

**ITEM 1**

**OVERSIGHT BOARD FOR CITY OF SAN DIEGO  
REDEVELOPMENT SUCCESSOR AGENCY**

**DATE ISSUED:** 07/11/2012

**ITEM 1** Report from the Successor Agency regarding ANALYSIS OF ASSEMBLY BILL 1484 AND ITS AFFECT ON THE ROLES AND RESPONSISIBILITIES OF THE SUCCESSOR AGENCY AND OVERSIGHT BOARD ROLES

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**DESCRIPTIVE SUMMARY OF ITEM:**

Receive an informational report from Successor Agency staff summarizing the key aspects of California Assembly Bill 1484 and its impacts the roles and responsibilities of the Successor Agency and Oversight Board .

**STAFF RECOMMENDATION:**

Receive report.

**BACKGROUND:**

On June 27, 2012, Governor Brown signed new legislation, Assembly Bill 1484 ("AB 1484") that significantly changes and clarifies certain provisions of ABx1 26 ("the Dissolution Act"). AB 1484 has added significant new provisions and modified actions and deadlines, with major compliance consequences, that need to be implemented in the very near future and throughout the Summer and Fall of 2012.

**DISCUSSION:**

While staff is providing a summary of some, but not all, of the significant provisions of AB 1484 and their impact on the schedule of future Oversight Board actions as discussed in the Goldfarb & Lipman report (Attachment 1), it is strongly recommended that Oversight Board members and the Oversight Board's legal counsel refer to the actual statutory language before making decisions or taking actions pursuant to AB 1484.

*Affordable Housing*

AB 1484 expands the list of assets that are considered housing assets to include any real property, interest in, or restriction on the use of real property acquired for affordable housing purposes regardless of source of funds, whether improved or not, and personal property within the residences. Housing assets also include funds encumbered for housing-related enforceable obligations, loans and grants receivable, rents and payments from operations, amounts owed to the Low and Moderate Income Housing Fund (LMIHF), and housing bond proceeds. The legislation allows the Oversight Board to determine whether the benefit to the community by preserving mixed use properties intact outweigh the benefit to the taxing entities from dividing and disposing of the affordable and non-affordable components of the properties.

A list of all housing assets transferred to the Housing Successor (in this instance, the City) must be submitted to the Department of Finance (DOF) by August 1, 2012. Staff shall present a list of proposed housing assets to be transferred to the Housing Successor to the Successor Agency and Oversight Board for consideration during the latter part of July 2012 and subsequently forward the approved list to the DOF. All assets transferred to the Housing Successor shall be maintained

in a separate Low and Moderate Income Housing Asset Fund. All revenues generated from the housing assets are to be used for the purposes of producing, preserving or improving affordable housing.

AB 1484 clarifies the Excess Housing Bond proceeds provisions of the Dissolution Act and now allows the Housing Successor to retain such proceeds by notifying the Successor Agency of their intended use at least twenty days before the deadline to submit the Recognized Obligation Payment Schedule (ROPS) to the Oversight Board. The proposed expenditure of the Excess Housing Bond proceeds must be listed as a separate line on the ROPS. The Oversight Board, the County Auditor-Controller, the State Controller, and the DOF must approve of the use of proceeds on the ROPS.

Unencumbered housing funds, excluding the Excess Housing Bond proceeds on the approved ROPS, are to be transferred by the Successor Agency to the County Auditor-Controller in late 2012 pursuant to new audit procedures and then distributed are to be distributed to the taxing entities.

#### *Polanco Redevelopment Act*

The new legislation clarifies that the Successor Agency may assume existing cleanup plans and liability limits under the Polanco Redevelopment Act.

#### *Authority to Create Enforceable Obligations*

AB 1484 clearly provides the Successor Agency with authority to create enforceable obligations to conduct wind-down activities, such as retaining staff, engaging consultants or legal counsel, or obtaining insurance. However, it provides that the Successor Agency lacks the authority to enter into new enforceable obligations to begin new redevelopment work, except for obligations that existed prior to June 28, 2011.

#### *Administrative Costs*

AB 1484 clarified that the administrative cost allowance excludes litigation costs related to assets or obligations, settlements, judgments, and predisposition carrying costs for property transferred to a Successor Agency. Also excluded are project-specific staffing costs for project management, monitoring, and inspection.

#### *Oversight Board Support*

The Oversight Board, pursuant to AB 1484, can direct a Successor Agency to provide additional legal or financial advice or administrative support independent from the Successor Agency staff.

#### *Recognized Obligation Payment Schedules*

AB 1484 makes several changes to the process and timing for preparation and approval of the Third ROPS for the period of January 1 through June 30, 2013. The date by which the Third ROPS must be approved by the Oversight Board and submitted to the DOF is accelerated to September 1 from October 1, 2012. The Fourth and all subsequent approved ROPS must be submitted to the DOF no fewer than 90 days in advance of the County Auditor-Controller's semi-annual distribution of funds from the RPTTF.

#### *DOF Review of ROPS*

The amount of time by which the DOF has to request review and make its determination on enforceable obligations has been significantly extended by AB 1484. The DOF now has five business days to request review following its receipt of a ROPS and up to an additional 45 days to make a determination on the amount of an enforceable obligation and its proposed funding

source, if it chooses to request a review. If the DOF does not request a review within the five business days, the ROPS is deemed approved.

Failure by a Successor Agency to submit an Oversight Board approved ROPS within five business days of the deadlines may result of fines in the amount of \$10,000 per day for each day the ROPS is delinquent.

#### *Residual Distributions for FY 2011-12*

Section 34183.5(b) of AB 1484 attempts to expeditiously collect funds from Successor Agencies by requiring the County Auditor-Controller to issue a demand for a "residual balance" payment from Successor Agencies for a portion or all of the property tax increment distribution paid to the former RDAs in late 2011. That distribution would have been paid to the RPTTF if the Supreme Court had not issued a stay in August 2011.

On or before March 28, 2012 the San Diego County Auditor-Controller provided information to local successor agencies about the process for the wind-down of former Redevelopment Agency activities. At the time, local successor agencies were told that there would be no distribution from the RPTTF for the initial ROPS period of January 1 through June 30, 2012 (ROPS 1). Instead, local successor agencies were to use a combination of the late 2011 property tax increment distribution and any reserve funds on hand to pay for ROPS 1. Local successor agencies, including the San Diego Successor Agency, complied with this direction which resulted in the majority of obligations being paid from available revenues other than anticipated funding from the RPTTF.

AB 1484 did not specify how the amount of the "residual balance" payment is to be determined, however, the intent was to ensure the taxing entities receive their full amount owed pursuant to Section 34183(a)(4). The legislation directed county auditor-controllers to determine the amount, if any, that was owed by each successor agency. Rather than develop a county driven process, the DOF directed all counties to use a specific methodology to calculate the "residual balance" payment, called the July True-Up process, which was posted to the DOF website. Some counties complied, and at least one other county did not. The Successor Agency received a demand letter from the County Auditor-Controller in the amount of approximately \$89.6 million. Although the entirety of the late 2011 property tax increment distribution was used in lieu of an RPTTF distribution to partially pay for enforceable obligations on ROPS 1 which greatly exceeded the distribution, the methodology specified by the DOF did not recognize those obligations as being funded by an RPTTF distribution. Despite good faith objection to this demanded payment, the Successor Agency made the payment by its due date of July 12, 2012.

#### *Review of Cash Assets and Finding of Completion*

AB 1484 provides new procedures for conducting a review by an independent licensed accountant of available cash assets of the Successor Agencies. Upon completion of the review, the DOF will issue a finding of completion for the Successor Agency once the Successor Agency remits the unencumbered cash assets to the County Auditor-Controller. The legislation does not indicate how the costs of the review are to be paid. The review of the Low and Moderate Income Housing Funds ("LMIHF") by the Oversight Board must be complete by October 1, 2012. The review of all other funds by the Oversight Board must be complete by December 15, 2012.

The purpose of the non-housing review is to identify the value of all assets transferred from the former RDA to the Successor Agency, those assets, if any, transferred to the City of San Diego, those assets transferred to any other public agency or private party associated with enforceable obligations and a reconciliation of revenues, expenditures, assets and liabilities through June 30,

2012.

