

Date of Hearing: June 18, 2014

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Ed Chau, Chair

SB 1404 (Leno) – As Amended: June 12, 2014

SENATE VOTE: 22-9

SUBJECT: San Francisco redevelopment: successor agencies: housing

SUMMARY: Allows San Francisco's successor agency to receive property tax increment from six specified redevelopment project areas, and issue debt to pay for specified replacement housing obligations. Specifically, this bill:

- 1) Makes a finding and declaration confirming that there is a statutory obligation to replace 5,842 affordable units that the city and county of San Francisco's former redevelopment agency (RDA) destroyed and did not replace.
- 2) Finds and declares that, because of the unique circumstances relating to the replacement of affordable housing demolished by the former RDA of the city and county of San Francisco, a special law is necessary and a general law cannot be made applicable within the meaning of the California Constitution.
- 3) Updates provisions of existing law to specify that the successor agency to the RDA of the city and county of San Francisco (successor agency), subject to the approval of the oversight board of the city and county of San Francisco, may replace all of the housing units demolished prior to the enactment of replacement housing obligations, as specified.
- 4) Prohibits the successor agency from using more than six RDA project areas under redevelopment plans that were amended for this purpose prior to the dissolution of RDAs.
- 5) Provides that the six RDA project areas may be merged, subject to approval by the oversight board, pursuant to existing law, to fulfill these replacement housing obligations.
- 6) Allows the successor agency to have the authority, rights, and powers of the RDA of the city and county of San Francisco to incur indebtedness, backed by property tax revenues from the six RDA project areas, exclusively for the purpose of fulfilling the replacement housing obligations.
- 7) Requires bonds issued by successor agencies to be sold using the standard of former RDA bonds.
- 8) Requires review and approval of bond sales by the oversight board and the Department of Finance (DOF), as specified.
- 9) Requires the successor agency, in seeking approval for issuance of bonds by the oversight board and DOF, to report on the number of replacement units that it has funded and completed since enactment of SB 2113 (Burton), Chapter 661, Statutes of 2000, which extended the RDA project areas' deadlines and allowed San Francisco officials to use the

resulting funds to replace more than 6,700 affordable housing units that the RDA had demolished and not replaced prior to state law replacement housing requirements.

- 10) Allows bonds to be sold pursuant to either a negotiated or competitive sale.
- 11) Prohibits any time limit imposed by the relevant subdivision of Community Redevelopment Law (CRL) on incurring debt or receiving property tax revenues to repay that debt from applying until the successor agency replaces all of the units demolished prior to the enactment of the replacement housing obligations contained in existing law (Chapter 970 of the Statutes of 1975).
- 12) Applies the following to the new bonds issued for the six RDA project areas and existing bond obligations of the successor agency:
 - a) Allows a successor agency to issue new bonds or debt on the six RDA project areas on an equal basis with outstanding bonds or other debt that have been issued by the successor agency.
 - b) Allows a successor agency to pledge the revenues that have been pledged to outstanding bonds and debt to repay the new bonds or debt issued for the six RDA project areas.
 - c) Gives new bonds issued for the six RDA project areas the same lien priority as the pledge of outstanding bonds or debt.
- 13) Specifies that annual revenues must not exceed the amount necessary to fund the activities of the successor agency in fulfilling these replacement housing obligations.
- 14) Specifies that property tax revenues allocated to the successor agency must be distributed to the city and county of San Francisco from the Redevelopment Property Tax Trust Fund, as specified, after all preexisting legal commitments and statutory obligations funded from that revenue, excluding replacement housing obligations, are made.
- 15) Provides that property tax revenues allocated to the successor agency must not include any moneys that, notwithstanding the replacement housing obligations, are payable to local agencies other than the city and county of San Francisco, a school district that maintains kindergarten and grades 1 to 12, inclusive, community college districts, or to the Educational Revenue Augmentation Fund (ERAF), as specified.
- 16) Provides that the activities conducted with these property tax revenues must be consistent with the affordable housing requirements of the CRL, as well as the policies and objectives of the community's housing element.

EXISTING LAW:

- 1) Requires RDAs to dissolve effective February 1, 2012, pursuant to the California Supreme Court's decision in *CRA v. Matosantos* (2011).

- 2) Establishes successor agencies to RDAs that would, except in certain situations, be the city, county, or city and county in the territorial jurisdiction of the former RDA.
- 3) 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.
- 4) Requires the entity assuming the housing functions of the former RDA to submit a list of all housing assets to DOF by August 1, 2012, as specified.
- 5) 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.
- 6) 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.
- 7) Allows the RDA of the city and county of San Francisco to, subject to the approval of the Board of Supervisors of the city and county of San Francisco, retain its ability to incur indebtedness exclusively for Low- and Moderate-Income Housing Fund activities, as specified, until January 1, 2014, or until the agency replaces all of the housing units demolished prior to the enactment of the replacement housing obligations in Chapter 970 of the Statutes of 1975, whichever occurs earlier.
- 8) Allows the ability of the RDA of the city and county of San Francisco to receive tax increment revenues to repay indebtedness incurred for these Low- and Moderate- Income Housing Fund activities to be extended until no later than January 1, 2044.

FISCAL EFFECT: None.

