

January 16, 2012

Essential Elements of AB 1X 26 Successor Agencies

Successor agencies are designated as successor entities to the former redevelopment agencies.¹ Successor agencies are given all the authority, rights, powers, duties, and obligations previously vested with the former redevelopment agencies under the Community Redevelopment Law except for those that were repealed, restricted, or revised in AB 1X 26.² A “successor agency” means the county, city, or city and county that authorized the creation of each redevelopment agency.³ All assets of the former redevelopment agency are transferred to the successor agency on February 1, 2012.⁴

First Actions

- Create a Redevelopment Obligation Retirement Fund⁵
- Adopt the agency’s enforceable obligation schedule as modified by definition at Section 34171(d)(2).⁶
- Identify which contracts of former redevelopment agency do not survive dissolution.⁷

Duties of Successor Agencies

A complete list of the duties of the successor agencies is found in Section 34177. The purposes of a successor agency are to (1) make payments on the redevelopment agencies “enforceable obligations; and (2) wind down the activities of the redevelopment agency through the sale and disposition of assets and properties.

Funding the Successor Agencies: Property Tax and Value of Assets

A successor agency will receive funding from two sources: property tax and the value of assets transferred to it as a successor agency. Each successor agency will receive an allocation of property tax from the county auditor-controller: (1) to make payments on “enforceable obligations” and “recognized obligations;” and (2) to fund the administrative

¹ Section 34173(a). [On February 1, 2012, all redevelopment agencies are dissolved and no longer exist as public bodies. Section 34172(a)]. All agency loans, advances, or indebtedness are deemed “extinguished and paid.” [Section 34174(a)]

² Section 34173(b).

³ Section 34171(j). A city, county, city and county, or the entities forming the joint powers authority that authorized the creation of each redevelopment agency could have elected by January 13, 2012 not to serve as successor agency. The auditor controller would then determine the successor agency based upon the first local agency to volunteer. If no local agency volunteers, then a “designated local authority” is created by operation of law and comprised of three residents of the county appointed by the Governor. A local agency may elect to serve even after the “designated local authority” is created. Section 34176.

⁴ Section 34175(b).

⁵ Section 34170.5

⁶ The definition of “enforceable obligation” is found at Section 34171(d).

⁷ See Sections 34171(d)(2) and (3); and Section 34178.

January 16, 2012

costs of the successor agency.⁸ In addition, the value of assets transferred to the successor agency may be used to fund administrative costs if property tax is insufficient. The liability of any successor agency is limited to the “extent of the total sum of property tax revenues it receives and the values of assets transferred to it as a successor agency.”⁹

Successor Agencies and Oversight Boards

Each successor agency will have an oversight board by May 1, 2012.¹⁰ The oversight board has a fiduciary responsibility to holders of enforceable obligations and the taxing entities that benefit from the distribution of property tax and other revenue. Certain actions of the successor agency require oversight board approval.¹¹ The oversight board is required to direct the successor agency to take certain actions to wind down the affairs of the redevelopment agency.¹² The Department of Finance may review any action of the oversight board.¹³

Successor Agencies and Redevelopment Agency Employees [Section 34190]

Provisions of AB 1X 26 relating to successor agencies that are not clear:

- Auditor-controller not authorized to continue to allocate property tax for enforceable obligations
- Definition of “administrative costs” is unclear (Section 34171(b) but see 34177(j) re oversight board approval required)
- Successor entity can enter into contracts with city upon approval of its oversight board (Section 34178(a))
- Authority of successor entity to make enforceable obligation payments after May 1 and before approval of ROPS by Oversight Board (Section 34177(l))

General advice: All actions of the successor entity should include (1) source of authority; (2) limitation of liability; and (3) stamp of “successor entity” (not city).

⁸ Section 34183. Successor agency may report to auditor-controller on March 1, 2012 and May 1, 2012 (thereafter December 1 and May 1) that these two funding sources do not produce sufficient funds to make the required payments. Auditor-controller (with approval of DOF and Controller) can allocate property taxes from taxing entities pursuant to successor agency (34183(b)).

⁹ Section 34173(e).

¹⁰ Section 34179.

¹¹ Section 34180

¹² Section 34181.

¹³ Section 34179(h).