A similar review of the LMIHF is required to identify the value of all assets as of June 30, 2012, including those funds that are legally restricted such as bond proceeds or grant funds, physical assets, properties, amounts owed for enforceable obligations, and a determination on the availability of funds to pay all enforceable obligations.

Upon completion of each review, the Oversight Board is to schedule a public comment session to take place at least five business days prior to the Oversight Board's vote on the approval of the reviews. The review of the LMIHF must be transmitted to the DOF by October 15, 2012, and the review of other assets by January 15, 2015. The DOF must complete its review of the LMIHF by November 9, 2012 and the review of the other assets by April 1, 2013 for the remaining funds.

Significant penalties to the sponsoring (i.e., the City) are contained in the legislation if assets transferred to the sponsoring community are not recovered to the satisfaction of the DOF.

#### *County Auditor-Controller Responsibilities*

The Agreed-Upon Procedures Audit deadline has been delayed from July 1 to October 1, 2012. The County Auditor-Controller is now only required to object to the inclusion of any items on the ROPS that are not demonstrated to be enforceable obligations rather than the prior "certification" that was required under the Dissolution Act. Debt service payments have been provided with priority over pass-through payments in the case where insufficient funds are available from the RPTTF.

#### *Property Disposition*

AB 1484 suspends the urgency provisions contained in the Dissolution Act for the disposition of each former RDA's properties and provides more flexibility and consideration of local benefits. Within six months of receipt of a Finding of Completion, the Successor Agency must submit a long-range property management plan for approval by the Oversight Board and the DOF. The property management plan must include an inventory of all properties held by the Successor Agency and site-specific characteristics and estimated values. Properties are to fall within four general categories:

- retention of the property for governmental use;
- retention of the property for future development;
- sale of the property; and
- use of the property to fulfill an enforceable obligation.

Upon approval of the property management plan, the properties are to be placed in a Community Redevelopment Property Trust Fund administered by the Successor Agency in accordance with the approved plan. If the approved plan calls for use or liquidation of a property for a project identified in an approved redevelopment plan, that property is to be transferred to the sponsoring community for that purpose, in a manner similar to that implemented by the former RDA. Any sales proceeds are to be distributed as property taxes on a pro rata basis to the taxing entities.

#### *Sponsoring Community Loans*

AB 1484 allows loans made by the sponsoring community to the former RDA to be deemed enforceable obligations (even those that were not deemed enforceable under the Dissolution Act) if the Oversight Board finds the loan to be for legitimate redevelopment purposes. New conditions are placed on the repayment of the loans such as changes in the interest rate and its calculation, a suspension of payments until FY 2013-14, priority to repayments owed to the

LMIHf, and 20% of repayments placed in the Housing Asset Fund maintained by the Housing Successor.

*Bond Proceeds*

Following receipt of a Finding of Completion, a Successor Agency is permitted, under AB 1484, to spend non-housing excess proceeds from bonds issued prior to 2011 in a manner consistent with the original bond covenants. As discussed above, use of the Excess Housing Bond proceeds is not contingent upon the issuance of a Finding of Completion.

*Extended Review Period for DOF*

AB 1484 extends the period in which the DOF has to review all actions approved by the Oversight Board from three to five business days. If the DOF does not request a review, the action of the Oversight Board is deemed approved. If the DOF requests a review, the period in which it must return the item to the Oversight Board for reconsideration has been extended from 10 days to 40 days. Certain decisions related to the disposition of assets and the transfer of housing assets to the Housing Successor are provided an even longer period for such direction.

**FISCAL CONSIDERATIONS:** AB 1484 imposes significant changes to the Dissolution Act that impact numerous financial components related to the Successor Agency's responsibilities in the wind down of redevelopment including, but not limited to, affordable housing, enforceable obligations, payments to taxing entities, RPTTF distribution, bonds, transactions between the Successor Agency and the sponsoring community, and property disposition. Additionally, the procurement of an independent accountant by the Successor Agency to conduct the required reviews is a new requirement and not covered by existing ROPS or the Successor Agency Administrative Budget.

**CONCLUSION:** It is recommended the Oversight Board receive a presentation by Successor Agency staff on the key aspects of AB 1484, review the attached Goldfarb & Lipman summary report, and review the actual language of the recently signed legislation that impacts the wind down of redevelopment.

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## SUMMARY OF AB 1484: REDEVELOPMENT DISSOLUTION/ UNWIND TRAILER BILL

JUNE 29, 2012

*The laws described below could be impacted by future cleanup legislation. Goldfarb & Lipman intends to update this summary as appropriate, but please contact us to get the most up-to-date information on the status and content of this legislation.*

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**SUMMARY OF AB 1484:  
REDEVELOPMENT DISSOLUTION/UNWIND TRAILER BILL**

**PART I.  
INTRODUCTION AND BACKGROUND**

A. Introduction; Purpose of Summary.

ABx1 26 (the "Dissolution Act") was enacted in late June 2011 as part of the FY 2011-12 state budget package and was held by the California Supreme Court to be largely constitutional on December 29, 2012. Under the Dissolution Act, each of California's redevelopment agencies (each a "Dissolved RDA") was dissolved as of February 1, 2012, and the cities, counties, and city and county that formed the Dissolved RDAs, together with other designated entities, have initiated the process under the Dissolution Act to unwind the affairs of the Dissolved RDAs.

As part of the FY 2012-13 state budget package, on June 27, 2012, the Legislature passed and the Governor signed AB 1484, the primary purpose of which is to make technical and substantive amendments to the Dissolution Act based on experience to-date at the state and local level in implementing that act. As a budget "trailer bill," AB 1484 took immediate effect upon signature by the Governor.

AB 1484 will require those involved in the redevelopment unwind process to learn and implement some significant new rules of conduct just as they were beginning to adapt to and implement the complex rules mandated by the Dissolution Act itself. The purpose of this Summary is to highlight the key elements of AB 1484 for those involved in the redevelopment unwind process. Following a background synopsis of the Dissolution Act in this Part I, Part II of the Summary describes key features of AB 1484, while Part III provides a checklist Summary of major new upcoming milestones mandated by AB 1484.

**We recommend particular attention to the Part III milestones checklist, as AB 1484 has added significant new or modified actions and deadlines, with major compliance consequences, that need to be implemented in the very near future and throughout the Summer and Fall of 2012.**

Because AB 1484 was enacted less than two days after it first appeared in bill form, there has been no time for questions of interpretation and practice to be carefully evaluated by state and local officials charged with the redevelopment unwind process. Consequently, the highlights presented in this Summary represent a good faith initial understanding of the meaning and intent of AB 1484, with the expectation and plan that this Summary will be updated from time to time as further consideration and practice shed light on the proper interpretation of various elements of the bill. Please visit our website at [www.goldfarblipman.com](http://www.goldfarblipman.com) to review future updates of this Summary.

This document is a summary of complex legislation. Reference should be made to the actual statutory language before making decisions or taking actions pursuant to AB 1484. Unless otherwise noted, section references in this Summary are to sections of the Health and Safety Code as added or amended by AB 1484. Reference to a "Part" is to the referenced Part of this Summary.

B. Overview Of Dissolution Act.

Under the Dissolution Act:

1. The authority of Dissolved RDAs to undertake most new activities was suspended as of the effectiveness of the Dissolution Act.
2. Each Dissolved RDA went out of existence on February 1, 2012.
3. A successor agency (a "Successor Agency") was created for each Dissolved RDA and charged with winding down the Dissolved RDA's affairs, including making payments due for enforceable obligations (as defined in the Dissolution Act), performing obligations required pursuant to enforceable obligations, disposing of the Dissolved RDA's assets (other than housing assets), and remitting unencumbered balances of the Dissolved RDA to the county auditor-controller (the "CAC") for distribution to the affected taxing entities. Except for certain housing assets, the assets of the Dissolved RDA transferred to the Successor Agency for this unwinding process.
4. For all but eight of California's Dissolved RDAs, the city, county, or city and county that had formed the Dissolved RDA (the "Sponsoring Community") elected to take on the role of Successor Agency for its Dissolved RDA.
5. Housing assets (other than unencumbered fund balances in the Dissolved RDA's Low and Moderate Income Housing Fund (the "LMIHF") at the time of dissolution, which were instead transferred to the Successor Agency), housing obligations and housing functions of the Dissolved RDA were transferred to a designated housing successor entity (the "Housing Successor"), which in most cases is the Sponsoring Community (and in a limited number of cases is a local housing authority).
6. The CAC is charged with establishing a Redevelopment Property Tax Trust Fund (the "RPTTF") for each Successor Agency and depositing into the RPTTF for each six-month period the amount of property taxes that would have been redevelopment property tax increment had the Dissolved RDA not been dissolved. Semiannually, the CAC is required to make distributions from the RPTTF (a) to the affected taxing entities in the amount of the pass-through payments they would have received had the Dissolved RDA not been dissolved, (b) to the Successor Agency to pay amounts due on enforceable obligations for the upcoming six-month period, and (c) to various entities for specified administrative costs. Any amount left in the RPTTF after each semiannual distribution for the above purposes is distributed by the CAC to the affect taxing entities as normal property taxes.