COMMENTS:

Redevelopment agency dissolution: In 2011, as a result of serious budget shortfalls, the Governor proposed eliminating RDAs and creating a Voluntary Alternative Redevelopment Program (VARP) to replace them. Two pieces of budget trailer legislation, AB1X 26 (Chapter 5, Statutes of 2011-12 First Extraordinary Session) and AB1X 27 (Chapter 6, Statutes of 2011-12 First Extraordinary Session), were enacted to achieve this goal. AB1X 26 provided for the dissolution of RDAs and for the winding up of their obligations by successor agencies. AB1X 27 established VARP, which would have allowed RDAs to continue operations if their local city or county made voluntary annual payments benefitting schools, for the purpose of offsetting state education costs. In *CRA v. Matosantos* (2011), the California Supreme Court upheld the constitutionality of AB1X 26, but invalidated AB1X 27. This had the effect of dissolving RDAs without giving them the option of continuing operations by offsetting state education costs.

When RDAs were dissolved, successor agencies were established to wind up the RDAs' obligations. Except in certain situations, the successor agency is the city, county, or city and county in the territorial jurisdiction of the former RDA. Cities and counties were also given the option of taking over the housing assets of their jurisdiction's RDA.

Redevelopment and replacement of affordable housing units in San Francisco: Prior to the dissolution of redevelopment, state law required RDAs to set aside 20% of their property tax increment revenues to increase, improve, and preserve the supply of affordable housing. State law also required local officials to limit the length of time during which RDA plans remained in effect, and required that RDAs must meet their housing obligations before they terminate a project area.

In 2000, six of San Francisco's oldest RDA project areas were about to reach some of the statutory deadlines on RDA activities. The Legislature, in SB 2113 (Burton), Chapter 661, Statutes of 2000, extended the deadlines and allowed San Francisco officials to use the resulting funds to replace more than 6,700 affordable housing units that the RDA had demolished and not replaced during the years before state law imposed replacement housing requirements on RDAs. Specifically, the Legislature allowed San Francisco officials to extend the deadline for establishing debt in the older project areas until 2014, or until the RDA replaced all of the demolished housing units, whichever date was earlier, and to extend the deadline for receiving property tax increment revenues to pay for their housing debts until 2044.

SB 2113 (Burton) also required San Francisco to focus on low-income housing, limit its administrative spending, and get state approval before incurring more debt. The time extension excluded schools' share of property tax revenues, therefore not impacting the state's General Fund.

Before state law dissolved RDAs, San Francisco's RDA had been able to finance the construction of 867 of the 6,709 replacement affordable housing units. Because DOF does not recognize the financing of the remaining 5,842 replacement affordable housing units as an enforceable obligation of the former RDA, San Francisco officials are unable to issue debt backed by former tax increment revenues to finance the remaining replacement housing units.

Purpose of this bill: This bill allows San Francisco's successor agency to receive former tax increment revenues from six RDA project areas to fulfill its replacement housing obligations. The bill allows the successor agency to bond against the property tax revenues from the six RDA project areas, and allows the successor agency to keep collecting tax increment and incur debt until the successor agency has replaced all of the previously demolished units. Additionally, the bill specifies that tax increment received by the successor agency will not come from property tax revenues dedicated to school entities or local agencies other than the city and county of San Francisco. This bill is co-sponsored by the city and county of San Francisco and the Mayor of San Francisco, Edwin M. Lee.

Author's statement: According to the author, "[b]eginning in the 1950s, the former San Francisco RDA received a significant amount of federal urban renewal funds to implement locally adopted redevelopment plans. Though the goal was to create vibrant, mixed-income communities and to eliminate blight, the result, in some instances, was that these redevelopment projects authorized the widespread clearance and relocation of communities, particularly lower income and minority populations. In San Francisco, the urban renewal process resulted in a net loss of 6,709 affordable housing units – housing for which there is still tremendous need.

"As a remedy, the state amended the Community Redevelopment Law (CRL) in 1976 to require the replacement of affordable housing lost through early urban renewal activities. The CRL

mandates a one-for-one replacement of the total number of units, as well as an equal or greater number of bedrooms.

"Despite the 1976 mandate, in 2000, the California Legislature enacted special legislation acknowledging that the former Redevelopment Agency had an unfulfilled replacement housing obligation resulting from its pre-1976 destruction of affordable housing. In adopting SB 2113 (Burton, Chapter 661, Statutes of 2000), the Legislature made several significant findings, including that San Francisco's housing situation is unique, as median rents and sales prices are among the highest in the state.

"The high cost of housing acknowledged in 2000 has dramatically increased; San Francisco's early redevelopment activities including the removal of previously existing affordable units, have compounded the effects of the city's current housing crisis. Construction funding for the remaining 5,842 replacement units certified by HCD is a key component of San Francisco's solution to our current housing shortage. State authorized funding for these units will leverage approximately \$1 billion in public and private sources for affordable housing.

"San Francisco's Successor Agency to the former Redevelopment Agency has taken seriously its charge to replace the remaining 5,842 affordable units, and has documented both the scope of the obligation and the need to allocate property tax revenues over time in order to fund the necessary construction. The replacement housing obligation is an important remedy to redress the destruction of affordable housing. This bill will allow San Francisco to fulfill its obligation...by authorizing the city to continue to use tax increment as it is generated in six specific former redevelopment areas."

Double-referral: This bill is double-referred to the Assembly Local Government Committee, where it passed out of Committee 7-0 on June 4, 2014.

REGISTERED SUPPORT / OPPOSITION:

Support

City and County of San Francisco (co-sponsor)
Edwin M. Lee, Mayor, City and County of San Francisco (co-sponsor)
California Rural Legal Assistance Foundation
Chinatown Community Development Center
Council of Community Housing Organizations
Malia Cohen, Member, Board of Supervisors, City and County of San Francisco
Mercy Housing California
Non-Profit Housing Association of Northern California
Public Interest Law Project
San Francisco Labor Council
Tenderloin Neighborhood Development Corporation
Western Center on Law & Poverty

Opposition

None on file

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