

Date of Hearing: June 19, 2013

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT  
Ed Chau, Chair

SB 341 (DeSaulnier) – As Amended: May 30, 2013

SENATE VOTE: 34-0

SUBJECT: Redevelopment

SUMMARY: Revises the activities required for entities that assumed the housing functions of a former redevelopment agency. Specifically, this bill:

- 1) Defines "housing successor" to mean the entity that assumed the housing functions of a former redevelopment agency.
- 2) Defines "statutory value of real property" as the value of the properties formerly held by the redevelopment agency listed on the housing asset transfer form, the value of properties transferred to the housing successor, and the purchase price of properties purchased by the housing successor.
- 3) Defines "development" as new construction, acquisition, and substantial rehabilitation of housing; acquisition of long-term affordability covenants on multifamily units; or the preservation of assisted housing developments that are eligible for prepayment or for which the rental restrictions are set to expire within five years.
- 4) Defines "excess surplus" as either an unencumbered amount in the Low- and Moderate-Income Housing Asset Fund (the Fund) that exceeds the greater of either \$1 million or the aggregate amount deposited into the account during the preceding four fiscal years, whichever is greater.
- 5) Requires the housing successor to comply with the Community Redevelopment Law (CRL) when administering the funds in the Fund except as specified.
- 6) Allows the housing successor each fiscal year, to spend up to 2% of the statutory value of real property owned by the housing successor and of loans and grants receivable, including real property, on administrative costs of monitoring and preserving the long-term affordability of units and other activities as specified. If this amount is less than \$200,000, allows the housing successor to spend up to \$200,000 for that fiscal year on monitoring and preserving the affordability of housing units.
- 7) Allows the housing successor, once it has fulfilled its monitoring obligations and its obligations to replace low- and moderate-income housing that has been removed or destroyed, to spend up to \$250,000 on homeless prevention and rapid rehousing activities for families and individuals.
- 8) Requires the housing successor to spend any funds remaining, after 5) and 6) are accomplished, on the development of housing affordable to and occupied by households earning 80% or less of area median income (AMI) of which at least 30% must be spent for

rental housing affordable to households earning 30% or less of AMI and no more than 20% may be spent on housing affordable to and occupied households earning between 60% and 80% of AMI.

- 9) Requires a housing successor to complete a report in 2019, and every five years after, which demonstrates that it has spent funds on the specified income categories from January 1, 2014 through the end of the latest fiscal year.
- 10) Requires a housing successor that fails to spend the required amount of funds on extremely low-income housing to set aside 50% of remaining funds, expended in each fiscal year following the latest fiscal year, on extremely low-income housing until the housing successor is in compliance.
- 11) Requires a housing successor that exceeds the expenditure limit allowed for housing for households earning between 60% and 80% of AMI, as evidenced by the five year report, to cease expending funds on those households until the housing successor demonstrates compliance with the limit in an annual report.
- 12) Provides that if the aggregate number of deed-restricted rental housing provided to seniors in the last ten years by the housing successor, former redevelopment agency, or host jurisdiction exceeds 50% of the aggregate number of units of deed restricted housing within the same time period, then the housing successor must not expend any funds to assist additional senior housing until construction begins on units available to all persons regardless of age that is equal to 50% of the aggregate number of total deed restricted rental units within the previous ten years.
- 13) Provides that program income does not have to be spent in a project area but can be spent anywhere in the jurisdiction it was collected or can be transferred to another jurisdiction without a finding of benefit.
- 14) Allows two or more housing successors in a county or in a single metropolitan statistical area, within 15 miles of each other, or that are contiguous jurisdictions, to enter into an agreement to transfer funds, without making a finding of benefit to the project area, with following conditions:
  - a) The funds are used for the following purposes: transit-oriented development, permanent supportive housing, farmworker housing, or special-needs housing;
  - b) The participating housing successors make a finding that the transfer will not exacerbate racial, ethnic, and economic segregation.
  - c) The development is not in a census tract where more than 50% of the population is very low income unless it is within one-half mile of a major transit stop or high quality transit corridor;
  - d) Neither housing successor has any outstanding obligations to replace removed or destroyed low-income housing;