7. An oversight board (the "Oversight Board") is established for each Successor Agency to approve specified actions and direct specified activities of the Successor Agency.

8. A recognized obligation payment schedule is prepared by the Successor Agency and approved by the Oversight Board setting forth the amounts due for each enforceable obligation during each six-month period (each, a "ROPS"). The Successor Agency is limited to making payments for items shown on an approved ROPS (except that, pending effectiveness of the first ROPS, a Successor Agency is authorized to make payments for amounts on an Enforceable Obligation Payment Schedule (the "EOPS") prepared by the Dissolved RDA prior to dissolution, and subject to update by the Successor Agency).

9. The Department of Finance (the "DOF") and the State Controller's office (the "SCO") are given specified review and approval responsibilities and are assigned certain other tasks in connection with the redevelopment dissolution and unwind process under the Dissolution Act.

PART II.  
SUMMARY OF AB 1484

A. Affordable Housing.

AB 1484 significantly modifies and provides some clarifications to the treatment of housing assets under the Dissolution Act. Specifically, AB 1484 now includes a definition of housing assets, sets forth explicit procedures with respect to transfer of housing assets which must occur by August 1, 2012, provides some greater flexibility and procedural steps regarding the use of housing bond proceeds, establishes a new Low and Moderate Income Housing Asset Fund (the "Housing Asset Fund") to be administered by the Housing Successor, and clarifies that no future deposits are required to be made to the LMIHF.

1. Definition of Housing Assets. Section 34176(e) sets forth a list of assets that are considered housing assets. This is important because the Dissolution Act, as modified by AB 1484, treats both the Housing Successor and housing assets with more flexibility than the Successor Agency and non-housing assets. The list of housing assets in AB 1484 significantly expands the limited list of housing assets announced in the DOF Housing Frequently Asked Questions issued earlier this year (the "Housing FAQs"), due in large part to the efforts of several housing policy groups. The list of housing assets includes the following:

a. Real Property Assets. Housing assets include any real property, interest in, or restriction on the use of real property, whether improved or not, and any personal property provided in residences, including furniture and appliances, all housing-related files and loan documents, office supplies, software licenses, and mapping programs, that were acquired for low- and moderate-income housing purposes, either by purchase or through a loan, in whole or in part, with any source of funds.

b. Encumbered Funds. Housing assets include any funds that are encumbered by an enforceable obligation to build or acquire low- and moderate-income housing,

as defined by the Community Redevelopment Law unless required in the bond covenants to be used for repayment purposes of the bond.

c. Loan or Grant Receivables. Housing assets include any loan or grant receivable, funded from the LMIHF, from homebuyers, homeowners, nonprofit or for-profit developers, and other parties that require occupancy by persons of low or moderate income as defined by the Community Redevelopment Law.

d. Rents and Payments from Operations. Housing assets include any funds derived from rents or operation of properties acquired for low- and moderate-income housing purposes by other parties that were financed with any source of funds, including residual receipt payments from developers, conditional grant repayments, cost savings and proceeds from refinancing, and principal and interest payments from homebuyers subject to enforceable income limits.

e. Rent and Payments from Operations Used to Maintain Affordability or for Affordable Housing-Related Enforceable Obligations. Housing assets include a stream of rents or other payments from housing tenants or operators of low- and moderate-income housing financed with any source of funds that are used to maintain, operate, and enforce the affordability of housing or for enforceable obligations associated with low- and moderate-income housing.

f. Amounts Owed to LMIHF. Repayment of amounts previously borrowed from, or owed to, the LMIHF (i.e. to make Supplemental Educational Revenue Augmentation Fund ("SERAF") payments in prior years), repayment of which had been deferred as of the effective date of the Dissolution Act, are considered housing assets. The repayments can only be made pursuant to a schedule that must be approved by the Oversight Board. The repayments cannot start before FY 2013-14 and the maximum annual repayment is strictly limited by statutory formula. The repayments related to the SERAF (as opposed to other amounts owed to the LMIHF for other reasons) must be made before specified loan repayments to the Sponsoring Community that are described in Part II.E.2.

g. Mixed Use Assets. If a development includes both affordable housing and other types of property, the Oversight Board determines if this mixed use property should remain intact or be split into affordable housing and non-affordable housing components. AB 1484 leaves to the Oversight Board (subject to the DOF review) the decision on whether to make an allocation and, if so, how to accomplish this allocation. The legislation directs the Oversight Board to consider the overall value to the community as well as the benefit to taxing entities of keeping the mixed use development intact or dividing the property in making its decision. The legislation also provides that the disposition of mixed assets may be accomplished by a revenue-sharing arrangement as approved by the Oversight Board on behalf of the taxing entities.

h. Housing Bond Proceeds. Housing bond proceeds from bonds issued prior to January 1, 2011 for affordable housing purposes and secured by a pledge of LMIHF, remaining after satisfaction of enforceable obligations approved on a ROPS (the "Excess Housing Bond Proceeds"), are considered housing assets. The legislation provides that an enforceable obligation may be satisfied by creation of reserves, for projects which are the subject

of that enforceable obligation, consistent with the contractual obligations for the project, or by expending funds to complete that project. See discussion in Part II.A.3 below regarding new process for use of Excess Housing Bond Proceeds.

i. Exclusion of Unencumbered LMIHF Balance. AB 1484 does not change the Dissolution Act treatment of the amounts in the LMIHF balance that were not encumbered by an enforceable obligation as of the effective date of the Dissolution Act. Those funds are to be distributed to the taxing entities pursuant to new audit and review procedures, described in Part II.D.2, and not retained by the Housing Successor for affordable housing uses.

2. Transfer of Housing Assets. AB 1484 sets forth an explicit schedule related to the verification of housing assets transferred to the Housing Successor (Section 341676(a)(2)). By August 1, 2012, the Housing Successor is required to submit a list of all housing assets to the DOF in a format to be prescribed by the DOF. The list must include an explanation of why each asset qualifies as a housing asset, and include a list of assets that transferred between February 1, 2012 (when presumably all housing assets of a Dissolved RDA transferred to the Housing Successor by operation of law pursuant to 34176(a)(1)), and the date the list is made. The DOF has thirty (30) days after receipt of the housing asset list to object to any item on the list. The Housing Successor may request a meet and confer process with the DOF within five (5) business days of receiving any objection from the DOF. There is no timeframe set forth for completing this meet and confer process. Any asset ultimately determined not to be a housing asset is to be returned to the Successor Agency and is subject to clawback by the SCO under Section 34178.8 if not returned. Assets determined to be housing assets under this procedure are not subject to clawback by the SCO under Section 34178.8. The Successor Agency may retain a housing asset, and not transfer it to the Housing Successor, if that asset was previously pledged to pay bonds.

For the transfer of a housing asset that occurs after the date of the list, Sections 34181(c) and (f) provide that an Oversight Board must direct the transfer of housing assets after a 10-day public notice and the DOF then has five business days to review the proposed transfer with the option to extend the review period to up to 60 days. One possible example of this type of future transfer is a property acquired with LMIHF monies, which is in the process of undergoing Polanco Act clean-up and will transfer to the Housing Successor only upon completion of the remediation.

