- 4) Makes technical and conforming changes to terminology in the bill.

EXISTING LAW:

- 1) Dissolves redevelopment agencies and institutes a process for winding down their activities.
- 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) Required the entity assuming the housing functions of the former RDA to submit to 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 Recognized Obligation Payment Schedule 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.
- 6) Requires DOF to issue a finding of completion to the successor agency, within five business days, once the following conditions have been met and verified:
 - a) The successor agency has paid the full amount as determined during the due diligence reviews and the county auditor-controller has reported those payments to DOF; and,
 - b) The successor agency has paid the full amount as determined during the July True-up process; or,
 - c) The successor agency has paid the full amount upon a final judicial determination of the amounts due and confirmation that those amounts have been paid by the county auditor-controller.
- 7) 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 Recognized Obligation Payments Schedule, 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.

- 8) 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.

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

In 2011, facing a severe budget shortfall, the Governor proposed eliminating redevelopment agencies in order to deliver more property taxes to other local agencies. Redevelopment redirected 12% of property taxes statewide away from schools and other local taxing entities and into community development and affordable housing. Ultimately, 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 and the 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 redevelopment agencies were required to dissolve as of February 1, 2012.

As part of the winding down of redevelopment agencies, AB 1484 (Blumenfield), Chapter 26, Statutes of 2012, made various statutory changes associated with the dissolution of redevelopment agencies and addressed a number of substantive issues related to administrative processes, affordable housing activities, repayment of loans from communities, use of existing bond proceeds and the disposition or retention of former redevelopment agency assets.

One of the provisions in AB 1484 allowed successor agencies that have received a "finding of completion" from DOF to have additional discretion regarding former agency real property assets, loan repayments to the local government community that formed the agency, and use of proceeds from bonds issued by the former redevelopment agency. In order to receive the finding of completion, the successor agency must undergo specified due diligence reviews and make the requirement payments to DOF.

Once the successor agency receives the finding of completion, the agency gains access to three specific benefits listed in statute – first, the ability to transfer former redevelopment agency-owned properties to the city or county for redevelopment upon completion of a long-term management plan approved by DOF; second, the ability to repay city loans made to the redevelopment agency; and, third, the ability to use unspent bond proceeds issued by redevelopment agencies prior to December 31, 2010. However, the repayment of city-agency loans and the expenditure of unspent bond proceeds would become an "enforceable obligation." Once a finding of completion is issued, the successor agency must prepare a long-range property management plan that addresses the disposition and use of the real properties of the former redevelopment agency. The report is required to be submitted to the oversight board and DOF or

approval no later than six months following the issuance to the successor agency of the finding of completion.

This bill makes several changes to dates established in AB 1484 and AB 1X 26. First, the bill extends, from January 1, 2011 to June 28, 2011, the date by which an entity that has assumed the housing functions in the winding down of redevelopment can designate the use of, and commit, indebtedness obligation proceeds that were issued for affordable housing purposes. Second, the bill expands the cutoff date for the use of redevelopment bond proceeds from December 31, 2010 (as established by AB 1X 26) to June 28, 2011, upon issuance of a finding of completion by DOF. June 28, 2011 is the date the dissolution legislation (AB 1X 26) was signed.

The bill also requires that certain criteria be met – that the project must be consistent with the sustainable communities strategy adopted by the appropriate MPO, that two or more significant planning or implementation actions occurred on or before December 31, 2010, to ensure that the project was being contemplated by the local agency prior to the dissolution of redevelopment, and that prevailing wage will be paid by the contractor, as specified.

Purpose of this bill: According to the author, "During the first half of 2011, prior to the dissolution of all redevelopment agencies, approximately 50 agencies legally issued bonds. Of those cities, 37 have outstanding bond proceeds that they are not allowed to use. The State has asserted that the vast majority of the 2011 redevelopment bonds must be defeased and their proceeds not spent on projects, however, over 90% of these bonds cannot be defeased for 10 years. During this ten-year period, nearly \$1 billion will be spent on the debt service payments for these bonds, and the bond proceeds will continue to go unused. If the proceeds were used for their intended purposes, the construction of these projects would generate over \$1.2 billion in statewide economic activity, more than the debt service payments during the ten-year period.

"The vast majority of these bonds were issued for public works projects such as infrastructure construction and repair, new public facilities and affordable housing. Bondholders who purchased tax-exempt bonds (approximately 70% of the bonds in question) for specific public works projects were promised tax-free returns. Per federal tax law, tax-exempt bond proceeds must be used for their intended purpose, or the bonds could be subject to losing their tax-exempt status."

The author also notes that "various amendments have been added to provide assurance that successor agencies would only be able to use 2011 redevelopment bond proceeds for projects which were actively being planned prior to January 1, 2011, and that the bill would "assure that cities who rushed to issue bonds, in order to "lock up" funds for future projects that they were not currently working on would not be able to use their 2011 bond."

Related legislation: Last year, the author carried a similar bill, AB 981 (Bloom, 2013). The bill failed passage in the Assembly Appropriations Committee.

Double-referral. This bill is passed out of Local Government Committee 8 to 1.

REGISTERED SUPPORT / OPPOSITION:

Support

Cities of La Quinta, Lynwood, Riverbank, Santa Cruz, Santa Monica, Ukiah, and West
Hollywood

City of Glendale and Glendale Successor Agency

National City Chamber of Commerce

Southwest California Legislative Council

West Hollywood Chamber of Commerce

Opposition

County of Santa Clara

Analysis Prepared by: Lisa Engel / H. & C.D. / (916) 319-2085