

Date of Hearing: April 3, 2019

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 1084 (Mayes) – As Introduced February 21, 2019

SUBJECT: Redevelopment: housing successor: Low and Moderate Income Housing Asset Fund

SUMMARY: Allows a housing successor that owns and operates a housing asset of a former redevelopment agency (RDA) to retain “excess surplus” accumulated over eight years rather than four years without triggering the requirement to encumber the funds or transfer the funds to the Department of Housing and Community Development (HCD) within three years.

EXISTING LAW:

- 1) Defines “excess surplus” to mean an unencumbered amount in the Low and Moderate Income Housing Asset Fund (LMIHF) that exceeds one-million dollars or the aggregate amount deposited into the account during the housing successors preceding four fiscal years, whichever is greater.
- 2) Requires a housing successor to encumber any “excess surplus” for specified purposes or transfer the funds within three fiscal years to a housing successor within the county for transit priority projects, permanent supportive housing, housing for agricultural employees, special needs housing, or a regional homeless shelter.
- 3) Requires a housing successor that fails to encumber funds within three years or transfer it to a housing successor in the county to transfer any excess surplus to HCD within 90 days of the end of the third fiscal year for expenditure by the Multi-family Housing Program or the Joe Serna Jr., Farmworker Housing Program.

FISCAL EFFECT: Unknown

COMMENTS:

Purpose of this bill: The Housing Authority of the City of Indian Wells is the housing successor to the city’s RDA and owns and maintains affordable housing assets developed by the former RDA. The city would like to develop a capital reserve using the “excess surplus,” or funds in the former RDAs redevelopment agency Low and Moderate Income Asset Fund that do not exceed \$1 million. Existing law allows the city to retain the excess surplus for four years, this bill would extend that to eight years if the fund are used to maintain housing assets of the former RDA.

Background: The Community Redevelopment Law (CRL) allowed a local government to establish a redevelopment project area and capture all of the increase in property taxes generated within the area (referred to as “tax increment”) over a period of decades. RDAs were authorized to issue bonds against the tax increment and use the proceeds of the bonds to pay for their activities. RDAs were required to deposit 20% of tax increment into a Low and Moderate Income Housing Fund (L&M Fund) to be used to increase, improve, and preserve the community’s supply of low- and moderate-income housing available at an affordable housing cost.

In 2011, facing a severe budget shortfall, Governor Brown proposed eliminating RDAs 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, AB 26 X1 (Blumenfield), Chapter 5, Statutes of 2011-12 First Extraordinary Session, and AB 27 X1 (Blumenfield), Chapter 6, Statutes of 2011-12 First Extraordinary Session, that together dissolved RDAs as they existed at the time and created a voluntary redevelopment program on a smaller scale. In response, the California Redevelopment Association (CRA) 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 AB 26 X1. However, the Court did grant the petition with respect to AB 27 X1. As a result, all RDAs were required to dissolve as of February 1, 2012.

Use of funds: The Community Redevelopment Law (CRL) required RDAs to use the L&M funds to increase, improve, and preserve affordable housing. As part of the dissolution process, local jurisdictions were required to set up a housing successor to assume the housing functions of the former RDA. The city or county that created the RDA could opt to become the housing successor but if they chose not to the responsibility was transferred to a housing authority in the jurisdiction of the former RDA. Housing authorities serve as housing successors in a handful of jurisdictions in the state. If there was no housing authority in the jurisdiction then the housing functions were to be transferred to Department of Housing and Community Development (HCD). Housing successors are required to maintain any funds generated from housing assets in the LMIHF and use them in accordance with the housing related provisions of the CRL. The LMIHF includes real property and other physical assets; funds encumbered for enforceable obligations, any loan or grant receivable, any funds revised from rents or operation of properties, rents or other payments from housing tenants or operators, and repayment of loans or deferrals owed to the LMIHF. Funding available to a housing successor in the post-redevelopment world is limited to program dollars repaid from loans or investments made by the former redevelopment agency. This is a much smaller amount than was generated by a RDA which produced more than \$1 billion in tax increment for housing activities statewide each year.

In 2015, SB 341 (De Saulnier) Chapter 796, Statutes of 2015, revised the rules governing the activities and expenditures of housing successors to streamline administrative requirements while ensuring accountability, provide additional flexibility, and target scarce available resources to the greatest needs. SB 341 targeted the limited financial resources of housing successor toward core functions. RDAS were required to expend funds to improve, increase, or preserve housing affordable to low- and moderate-income families. Housing successors have far less money than RDAS so the law requires them to prioritize that limited funding toward monitoring and maintaining the housing assets that were created or financed by the former RDA. SB 341 allowed housing successors to use funds in the LMIHF toward services to prevent homelessness and rapidly re-housing people. If a housing successor allows an excess surplus of funds to accumulate, any amounts over \$1 million or the aggregate of four years of deposits, without spending it on developing housing or transferring it to another housing successor then it must transfer those funds to HCD. HCD is required to expend those funds through the Multi-family Housing Program or the Joe Serna Jr. Farmworker Housing Grant Program.

This bill would allow housing successor to retain excess surplus that is the greater than \$1 million or the aggregate amount deposited into the account over eight years, rather than four years, if the funds are used to maintain the assets of the former RDA.

Double referred: This bill was also referred to the Assembly Committee on Local Government where it will be heard should it pass out of this committee.

REGISTERED SUPPORT / OPPOSITION:

Support

City of Indian Wells

Opposition

None on file.

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