3. Use of Excess Housing Bond Proceeds. After the passage of the Dissolution Act, many practitioners considered any housing bond proceeds not yet committed to a specific project as housing assets to be used by the Housing Successor pursuant to the applicable bond documents with no oversight. AB 1484 significantly changes that practice.

Under Section 34176(g), the Housing Successor can use the Excess Housing Bond Proceeds (defined in subsection 1.h above) only after the following steps and approvals:

a. The Housing Successor must notify the Successor Agency of the intended use or commitment of Excess Housing Bond Proceeds at least twenty (20) days before the deadline to submit the ROPS to the Oversight Board.

b. The Successor Agency must list the proposed expenditure of Excess Housing Bond Proceeds as a separate line item on the ROPS prepared by the Successor Agency.

c. The Oversight Board must approve use of the Excess Housing Bond Proceeds on the ROPS.

d. The usual review period for the ROPS must be completed without objection to the use of the Excess Housing Bond Proceeds by the DOF, the CAC and the SCO.

e. Any review by the Successor Agency, Oversight Board and the DOF is limited to a determination that the use is consistent with the bond covenants and that sufficient funds are available.

f. No commitment or designation of use of the Excess Housing Bond Proceeds is valid until it is included on an approved and valid ROPS.

The Excess Housing Bond Proceeds must be used in a manner consistent with the purposes of the Housing Asset Fund (see subsection 4 below). The Successor Agency shall retain and expend the Excess Housing Bond Proceeds at the discretion of the Housing Successor; provided the Successor Agency ensures that the proceeds are expended in a manner consistent with the bond documents and any requirement relating to tax-exempt status of the bonds. The amount of the expenditures cannot exceed the amount of proceeds available.

4. Low and Moderate Income Housing Asset Fund. The Housing Successor must now create a new type of fund called the Low and Moderate Income Housing Asset Fund (the "Housing Asset Fund") in its accounting records pursuant to Section 34176(d). If the Housing Successor assumed the housing function of a Dissolved RDA with multiple projects areas, we suggest that the Housing Successor also account for the funds in the Housing Asset Fund on a project area basis for purposes of making applicable findings required under the Community Redevelopment Law. Any funds generated from housing assets (also known as program income by practitioners) and any funds transferred to the Housing Successor pursuant to the transfer provisions discussed in subsection 2 above (such as encumbered LMIHF monies) are required to be placed in the Housing Asset Fund. All payments made to repay amounts previously borrowed from, or owed to, the LMIHF, as of the effective date of the Dissolution Act, shall be placed in the Housing Asset Fund. In addition, twenty percent (20%) of all loan repayments made to the Sponsoring Community on loans described in Part II.E.2 will be deducted from those repayments and transferred to the Housing Asset Fund. All monies in the Housing Asset Fund must be used in accordance with the applicable housing-related provisions of the Community Redevelopment Law. This is a substantial change from the Housing FAQs and will provide a limited but on-going source of funds for low and moderate income housing activities in many communities.

5. Continuation of Community Redevelopment Law Housing Obligations. AB 1484 makes clear that no future deposits are required to be made to the LMIHF despite the assertion to the contrary by some housing advocacy groups. The legislation appears to make this requirement effective as of the effective date of the Dissolution Act therefore causing some ambiguity about whether LMIHF deposits were required for tax increment distributions made to Dissolved RDAs in December 2011 and January 2012.

AB 1484 fails to clearly address whether there are any continuing requirements with regard to redevelopment housing production and replacement housing obligations although the DOF has taken the position that those are no longer applicable except perhaps in the case of enforceable obligations. This may be an area for clean-up legislation in the future.

6. Housing Successors. AB 1484 clarifies many questions regarding affordable housing roles of the Housing Successor in the post- redevelopment era. However, some issues are not resolved. For instance, what happens in situations where the Sponsoring Community elects not to serve as the Housing Successor and the local housing authority also declines to take on that responsibility? Such a situation leaves the housing assets in limbo to the great distress, for instance, of a homeowner trying to refinance a home purchased under a first-time homebuyer program funded from LMIHF monies. Some practitioners had hoped AB 1484 would address this situation more directly. Presumably, the reluctance to act as the Housing Successor in those situations will be alleviated by the revised treatment of housing assets in AB 1484, which allows some flow of funds to the Housing Successor. However, further legislation may be required to address these situations, in particular, funding of administrative costs for Housing Successors where there is no stream of income derived from the Dissolved Agency's housing assets.

B. Successor Agency and Oversight Board Issues.

1. Successor Agency Legal Status. Under the Dissolution Act, the term "successor agency" was defined to refer to the Dissolved RDA's Sponsoring Community (the city, county or city and county that formed the Dissolved RDA), unless that Sponsoring Community adopted a resolution electing not to serve in that capacity. AB 1484 redefines "successor agency" to mean the successor entity to the Dissolved RDA pursuant to Section 34173.

Further, AB 1484 declares that "a successor agency is a separate legal entity from the public agency that provides for its governance," but then fails to directly address the relationship between the Successor Agency and that public agency that does provide for its governance. It appears that what AB 1484 is trying to establish is that: (a) unless the Sponsoring Community elected otherwise, the Sponsoring Community's governing body (e.g., city council or board of supervisors) and staff serve as the governing body and staff of the Successor Agency; but (b) the Successor Agency itself is a separate legal entity from the Sponsoring Community. AB 1484's apparent attempt to accomplish this result is ambiguous and imperfect at best.

As a separate legal entity, the Successor Agency will not merge with the public agency that provides for the Successor Agency's governance (Section 34173(g)). The Successor Agency retains the liabilities of the Dissolved RDA, as those do not transfer to the Dissolved RDA's Sponsoring Community (Section 34173(g)). The Successor Agency can sue and be sued in its own name (Section 34173(g)), and all litigation involving the Dissolved RDA is automatically transferred to the Successor Agency (Section 34173(g)).

The Successor Agency "retains" a separate collective bargaining status and the Dissolved RDA's employees do not automatically become employees of the Sponsoring Community (by

virtue of the Sponsoring Community's election to serve as the Successor Agency) (Section 34173(g)).

The Successor Agency succeeds to the organizational status of the Dissolved RDA but lacks the legal authority to participate in redevelopment activities except to complete work on enforceable obligations (Section 34173(g)).

AB 1484 further affirms that the Successor Agency is deemed to be a local public entity subject to the Ralph M. Brown Act (Section 34173(g)).

AB 1484 provides an opportunity for a Sponsoring Community that initially elected not to serve as a Successor Agency to reverse its decision and agree to serve as the Successor Agency (Section 34173(d)(4)). AB 1484 does not include a provision for a Sponsoring Community that initially elected to serve as a Successor Agency to later reverse the election and determine to no longer serve as the Successor Agency.

Although AB 1484 establishes the separate legal status of the Successor Agency and continues to limit the liability of the Successor Agency to the total sum of property tax revenues it receives pursuant to the Dissolution Act and the value of assets transferred to it (Section 34173(e)), several provisions of AB 1484 expose the Dissolved RDA's Sponsoring Community to penalties and other liabilities for the actions and inactions of the now separate and distinct legal entity that is the Successor Agency (see Part II.D.1. and 2. for additional discussion).

AB 1484 also provides that the Successor Agency is included in the definition of a "local public entity" required to participate in a neutral evaluation process pursuant to Government Code Section 53760.3 prior to filing a petition for federal bankruptcy.

## 2. Successor Agency Roles, Limitations, and Funding.

a. Authorized Activities. In addition to the activities authorized under the Dissolution Act, AB 1484 clarifies the authority of a Successor Agency to conduct certain activities, and also authorizes a Successor Agency to perform activities not previously authorized under the Dissolution Act.

AB 1484 clarifies that a Successor Agency may assume existing cleanup plans and liability limits under the Polanco Redevelopment Act<sup>1</sup> (Section 34173(f)), which was previously understood by most practitioners to be the legislative intent, but not expressly stated in the Dissolution Act.

In addition to previous authority granted under Section 34180(c), under AB 1484 a Successor Agency is authorized to hold reserves when required by bond indenture or when the next property tax allocation from the RPPTF will be insufficient to pay all bond debt obligations due in the following six-month period (Section 34171(d)(1)(A)).

