

Date of Hearing: March 27, 2019

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 411 (Mark Stone) – As Introduced February 7, 2019

SUBJECT: Redevelopment: City of Santa Cruz: bond proceeds: affordable housing

SUMMARY: Authorizes the City of Santa Cruz to use bond proceeds that are required to be used to defease bonds issued by the former RDA, to increase, improve, and preserve affordable housing and facilities for homeless persons. Specifically, **this bill:**

- 1) Provides that if the City of Santa Cruz uses remaining bond proceeds for affordable housing and facilities for homeless persons, then the Last and Final Recognized Obligation Payment Schedule (ROPs) must be adjusted to allow for the allocation of revenues from the Redevelopment Property Tax Trust Fund (RPTTF) to the successor agency (SA) of the City Santa Cruz, to pay down principal and interest on the bonds.
- 2) Defines “affordable housing” to mean housing available to very-low, low-, and moderate-income households at an affordable cost.
- 3) Defines “affordable cost” to mean households pay no more than 30% of their income toward housing costs.

EXISTING LAW:

- 1) Requires bond proceeds derived from bonds issued on or before December 31, 2010, in excess of the amounts need to satisfy approved enforceable obligations must be expend in a manner consistent with the original bond covenants. Any bond funds that cannot be spent consistent with the original bond covenants must be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.
- 2) Allows successor agencies (SA) to RDAs that have received a finding of completion from Department of Finance to use some of the bond proceeds from bonds sold after January 1, 2011, as follows:
 - a) No more than 5 percent of the proceeds may be expended unless the successor agency meets the following criteria:
 - i) If the SA has an approved Last and Final ROPS, the agency may expend no more than 20% of the proceeds; and
 - ii) Creates a process that the earlier that the bonds were issued in 2011, the more the SA is able to expend, ranging from 45 percent to percent.
 - b) If a SA provides the oversight board and the department with documentation that proves that the bonds were approved by the former RDA prior to January 31, 2011, but the issuance of the bonds were delayed by the action of a third-party metropolitan regional transportation authority beyond January 31, 2011, the SA may expend the associated bond proceeds for a total of no more than 45 percent.

- c) Any proceeds derived from bonds issued by former RDA after December 31, 2010, that were issued to refund or refinance tax-exempt bonds issued by former RDAs on or before December 31, 2010, and are in excess of the amount needed to refund or refinance may be expended by the SA for a total of no more than 45 percent. The SA must provide the oversight board and department the resolution by the former RDA approved the bonds.

FISCAL EFFECT: Unknown.

COMMENTS:

Purpose of this bill: According to the author, “the City of Santa Cruz is facing an affordable housing crisis. For bonds issued on or after January 1, 2011, only a limited percentage of the proceeds may be expended based on the issuance date of the bonds and approval of a successor agency’s Last and Final Recognized Obligation Payment Schedule (ROPS) by the Department of Finance. The City of Santa Cruz is permitted to expend 35% of the 2011 bond proceeds from its former redevelopment agency, but state law requires that all remaining funds must be used to defease or cancel the bonds. The considerable transaction costs related to issuing the bonds have already been paid, yet most of the bond proceeds sit idle during the worst housing crisis in the state’s history. AB 411 will allow the City of Santa Cruz to use funds from its former redevelopment agency to create much needed affordable housing. If signed into law, AB 411 will lift the 35% cap that currently prevents the City of Santa Cruz from expending the remainder of its 2011 redevelopment bond proceeds. Without the state-imposed limit on using redevelopment bond proceeds, the City of Santa Cruz would have access to an additional \$16 million for affordable housing and facilities for individuals experiencing homelessness.”

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 support their efforts to eliminate blight through economic development. 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 economic 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.

Dissolution process: As part of the winding down of RDAs were required to submit, a Recognized Obligations Payment Schedule (ROPS) to the Department of Finance (DOF) that

listed all of the enforceable obligations (EO) or the outstanding debts of the RDA including bonds, documented contracts, loans borrowed from the RDA, and payments required by the federal government. DOF reviews and approves all ROPS.

