

Date of Hearing: April 13, 2016

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

David Chiu, Chair

AB 2697 (Bonilla) – As Introduced February 19, 2016

SUBJECT: Redevelopment dissolution: successor agencies: disposal of assets and properties

SUMMARY: Requires a successor agency when disposing of land that was previously owned by a redevelopment agency to offer and prioritize sale to entities that agree to construct housing affordable to low- and moderate-income households. Specifically, **this bill:**

- 1) Requires the successor agency to a former redevelopment agency to send to any "local public entity," within whose jurisdictions the land is located, a written offer to sell land belonging to the former redevelopment agency for the purpose of developing the land into low -and moderate-income housing.
- 2) Requires the successor agency to send "housing sponsors," upon written request, a written offer to sell land for the purpose of developing low and moderate-income housing.
- 3) Requires all notices to be sent by first class mail and to include the location and description of the property.
- 4) Requires priority to be given to offers to purchase the land by entities that agree to development affordable housing for lower income households.
- 5) Requires preference will be given to an entity that proposes to make at least 25% of the units affordable, by sale or rent, to lower income households and that agrees to record an affordability covenant restricting the property for a period of at least 55 years.
- 6) Provides that if the successor agency receives more than one offer for the land that priority be given to the entity that proposes the greatest number of units at the highest level of affordability.
- 7) Provides that if land is not sold to an entity that agrees to include affordable housing on site but is sold for a residential use that includes at least 10 units than at least 15% of the units must be provided at an affordable housing cost to low income households. Rental units must remain affordable and occupied by eligible households for 55 years. Ownership units must be subject to an equity sharing agreement. These requirements must be recorded against the property and are enforceable by the local government or eligible residents.
- 8) Defines a "local public entity" to mean any county, city, city and county, Indian reservation or rancheria, redevelopment agency, housing authority, state agency, public district or other political subdivision of the state that is authorized to engage in or assist in the development or operation of housing for persons or families of low or moderate income.
- 9) Defines "housing sponsor" to mean an individual, joint venture, partnership, limited partnership, trust, corporation, limited equity housing cooperative, cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, certified by the agency pursuant to rules and regulations of the agency as qualified to

either own, construct, acquire or rehabilitate a housing development, whether for profit, nonprofit, or organized for limited profit, and subject to the regulatory powers of the agency pursuant to rules and regulations of the agency and other terms and conditions set forth in this division.

EXISTING LAW:

- 1) Requires an oversight board to direct the successor agency to a redevelopment agency to dispose of all assets and properties of the former redevelopment agency expeditiously and in a manner that maximizes value.
- 2) Defines "local agency" for purposes of the surplus land disposal procedures as every city, whether organized under general law or by charter, county, city and county, and district, including school districts of any kind or class, empowered to acquire and hold real property.
- 3) Defines "housing sponsor" to mean an individual, joint venture, partnership, limited partnership, trust, corporation, limited equity housing cooperative, cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, certified by the agency pursuant to rules and regulations of the agency as qualified to either own, construct, acquire or rehabilitate a housing development, whether for profit, nonprofit, or organized for limited profit, and subject to the regulatory powers of the agency pursuant to rules and regulations of the agency and other terms and conditions set forth in this division. (Health and Safety Code Section 50074)
- 4) Defines "surplus land" as land owned by any local agency that is determined to be no longer necessary for the agency's use, except property being held by the agency for the purpose of exchange or property meeting other exemptions.
- 5) Requires that a local agency must provide a written offer to sell or lease surplus land for the purpose of developing low- or moderate-income housing to "housing sponsors" upon written request, as well as any local public entity within the jurisdiction where the surplus land is located.
- 6) Provides that a local agency wishing to dispose of surplus land must also provide a written offer to additional entities, depending on the type of proposed usage, for park and recreational purposes, school facilities construction or use by a school district for open space purposes, enterprise purposes, and infill opportunity zones or transit village plans.
- 7) Provides that, if a notified entity desires to purchase or lease the surplus land, it must notify the local agency of its intent within 60 days after receipt of the agency's intent to sell or lease the land.
- 8) Provides that, if a local agency receives notice from an entity provided with a written offer desiring to purchase or lease the land, the local agency and the entity must enter into good faith negotiations. If the price or terms cannot be agreed upon after a period of not less than 60 days, the land may be disposed of without further regard to the disposal procedures.

- 9) Provides that any public agency selling surplus land to a notified entity for park or recreation purposes, for open-space purposes, for school purposes, or for low- and moderate- income housing purposes may provide for a payment period of up to 20 years in any contract of sale or sale by trust deed.
- 10) Provides that nothing in the disposal procedure limits the power of any local agency to sell or lease surplus land at fair market value or at less than fair market value, and nothing shall be interpreted to empower any local agency to sell or lease surplus land at less than fair market value.
- 11) Provides that, with respect to any offer to purchase or lease from a notified entity for the purpose of low- or moderate-income housing development, priority shall be given to development of the land for affordable housing for lower income, elderly, or disabled persons or households, and other lower-income households.
- 12) Specifies that, in the event that a local agency receives multiple offers for the purchase or lease of surplus land from more than one of the notified entities, the local agency shall give first priority to the entity that agrees to use the site for housing for persons and families of low- or moderate-income, except that first priority shall be given to an entity that agrees to use the site for park or recreational purposes if the land being offered is already being used and will continue to be used for park or recreational purposes, or if the land is designated for park and recreational use in the local general plan and will be developed for that purpose.