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<sup>1</sup> The existing cleanup plans and liability limits may also be transferred to the Housing Successor at that entity's request.

AB 1484 also more clearly sets forth a Successor Agency's authority to create enforceable obligations to conduct wind-down activities of the Dissolved RDA, such as hiring staff, acquiring necessary professional administrative services and legal counsel, and procuring insurance (Section 34177.3(b)).

Under AB 1484, a Successor Agency can, subject to Oversight Board approval, also enter into contracts, that will constitute enforceable obligations, with the Sponsoring Community to borrow from the Sponsoring Community to assist a Successor Agency to fund shortfalls for Successor Agency administrative costs, enforceable obligations, or project-related expenses (Section 34173(h)).

b. Annual Audit. A Successor Agency must also cause a certified public accountant to conduct a post-audit of a Successor Agency's financial transactions and records at least once annually (Section 34177(n)). AB 1484 is unclear on whether the cost of such post-audits may be shown as a separate enforceable obligation line item on a ROPS.

c. Additional Limitation on Activities. AB 1484 provides that a Successor Agency lacks the authority to enter into new enforceable obligations under the applicable portions of the Dissolution Act or begin new redevelopment work, except to comply with enforceable obligations that existed prior to June 28, 2011 (Section 34177.3(a)).

A Successor Agency has no authority and is prohibited from transferring any powers or revenues of a Successor Agency to any other party (public or private) except pursuant to an enforceable obligation listed on a DOF-approved ROPS (Section 34177.3(c)).

Under the Dissolution Act, a Successor Agency was authorized, with the approval of its Oversight Board, to re-enter into agreements with its Sponsoring Community pursuant to Section 34178(a) and Section 34180(h). AB 1484 narrows this authority, by providing that neither the Successor Agency or its Oversight Board has authority to restore funding for an enforceable obligation between a Successor Agency and the Sponsoring Community if the enforceable obligation was deleted or reduced by the DOF pursuant to Section 34179(h) (unless allowed as a result of the meet and confer process with the DOF, required by court order, or pursuant to new authority created by AB 1484 for certain Successor Agency/Sponsoring Community contracts as fully discussed in Part II.E.2 (Sections 34178(a); 34180(a), and 34180(h)).

d. Successor Agency Administrative Costs. The Dissolution Act established an administrative cost allowance for each Successor Agency, but did not specify which costs of a Successor Agency must be paid from the administrative cost allowance and which Successor Agency costs could be separately placed on a ROPS for payment in addition to and outside of the administrative cost allowance. AB 1484 only partially fills that void.

AB 1484 states that the administrative cost allowance excludes litigation costs related to assets or obligations, settlements and judgments, and predisposition carrying costs for property transferred to a Successor Agency. Furthermore, AB 1484 clarifies that project-specific employee costs (like employee costs for construction inspection, project management, and actual

construction) are excluded from a Successor Agency's administrative cost allowance. By excluding these costs from the administrative cost allowance, AB 1484 grants express authority to a Successor Agency to separately list enforceable obligations for such costs on a ROPS for payment in addition to and outside of the administrative cost allowance.

AB 1484 also provides for various mechanisms to reduce a Successor Agency's administrative cost allowance. As more fully discussed in Section II.B.3, the Oversight Board is authorized to reduce the administrative cost allowance below the \$250,000 annual minimum required under the Dissolution Act (Section 34171(b)). Additionally, upon failure by a Successor Agency to submit a ROPS by October 14 and March 13 of each year, the maximum administrative cost allowance for the fiscal year can be reduced by 25% (Section 34177(m))<sup>2</sup>.

e. Wind-Down of a Successor Agency. When all debts of the Dissolved RDA are retired or paid off, a Successor Agency is required to dispose of all remaining assets and terminate its existence within one year of the final debt payment (Section 34187(b)). AB 1484 is silent on which entity a Successor Agency is allowed to transfer its remaining assets to, how that transfer should be effectuated, or if the Oversight Board has a role in the process of terminating a Successor Agency's existence. Also unclear is what becomes of a Successor Agency's non-monetary obligations or duties.

### 3. Oversight Board Composition and Roles.

a. Composition. AB 1484 makes modifications to the determination of the members of the Oversight Board. Under the Dissolution Act, one member of the Oversight Board is to be selected by the largest special district, by property tax share, with territory in the territorial jurisdiction of the Dissolved RDA. Disputes arose in several jurisdictions related to making that determination and the Dissolution Act did not provide for an arbiter of the dispute. Under AB 1484, the CAC is given the authority to determine which special district is the largest special district, by property tax share, with territory in the territorial jurisdiction of the Dissolved RDA (Section 34179(a)(3(B))).

The Dissolution Act required that one Oversight Board member, representing the employees of the Dissolved RDA, be selected from the recognized employee organization representing the largest number of Dissolved RDA employees employed by a Successor Agency. AB 1484 clarifies that in the case where city or county employees performed the administrative duties of the Dissolved RDA, the appointment to the Oversight Board under 34179(a)(7) is to be made from the recognized employee organization representing the city or county employees that performed the administrative duties of the Dissolved RDA (Section 34179(a)(7)). AB 1484 further clarifies that no conflict of interest exists (under Government Code Section 1090) when the Oversight Board member, employed by a Successor Agency or the Sponsoring Community and appointed pursuant to Section 34179(a)(7), votes to approve a contract as an enforceable obligation (Section 34179(a)(7)).

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<sup>2</sup> For the ROPS covering January 1, 2013 through June 30, 2013 this date is September 10.

b. Staffing. Under the Dissolution Act, a Successor Agency is charged with providing staffing to its Oversight Board. Under AB 1484, the Oversight Board can direct a Successor Agency to provide additional legal or financial advice independent from a Successor Agency staff (Section 34179(n)) and the Oversight Board is also authorized to contract with the county or other public or private agency for administrative support (Section 34179(o)).

c. Powers. Under the Dissolution Act, a Successor Agency was guaranteed an administrative cost allowance of not less than \$250,000 for each fiscal year. Under AB 1484, the Oversight Board may reduce a Successor Agency's administrative cost allowance below the \$250,000 statutory minimum (Section 34171(b)).

AB 1484 further provides that Oversight Board decisions on matters within its purview supersede decisions of a Successor Agency or Successor Agency staff (Section 34179(p)).

d. Immunities. Oversight Board members have the same immunities applicable to public entities and public employees (Section 34179(d)) when exercising the authority granted to the Oversight Board under the Dissolution Act and AB 1484.

e. Review of Oversight Board Actions. AB 1484 requires that all actions taken by an Oversight Board be adopted by resolution (Section 34179(e)). A Successor Agency must notify the County Administrative Officer, the CAC, and the DOF, at the same time the Successor Agency transmits a proposed action to the Oversight Board for its approval (Section 34180(j)).

All actions taken by an Oversight Board require transmittal of notice to the DOF by electronic means in a manner of the DOF's choosing. Under the Dissolution Act, the DOF had a period of three business days to request review of Oversight Board actions. AB 1484 extends that time for the DOF to request review of an action to five business days (Section 34179(h)). Actions of the Oversight Board are deemed effective if the DOF does not request a review within five business days of receipt of the notice by the DOF. If the DOF requests a review of a particular Oversight Board action, the DOF has 40 calendar days to approve the action or return it to the Oversight Board for its reconsideration, giving the DOF an additional 30 days to review actions of the Oversight Board beyond the deadline originally in the Dissolution Act. For Oversight Board actions taken pursuant to Sections 34181(a) and (c) related to the disposition of real property and to housing assets, the DOF may extend the review period to 60 calendar days (Section 34181(f)). As discussed in Part II.C.2.c, a slightly different review period applies to the DOF's review of a ROPS.

### C. Enforceable Obligations and ROPS Issues.

1. Enforceable Obligations. AB 1484 contains numerous substantive changes to the definition of the term "enforceable obligation."