Property taxes that had previously gone to a RDA in the form of tax increment now go to the RPTTF to pay the former obligations of the RDA and any remaining amounts are divided up among the taxing entities – schools, counties, and special districts. Funds in the RPTTF are first used to pay for enforceable obligations on the former RDA included on the ROPS and approved by DOF and any preexisting pass-through payments such as pension obligations. If funds remain in the RPTTF after payments are made for each successor agency's ROPS, they are considered to be residual RPTTF funds, and are distributed proportionally to the taxing entities that would otherwise have received property tax revenues from the former project areas.

Bond proceeds: Generally, successor agencies were given limited discretion to use bond proceeds issued prior to dissolution that were not clearly obligated to pay for enforceable obligations of the RDA. However, successor agencies that received a "finding of completion" from DOF were given some additional discretion regarding the use of proceeds from bonds. In order to receive the finding of completion, a SA had to undergo specified due diligence reviews and make the required payments to DOF. Once a SA received its Last and Final ROPS, it could use bonds issued prior to December 31, 2010 consistent with the bond covenants. Any bond proceeds that could not be used consistent with the underlying bond covenants were required to defease the bonds or to purchase those same outstanding bonds on the open bond market. Successor agencies with a Last and Final ROPS were also given authority to use bond proceeds issued after January 1, 2011 in a manner consistent with the bond covenants. Successor agencies were given greater latitude to use bond proceeds issued earlier in 2011.

This bill would allow the City of Santa Cruz to use both housing and non-housing bond proceeds for affordable housing and homelessness services. According to DOF's website, 20 cities have bond proceeds from housing bonds totaling over \$135 million in the state that could be used for affordable housing purposes. Thirty-three cities have over \$264 million in bond proceeds from non-housing bonds. This bill would apply to bonds issued for both housing and non-housing purposes. Some general bonds could have been issued for housing purposes, provided the bond covenants allowed for affordable housing.

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. 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 Low and Moderate Income Housing Asset Fund (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 (DeSaulnier) 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 retained the housing provisions of the CRL as the basic law governing housing successors but alters the law for housing successor in the following ways:

- Allows housing successors to expend available funds first for the purpose of monitoring and preserving the long-term affordability of units in its portfolio and for administering its activities up to an annual cap of 2% of its portfolio value or \$200,000 whichever is greater;
- Allows housing successors to expend up to \$250,000 per year for homeless prevention and rapid rehousing services to individuals and families who are homeless or at risk of homelessness;
- Alters the income targeting requirements and applies them only to funds left after allowed monitoring and administration expenditures and homeless prevention services;
- Relaxes the limitations on senior housing allowing no more than 50% of housing financed by the jurisdiction over a ten-year period to be limited to seniors; and
- Allows housing successors to transfer funds among themselves under certain conditions for the purpose of developing affordable units in transit priority projects, permanent supportive housing, farmworker housing, or special needs housing.

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 rehousing people. If a housing successor allows an excess surplus of funds to accumulate, any amounts over \$1 million over a three year period, 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.

Committee amendments: The committee may wish to clarify that the bond proceeds may only be used for the purposes defined in the bill, to the extent that they are consistent with the underlying bond covenants. If the uses allowed in the bill are not consistent with the bond covenants, then the bond proceeds shall be used to defease the bonds at the earliest possible convenience.

In addition, the committee may wish to require that the bond proceeds be spent consistent with the requirements of the Low and Moderate Income Asset Fund (Health and Safety Code Section 34176.1), except that 10% of the bond proceeds may be used to increase, improve, and preserve the supply of affordable housing for moderate-income households.

Related legislation:

SB 532 (Portantino) would apply the authority to use unused bond proceeds statewide. Pending hearing in Senate Governance and Finance Committee.

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 Santa Cruz

Opposition

None on file.

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