- e) The completed development will not result in a reduction in the number of housing units or a reduction in the affordability of housing units;
  - f) No housing successor is allowed to transfer more than \$1 million;
  - g) The jurisdictions of the housing successor agencies that are transferring funds have an adopted and substantially compliant housing element and have submitted an annual progress report within the preceding 12 months.
  - h) Transferred funds can only be used for housing that is affordable to households earning 60% of AMI; and
  - i) If transferred funds are not encumbered within two years then they must be transferred to the Department of Housing & Community Development (HCD) and deposited in the Multifamily Housing Program (MHP) or Joe Serna Jr. Farmworker Housing Program.
- 15) Requires a housing successor with an excess surplus to either encumber the funds for the development of affordable housing or transfer the funds to another qualifying successor agency within three fiscal years. If a successor agency fails to do either of these it must transfer the excess surplus to HCD to be spent under the MHP or Joe Serna Jr. Farmworker Housing Program.
- 16) Eliminates the requirement for a housing successor to report annually to the State Controller or to HCD.
- 17) Requires a housing successor, to conduct an independent financial audit of the Low- and Moderate-Income Housing Asset Fund within six months of the end of each fiscal year.
- 18) Requires a housing successor that is a city or county to include the following in its housing element annual report and post it on its website or if the housing successor is not a city or county to provide the following to the governing body and post it on its Internet Web site:
- a) The amount deposited into the Fund, distinguishing the amounts for enforceable obligations on the ROPS and other amounts;
  - b) A statement of the balance of the funds at the close of the fiscal year, which distinguishes any amounts held for items on the ROPS from other amounts;
  - c) A description of expenditures from the Fund by category;
  - d) The statutory value of real property owned by the housing successor, the value of loans and grants receivable, and the sum of the two amounts;
  - e) A description of any amounts transferred to another housing successor in the previous fiscal year, any amounts that are still unencumbered from an earlier fiscal years, and an update on the status of the project for which funds were transferred;
  - f) A description and status of any project that the housing successor receives tax revenue as part of the ROPs;

- g) A description of any outstanding obligations to replace destroyed or removed housing that remained and were transferred to the housing successor on February 1, 2012, the plan for accomplishing that obligation, and a copy of the implementation plan of the former redevelopment agency;
- h) Compliance with expenditures required for housing for extremely low-income households;
- i) The percentage of deed restricted rental units for seniors assisted within the previous 10 years as compared to the aggregate number of units assisted in deed-restricted rental housing; and
- j) The amount of excess surplus, the amount of time that the successor agency has had the excess surplus, and the housing successor's plan for eliminating the excess surplus.

#### EXISTING LAW

- 1) Limits planning and general administrative expenditures from the Low- and Moderate-Income Housing Fund to the following costs which are directly related to permissible housing activities:
  - a. Salaries, wages and related costs of the agency's staff or the costs for services provided through interagency or outside agreements; and
  - b. Costs incurred by a nonprofit corporation that are directly attributable to a specific project.
- 2) States that legal, architectural and engineering costs and other salaries wages and costs directly related to the planning and execution of a specific project are not planning and administrative cost for that purpose of this section but instead project costs.
- 3) Requires redevelopment agencies to expend funds to increase, preserve, and improve the community's supply of low- and moderate-income housing.
- 4) Defines "excess surplus" as any unexpended and unencumbered amount in an agency's Low- and Moderate-Income Housing Fund that is greater than \$1 million or the sum of the last four years' worth of tax increment.
- 5) Requires a redevelopment agency to disburse excess surplus funds to the housing authority or a local housing development agency within one year or expend the funds itself in three years.
- 6) Requires a redevelopment agency within five years of acquiring a property to initiate activities consistent with the development of the property including but not limited to zoning changes, disposition and development agreements.
- 7) Provides that a redevelopment agency may, by resolution, extend the deadline by up to five years to initiate activities consisted with development of a property.