In recognition of the timing issues related to the implementation of the Dissolution Act, under AB 1484, a Successor Agency is granted authority to amend the EOPS to authorize

continued payments on enforceable obligations until the ROPS covering the period from January 1, 2012 through June 30, 2012 has been approved by the Oversight Board and the DOF (Section 34177(a)(1)-(2)). AB 1484 also deletes the prohibition on making payments on enforceable obligations after May 1, 2012 unless a ROPS was approved by the Oversight Board and the DOF and certified by the CAC. Instead, under AB 1484, a Successor Agency is allowed to make payments on enforceable obligations listed on the EOPS through the date that the initial ROPS is approved by the Oversight Board and the DOF, erasing any uncertainty for payments made after May 1, 2012 but before the ROPS was approved by the DOF, which for most agencies did not occur until later in May.

AB 1484 clarifies that costs incurred to comply with collective bargaining agreements for layoffs or terminations of employees that performed work for the Dissolved RDA are payable for any employees to whom the obligations apply (Section 34171(d)(1)(C)). If an employee is transferred to the Housing Successor, a Successor Agency is authorized to enter into a contract with the Housing Successor to reimburse the Housing Successor for any costs of the employee obligations, and that contract will constitute an enforceable obligation of the Successor Agency (Section 34171(d)(1)(C)).

AB 1484 clarifies that contracts for the administration or operation of the Successor Agency, including agreements concerning litigation expenses related to assets or obligations, settlements and judgments, and predisposition asset carrying costs, are enforceable obligations of the Successor Agency (Section 34171(d)(1)(F)).

Contrary to published interpretations of the Dissolution Act posted by the DOF, AB 1484 establishes that amounts borrowed from and payments owing to the LMIHF (including SERAF loans) are enforceable obligations and are payable to the Housing Successor (Section 34171(d)(1)(G)) (see further discussion in Part II.A.1.f).

As discussed in other sections of this Summary, AB 1484 also allows a Successor Agency, subject to Oversight Board approval, to enter into an enforceable obligation whereby a Successor Agency borrows money from the Dissolved RDA's Sponsoring Community for administrative costs, enforceable obligations, or project-related expenses at the Sponsoring Community's discretion (Section 34173(h));<sup>3</sup>

AB 1484 also purports to retroactively declare as non-enforceable any contract entered into by a redevelopment agency after June 27, 2011 (Section 34177.3(d)). (See more detailed discussion in Part II.F.5.)

## 2. Recognized Obligation Payment Schedules.

AB 1484 makes several changes to the process and timing for preparation and approval of each ROPS.

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<sup>3</sup> Technically, Section 34173(h) only gives authority to a city, not a county, to make such a loan, although there does not appear to be any policy reason why the Legislature would intend such a distinction.

a. Changes to the Initial ROPS (For the Period Ending June 30, 2012). AB 1484 deletes the requirement that the initial ROPS be certified by the CAC before it can take effect (Section 34177(l)(2)(A)). AB 1484 also reforms dates and payment requirements in the initial ROPS to reflect delays in implementing the Dissolution Act caused by litigation (i.e. a new requirement that the initial ROPS specify January payments and estimate payments through June 30, 2012). AB 1484 states that the Initial ROPS takes effect once it has been approved by the Oversight Board and the DOF.

b. Schedule for Adoption of ROPS. AB 1484 establishes a schedule for adoption of the ROPS for the period ending June 30, 2013 (the "Third ROPS") and all subsequent ROPS.

Although the schedule previously distributed by the DOF indicated that a Successor Agency and its Oversight Board would have until October 1, 2012 to approve the Third ROPS, under AB 1484 a Successor Agency is required to submit to the DOF and the CAC the Third ROPS, approved by the Oversight Board, no later than September 1, 2012.

The DOF will require that the ROPS be completed on a DOF-approved form. Moreover, AB 1484 now requires the Successor Agency staff to submit an electronic copy of the ROPS to the county administrative officer, the CAC, and the DOF at the same time as the proposed ROPS is submitted to the Oversight Board for approval (Section 34177(l)(2)(B)).

Beginning with the fourth ROPS (for the period ending December 31, 2013), a Successor Agency will be required to submit an Oversight Board approved ROPS to the CAC and the DOF no fewer than 90 days prior to the semiannual RPTTF property fund distribution (or October 4 for the January 2 distribution and March 3 for the June 1 distribution) (Section 34177(m)). If a Successor Agency fails to timely submit an Oversight Board approved ROPS within the specified deadlines, AB 1484 gives standing to creditors of a Successor Agency, the DOF and affected taxing entities to file suit for writ of mandate to compel a Successor Agency to adopt a ROPS (Section 34177(m)), and exposes the Successor Agency to additional penalties described below.

c. Review of ROPS. AB 1484 greatly expands this review period and authority of the DOF and significantly changes the ROPS review and approval process. Under the Dissolution Act, the DOF had a period of three business days to request a review of an enforceable obligation listed on a ROPS. AB 1484 extends the deadline to request review to five business days. It is presumed, pursuant to Section 34179(h) that if the DOF does not request a review of any items listed on a ROPS within the five business day review period, the ROPS will be deemed effective. The CAC's role in review of the ROPS is discussed in more detail in Part II.D.3.

Under AB 1484, the DOF is required to make its determination "of the enforceable obligations and the amounts and funding sources of the enforceable obligations" no later than 45 days after the ROPS has been submitted by a Successor Agency. The addition of Section 34177(m) appears to give the DOF authority not only to determine what constitutes an enforceable obligation, but also provides the additional authority to determine the amount and

funding source to meet enforceable obligations. Furthermore, amendments to Section 34179(h), give the DOF the authority to eliminate or modify any item on the ROPS being reviewed under Section 34179 prior to DOF approval (Section 34179(h)). In some respects, these changes appear to provide statutory authority for practices the DOF had already assumed for itself in the first and second ROPS reviews.

A Successor Agency may request additional review by the DOF and an opportunity to meet and confer on disputed items, but such a request must be made within five business days of the Successor Agency's receipt of a DOF determination (Section 34177(m)). The DOF is then required to notify a Successor Agency and the CAC of its review at least 15 days before the date of the property tax distribution (by December 18 for the January 2 distribution and May 17 for the June 1 distribution).

A Successor Agency and Oversight Board may approve amendments to a ROPS to reflect the resolution of a dispute between the DOF and a Successor Agency, but such amendments will not effect a past allocation of property taxes or create a liability to any affected taxing entity with respect to past allocations (Section 34179(h)).

d. Penalties. Failure to approve and submit a timely ROPS may result in the assessment of various penalties to a Successor Agency and/or to the Sponsoring Community.

If a Successor Agency does not timely submit a ROPS pursuant to the deadlines set forth in AB 1484, the Sponsoring Community may be subject to a \$10,000 per day civil penalty for each day the ROPS is delinquent. In addition, failure of a Successor Agency to submit a ROPS within 10 days of the deadline (by October 14 for the January 2 distribution and March 13 for the June 1 distribution)<sup>4</sup> may result in a 25% reduction of a Successor Agency's maximum administrative cost allowance for the period covered by the delinquent ROPS (Section 34177(m)(2)).

If a Successor Agency fails to submit an Oversight Board approved ROPS pursuant to the requirements of AB 1484 within five business days after the April 1 and October 1 dates on which the CAC releases the estimated property tax allocations from the RPTTF, the DOF may determine if any amount should be withheld to pay enforceable obligations (Section 34177(m)(3)). Funds withheld pursuant Section 34177(m)(3) are to be distributed to affected taxing entities in accordance with Section 34183(a)(4). If the DOF orders the CAC to withhold funds to pay for a Successor Agency's enforceable obligations, those funds will only be disbursed to the Successor Agency pursuant to a ROPS approved by the DOF (Section 34177(m)(3)).

#### D. Flow of Funds and Financial Issues.

1. Near Term Payments to Taxing Entities. AB 1484 contains provisions that appear to be designed to assure payments are made to the taxing entities in the short term, including payment of the FY 2011-12 pass-through payments and the potential payment of residual

<sup>4</sup> For the Third ROPS, the date is September 10, 2012.

amounts pursuant to Section 34183(a)(4) for the first ROPS period although there was no distribution from the RPTTF for that period.

a. Fiscal Year 2011-12 Pass-through Payments. AB 1484 adds Section 34184.5 to the Dissolution Act to provide for the payment of the FY 2011-12 pass-through amounts to the taxing entities if such payments were not previously made.