FISCAL EFFECT: Unknown.

COMMENTS:

In 2011, facing a severe budget shortfall, the Governor proposed eliminating RDAs in order to deliver more property taxes to other local agencies. Statewide, redevelopment redirected 12% of property taxes 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 (Blumenfield), Chapter 5 and ABX1 27 (Blumenfield), Chapter 6 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 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

As part of the dissolution of redevelopment, successor agencies were created to dispose of the redevelopment agencies assets and wind down their affairs. The activities of successor agencies are overseen by oversight boards made up of representatives of the local taxing entities and others. Part of the function of the successor agencies is to transfer the housing assets of a former redevelopment agency to the housing successor which was either the local housing authority or the city or county in which the redevelopment agency was located. Housing assets transferred to the housing successor entity were to be used for affordable housing activities, while disallowed assets would go to the successor agency for disposal or retention pursuant to an approved property management plan.

Successor agencies were also directed to dispose of non-housing assets and properties of the former redevelopment agency. Successor agencies are authorized to either, transfer property to the city for governmental use at no cost to the city, sell the property on the open market, with the proceeds distributed among the affected taxing entities, use the property to fulfill an enforceable obligation of the former redevelopment agency, or a city can purchase a property for future development, with the city negotiating the purchase price with the affected taxing entities. The successor agency is directed to dispose of all assets expeditiously and at maximum value.

This bill would require a successor agency to notify a local agency, including a housing authority, and housing developers that they are selling property previously owned by the redevelopment agency. The sale of the properties would be subject to the same process as state surplus property. Priority would be given to a developer that proposes to make at least 25% of the units in a rental or for-sale development affordable to lower income households and agrees to restrict the units to affordable levels for 55 years. If a successor agency receives more than one offer for the property, priority would be given to the development that proposes the most affordable units at the most affordable level. If a property is not sold to a buyer who agrees to include affordable units but is sold for residential use with at least 10 units on the site, then 15% of the units must be provided at an affordable cost to low income households.

As part of the dissolution process, successor agencies were required to provide DOF Long Range Property Management Plans (LRPMPs) that detail the properties owned by former redevelopment agencies and the plans for disposal of those properties. Almost all of the over 380 former redevelopment agencies have approved LRPMPs which are published on DOF's website. LRPMPs are hundreds of page long so it is difficult to determine how many properties are going to be sold on the open market and to which this bill would apply.

Successor agencies are required to dispose of former redevelopment agency properties expeditiously and to maximize the amount for the property. This bill does not specify that a successor agency can sell a property at market rate if it is sold to a developer including affordable units. The committee may wish to clarify this by cross referencing the code section in the state surplus land statute that states that the intent is not to limit a local government's power to sell or lease surplus land at fair market value.

Purpose of this bill: According to the author, "California has a lack of housing which has spurred increased housing prices across the state. A key issue with supply is lack of easily identifiable and affordable sites on which to build new structures. Although local governments are obligated to identify housing sites in their housing elements on which residential housing can be constructed, these identified sites often are inadequate- they do not shift from prior uses to residential uses, their cost is prohibitive, or they are dually zoned to accommodate commercial and residential use, with the commercial use winning out. Housing developers also have a hard time identifying sites on which to build. Affordable housing developers are at a special disadvantage because they cannot compete with market developers when it comes to buying land. Land is one of the most costly parts of a project, especially in California. AB 2697 will allow affordable housing developers to have first right of refusal to purchase any properties currently in possession of redevelopment successor agencies. This small step will give these developers a leg up in the process to locate and acquire properties on which to build affordable housing."

Arguments in support: According to supporters, rents in the state have skyrocketed while at the same time, state and federal investment in affordable home production dropped sixty-six percent. The housing crisis is affecting Californians at nearly every income level. Prior to 2012, redevelopment agencies were required to set aside 20% of the tax increment collected in a project is to fund, creation, preservation, or rehabilitation of affordable housing. AB 2867 would require successor agencies to adhere to some provisions of the State Surplus Land Act including offering affordable housing developers the right of first refusal and if the land is purchased for market rate residential development, require 15% of the units to be low income.

Arguments in opposition: The League of California Cities is opposed to this bill because it is coming late in the dissolution process. "Imposing new procedural and substantive requirements for the dissolution of former RDA properties at this time would no doubt complicate and delay the wind down process. Additionally, it would work to the disadvantage of the local taxing entities which have an interest in obtaining maximum value for the properties to be sold and or get the benefit of increasing valuations from properties that are to be used for economic development."

Committee amendment:

To make clear that a successor agency is not required to sell a property at less than fair market rate to a developer that agrees to include units affordable to lower income households, the committee may wish to consider the following amendment:

(ii) The sale of any land of the former redevelopment agency shall be subject to Sections 54222.5, 54227, 54226, and 54233 of the Government Code.

Double referred: If AB 2697 passes this committee, the bill will be referred to the Committee on Local Government

REGISTERED SUPPORT / OPPOSITION:

Support

California Housing Consortium

Opposition

City of Lakeport

City of Torrance

League of California Cities

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