- 8) Requires that each redevelopment agency, over each 10-year period of the agency's redevelopment implementation plan, expend the moneys in the Low- and Moderate-Income Housing Fund to assist housing for persons of very low and low income in at least the same proportion as those income categories represent within the total number of very low-, low-, and moderate-income housing units assigned to the jurisdiction as part of the regional housing needs assessment under housing element law.
- 9) Requires a redevelopment agency, within four years of destroying or removing dwelling units that house low-or moderate-income households to replace the units by rehabilitating, developing, constructing an equal number of replacement units at the same affordability level within the territory of the redevelopment agency.
- 10) Requires a redevelopment agency to ensure that 30% of all new substantially rehabilitated housing units developed by the redevelopment agency and 15% of all new and substantially rehabilitated housing units developed with in the project area are affordable to low and moderate income households.
- 11) Requires a redevelopment agency to hire impendent auditors each year to review their financial statements.
- 12) Requires a redevelopment agency to submit their audits to the Controller by April 1 of each year who must compile a list of agencies for which an independent auditor identified major audit violations.
- 13) Requires the Controller by June 1 of each year to determine if the listed agencies have corrected the major audit violation and if not refer the violations to the Attorney General for action.

FISCAL EFFECT: Unknown.

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 (CRA), 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 dissolution process, local jurisdictions were required to set up a housing successor to assume the housing functions of the former redevelopment agency. The city or county that created the redevelopment agency 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 redevelopment agency. If there was no housing authority in the jurisdiction then the housing

functions were be transferred to HCD. Housing successors are required to maintain any funds generated from housing assets in the Low- and Moderate-Income Housing Asset Fund and use them in accordance with the housing related provisions of the Community Redevelopment Law (CRL). The Low and Moderate Income Housing Asset Fund 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 Low- and Moderate-Income Housing Fund. Funding available to a housing successor in the post-redevelopment world are 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 redevelopment agency which produced more than \$1 billion in tax increment for housing activities statewide each year.

Purpose of this bill: According to the author, "this bill revises 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 retains 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.
- 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.

Changes from CRL: SB 341 attempts to target the more limited financial resources of housing successor toward core functions. Redevelopment agencies were required to expend funds to improve, increase, or preserve housing affordable to low- and moderate-income families. Housing successor's will have far less money than redevelopment agencies so this bill would prioritize that limited funding toward monitoring and maintaining the housing assets that were created or financed by the former redevelopment agency. This bill would also allow housing successors to use funds in the Low- and Moderate-Income Housing Asset Fund toward services to prevent homelessness and rapidly rehousing people. Under existing law, the CRL did not permit redevelopment agencies to spend funds on services. This bill also targets limited funds that are available after monitoring and preserving the existing housing assets toward housing for low- and extremely- low income housing . This is different the CRL which required money to be

expended for low- and very-low income housing in proportion to the communities housing element need for those populations.

Excess Surplus: 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 MHP or Joe Serna Jr. Farmworker Housing Grant Program. HCD is not required to award these funds to projects in the jurisdictions where were generated. It is probable that the amount of money transferred, if any will be small, but the committee may wish to consider amending the bill to encourage HCD to award this funding to projects in the jurisdiction that generated it.

Committee amendment:

Page 13, line 3, after "Program." insert "The Department of Housing and Community Development is encouraged whenever possible to expend funds collected under this section in the jurisdiction where they were generated."

Related Legislation: The author has a companion measure to this bill, SB 133 (DeSaulnier) that is contingent upon the enactment of this bill. SB 133 makes reforms to the CRL that would apply to any future entities that are created and vested with the same statutory powers and duties of redevelopment agencies.

Double referred: If SB 341 passes this committee, the bill will be referred to the Committee on Local Government.

REGISTERED SUPPORT / OPPOSITION:

Support

California Housing Consortium  
City of San Jose  
City of Sonoma  
Housing California  
Nonprofit Housing Association of Northern California

Opposition

None on file.

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