Section 34184.5(a)(1) requires the CAC to make payments to the taxing entities for the FY 2011-12 pass-through amounts that were not previously paid, either by the former Dissolved RDA or by the CAC from the June 1, 2012 distribution from the RPTTF, by reducing the amounts that would be paid to a Successor Agency for enforceable obligations in subsequent distributions from the RPTTF, subject to any subordination of the payments owed to bond debt (as currently allowed pursuant to Section 34183(b)). The CAC will continue to reduce the amounts paid to a Successor Agency from the RPTTF during subsequent distributions until the full amount owed to the taxing entities for the FY 2011-12 pass-through payments have been made. Alternatively, a Successor Agency can use reserve funds to make these payments.

Pursuant to this section, if a Successor Agency did not have sufficient funds to pay the full amount of its pass-through payments for FY 2011-12, the unpaid amount effectively becomes a debt of a Successor Agency with a higher priority for payment from the RPTTF than other enforceable obligations in the next distribution from the RPTTF. The only exception will be if the Dissolved RDA, prior to dissolution, subordinated the pass-through payments to bond debt in which event the bond debt will have priority over the pass-through payments as currently allowed by Section 34183(b).

Under Section 34184.5(a)(2), if the Dissolved RDA did not make the FY 2011-12 pass-through payments but the CAC did, the CAC can offset up to one-half of the amount the CAC paid from the next distribution from the RPTTF to the Successor Agency. If the amount distributed to the Successor Agency is not sufficient to make the full deduction of one-half of the amount owed in the next distribution, the CAC is to continue to reduce the amounts allocated to the Successor Agency in subsequent distributions until one-half of the amount paid by the CAC is deducted. The CAC can also accept payments from the Successor Agency's reserve funds to cover the deduction provided for above.

b. Residual Distributions for FY 2011-12. Section 34183.5 also contains procedures for distributing any residual amounts of funds in the RPTTF that would have been available if the Dissolution Act had gone into effect when originally intended. If Dissolved RDAs had been dissolved effective October 1, 2011 under the Dissolution Act as originally set out in the statute (rather than on February 1, 2012 as modified by the Supreme Court), the first distribution from the RPTTF would have been in January 2012 and would have covered the initial ROPS period of January 1, 2012 through June 30, 2012. However, because of the Supreme Court stay, the funds that would have been available for deposit into the RPTTF for the January 2012 distribution were distributed to the Dissolved RDAs late in 2011 and used by most agencies to pay enforceable obligations on the EOPS incurred since July 1, 2011. The purpose

of Section 34183.5(b) appears to be to retroactively undo the Supreme Court stay and attempt expeditiously to collect funds from Successor Agencies<sup>5</sup>.

The provisions of Section 34183.5 require the distribution of residual funds deemed to be owing to the taxing entities from the first ROPS period of January through June 2012. The amounts owed to the taxing entities pursuant to 34183(a)(4) are to be determined based on the initial ROPS approved by the Department of Finance. How the amount is to be determined since there was no distribution from the RPTTF for this period is not explained in the legislation.

If the taxing entities have not received the full amount owed under Section 34183(a)(4) by July 9, 2012, the CAC is to determine the amount, if any, owed by each Successor Agency and demand the funds from the Successor Agency by no later than July 12, 2012. Although this section does not appear to allow for any appeal of the CAC's demand, the DOF assured legislators prior to passage of AB 1484 that the meet and confer provisions elsewhere in the legislation are applicable to this section as well.

If the CAC fails to make the demand by July 9, 2012, the DOF or any affected taxing agency can request a writ of mandate to compel the CAC to make the required determination of the amounts owed. The CAC is subject to penalties of 10% of the amount owed plus 1.5 % of the amount owed to each taxing entity for each month that it fails to perform its duties under this section. Additionally, any county that fails to make the determinations required by July 9, 2012 or fails to distribute the full amount received from the Successor Agencies by July 16, 2012 will not receive the distribution of sales and use tax scheduled for July 18, 2012 or any subsequent sales and use tax distributions up to the full amount owed to the taxing entities.

If the Successor Agency fails to make the payment demanded by the CAC by July 12, 2012, the DOF or any taxing entity can bring a writ of mandate to require the payment. Failure to make the payment will subject the Successor Agency and the Sponsoring Community to penalties of 10% of the amount owed plus 1.5% for each month that the payments are not made. The Successor Agency also cannot make any payment other than bond debt until the amounts owed are paid.

Finally, if the amounts owed are not paid on July 12, 2012, the Sponsoring Community will not receive a distribution of sales and use tax on July 18, 2012 or any subsequent distributions up to the full amount owed to the taxing entities.<sup>6</sup>

2. Unencumbered Fund Remittances; Finding of Completion. Section 34179.5 provides new procedures for reviewing the available cash assets of the Dissolved RDA (the "Review"). This Review is to be conducted by each Successor Agency with the end goal of distributing what are determined to be available cash assets to the taxing entities during FY

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<sup>5</sup> It should be noted that the DOF Exhibit H, *Distribution, Reporting and Transaction Period for the RPTTF*, shows that no residual distribution pursuant to Section 34183(a)(4) is due for the initial ROPS period. This appears to be the logical consequence of the fact that there were no deposits into the RPTTF for this reporting period so distributions of residual amounts appear to be impossible.

<sup>6</sup> The constitutionality of these offsets is questionable.

2012-13. At the conclusion of the Review, if the Successor Agency remits the cash assets to the CAC, and if the Successor Agency has also made the payments summarized in Part II.D.1, the DOF will issue a finding of completion for the Successor Agency (a "Finding of Completion"). As fully discussed in Part II.E, the issuance of the Finding of Completion makes the Successor Agency eligible to retain Dissolved RDA properties, reinstate loans between the Dissolved RDA and the Sponsoring Community, and spend unspent bond proceeds from bonds issued prior to January 1, 2011 for the purposes for which the bonds were issued (subject to restrictions).

Successor Agencies undertaking the Review will need to proceed carefully in instructing the accountant hired. The Review is governed by definitions contained in Section 34179.5 that are multi-layered and nuanced.

a. Timeline for Review. The Review as it relates to the LMIHF must be complete by October 1, 2012. The Review for all other funds must be complete by December 15, 2012.

b. Review Procedures. Section 34179.5 requires each Successor Agency to hire a licensed accountant with experience and expertise in local government accounting to review the unobligated balances available for transfer to the taxing entities. The legislation does not provide any funding source for paying for the accountant and does not indicate whether the costs of the Review are to be covered by the Successor Agency's administrative cost allowance. The selection of the accountant has to be approved by the CAC. Alternatively, an audit conducted by the CAC that provides the required information can be used to comply if the Oversight Board concurs. The nature of the Review differs significantly from the agreed-upon procedure audits currently under way (see further discussion in Part II.D.3), so it is unlikely that the agreed-upon procedure audits will provide the required information. The DOF can specify the form in which the Review is to be provided.

c. Contents of Review. The statute contains specific definitions to be used for purposes of complying with the Review requirement. Proper interpretation of these definitions is essential to ensuring that the Review is conducted correctly. A Successor Agency will want to work closely with the accountant hired to perform the Review on setting the parameters for the Review to ensure correct application.

(1) Enforceable Obligations. For purposes of the Review, "enforceable obligations" are considered primarily to be those contained in the definition of enforceable obligations that applies after dissolution as set forth in Section 34171(d) and thus would exclude most contracts or agreements between the Dissolved RDA and the Sponsoring Community even though under the Dissolution Act those contracts are considered enforceable obligations prior to dissolution (through January 31, 2012). Since the Review covers both pre-dissolution and post-dissolution periods, this definition appears to be a camouflaged attempt to retroactively disallow payments prior to dissolution made by a Dissolved RDA to its Sponsoring Community, even though such payments were valid at the time made.

(2) Cash and Cash Equivalents. For purposes of the Review, "cash and cash equivalents" are defined as cash in hand, bank deposits, LAIF deposits, deposits with

the Sponsoring Community treasury and any other pool, marketable securities, commercial paper, US Treasury bills, banker's acceptances, payables and amounts from other parties and any other money owed by the Successor Agency (presumably this section was intended to mean amounts owed to the Successor Agency).

(3) Transferred. The definition of "Transferred" presents numerous interpretation challenges. As the definition reads: "Transferred means the transmission of money to another party that is not in payment of goods or services or an investment or where the payment is de minimus. Transfer also means where the payments are ultimately merely a restriction on the use of the money" (Section 34179.5(b)(3)). The Review is required to include the dollar value of assets transferred from the Dissolved RDA or the Successor Agency to the Sponsoring Community or any other party. Based on the definition of the term Transferred and Transfer in the statute, it appears that the Review need only cover those instances where assets were transferred without consideration, for investment purposes or pursuant to agreements that merely restricted the use of the money.

The Review is required to include all of the following:

- The dollar value of assets transferred from the Dissolved RDA to the Successor Agency upon dissolution;
- The dollar value of assets and cash and cash equivalents transferred by the Dissolved RDA or Successor Agency to the Sponsoring Community between January 1, 2011 and June 30, 2012, including the purpose of any such transfer and the documentation for any enforceable obligation related to such transfer;
- The dollar value of any cash or cash equivalents transferred after January 1, 2011 through June 30, 2012 to any other public agency or private party and the purpose of those transfers including documentation of any enforceable obligations requiring the transfer;
- Expenditure and revenue accounting information and transfers and funding sources for the 2010-11 and 2011-12 fiscal years that reconciles the balances, assets, liabilities of the Successor Agency on June 30, 2012 to those reported to the SCO for FY 2009-10;
- Separate accountings for (i) the balance of the LMIHF, and (ii) for all other funds combined that includes the following:
  - A statement of value of each fund as of June 30, 2012;
  - An itemized statement listing any amounts that are legally restricted and cannot be provided to the taxing entities, including bond proceeds, grant funds or restricted funds provided by other governmental entities;

- An itemized statement of the value of any assets that are not cash or cash equivalents which can include land, records and equipment. Physical assets can be valued at purchase cost or estimated market value. Housing assets are to be listed separately;

- An itemized list of any current balances that are legally owed to fund an enforceable obligation with the specific enforceable obligation identified. The Successor Agency is also to provide a listing of all approved enforceable obligations that includes a projection of the annual payments needed to satisfy the obligation and the projected revenues available to pay the obligation;

- If the Review finds that the current balances are necessary to fund the enforceable obligations because available restricted funds and future revenues are insufficient, the Review must identify the amounts necessary to pay the enforceable obligations from the current balances;

- Additionally, if the Review determines that the Successor Agency will have insufficient property tax to pay the enforceable obligations, the Review is to include the projected property tax revenue and other revenues projected to be available to the Successor Agency along with the amount and timing of bond debt payments of the Successor Agency; and

- An itemized list of the current balances that will be needed to pay enforceable obligations to be placed on a ROPS for the current fiscal year.

The Review is required to total the net balances available after deducting the restricted funds, the physical assets and the balances necessary for payment of enforceable obligations where there are insufficient funds from the projected property tax revenues and other revenues to pay the enforceable obligations. The balance available is to include the value of any cash transferred between January 1, 2011 and June 30, 2012 if there is not an enforceable obligation for that transfer. It is a rebuttable presumption that cash and cash equivalents are available to disburse to the taxing entities.

If the Review determines that there are insufficient cash balances to pay the amount determined to be the available amount, that insufficiency is to be demonstrated in a separate schedule.

d. Oversight Board and DOF Role with Respect to Review. Upon completion of the Review, the Review is to be submitted to the Oversight Board for review and approval. Additionally, the Successor Agency is to submit a copy of the ROPS to the County administrative officer, the CAC and the DOF at the same time the Successor Agency submits the Review to the Oversight Board.

Upon receipt of the Review, the Oversight Board is to convene a public comment session to take place at least five business days before the Oversight Board votes on approval of the Review. The Oversight Board is to review, approve and transmit the Review by October 15, 2012 for the LMIHF and by January 15, 2013 for all other funds. The Oversight Board can

adjust amounts provided in the Review to reflect additional information and analysis. The Oversight Board can also authorize the Successor Agency to retain the restricted funds, the non-cash assets, and the cash balances that are contractually committed or needed for items to be placed on the ROPS during the fiscal year.

The DOF may adjust the amounts determined to be available for allocation to the taxing entities in the Review based on its analysis and information provided by the Successor Agency and others. The DOF is to complete its review by November 9, 2012 for the LMIHF and by April 1, 2013 for the remaining funds. The DOF is required to provide the Successor Agency and the Oversight Board with an explanation of the basis for overturning or modifying any findings or determinations of the Oversight Board.

The Successor Agency and the Dissolved RDA's Sponsoring Community can request a meet and confer with the DOF after the DOF has made its determination of the amounts available for allocation to the taxing entities within five business days of receipt of the DOF's determination (and no later than November 16, 2012 for the LMIHF portion of the Review). The request to meet and confer must include an explanation and documentation of the basis for the dispute. The DOF is required to meet and confer with the requesting party and make a decision within 30 days of the request to meet and confer.

e. Payments to Taxing Entities and Penalties for Noncompliance. Successor Agencies are required to transmit the funds determined to be available for allocation to the taxing entities within five business days of receipt of the notification of the amount determined by the DOF. Successor Agencies are required to make diligent efforts to recover money determined to be transferred without an enforceable obligation. If the Successor Agency fails to transmit the funds determined to be available for allocation to the taxing entities, there are a variety of remedies set forth in the statute including:

- If the Successor Agency cannot recover funds transferred to another public agency without an enforceable obligation, the DOF can order the Board of Equalization to offset the sales and use tax of the local agency that received the transferred funds, or the if the DOF does not order a sales or use tax offset, the CAC can offset property tax of the local agency that received the funds<sup>7</sup>;

- The DOF and the CAC can demand the return of funds improperly spent or transferred to a private party and can recover those funds plus a 10% penalty and interest through any lawful means;

- If the Sponsoring Community is performing the duties of the Successor Agency<sup>8</sup>, the DOF can order an offset of the Sponsoring Community's sales and use tax. If the DOF does not order such an offset, the CAC can offset property tax owed to the Sponsoring Community;

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<sup>7</sup> As noted earlier, the constitutionality of these offsets is questionable.

<sup>8</sup> The statute does not address the fact that, pursuant to AB 1484, each Successor Agency is now a separate and distinct legal entity and is no longer the Sponsoring Community.

- As an alternative to all of the above, the DOF can order the CAC to offset the amounts owed against future distributions from the RPTTF to the Successor Agency pursuant to Section 34183.

If the DOF determines that the full payment of the amounts determined to be available for allocation to the taxing entities is not feasible or would jeopardize a Successor Agency's ability to pay enforceable obligations, the DOF can agree to an installment payment plan.

3. County Auditor-Controller Responsibilities; Redevelopment Property Tax Trust Fund Distribution Issues. AB 1484 contains numerous substantive changes to the role and responsibilities of the CAC in the redevelopment unwind process and to the instructions for administering and making distributions from the RPTTF. In addition to matters described in other parts of this Summary, key changes include:

a. The initial ROPS (covering January through June 2012) is no longer subject to certification by the CAC based on the results of the agreed-upon procedures audit that the CAC is required to conduct or cause to be conducted by an external auditor (the "AUP Audit") (Section 34177(l)(2)). This change raises questions about the continuing purpose of the AUP Audit.

b. The AUP Audit completion deadline is pushed back from July 1 to October 1, 2012, and related delivery dates are pushed back correspondingly (Section 34182(a)).

c. Instead of "certifying" a ROPS, the CAC is instead authorized under AB 1484 to review a ROPS and object to inclusion of any items that are not demonstrated to be enforceable obligations and/or the funding source proposed for any items. Such review and objection may occur before or after Oversight Board action on a particular ROPS. The CAC is directed to submit notice to the DOF, the Successor Agency, and the Oversight Board concerning any objection, generally at least 60 days prior to the distribution date for moneys from the RPTTF for the applicable ROPS period. If an Oversight Board disputes a CAC objection to a ROPS item, it may refer the matter to the DOF for determination of what will be approved for inclusion on the applicable ROPS (Section 34182.5). The AUP Audit presumably could be of use to a CAC in this role.

d. In calculating pass-through payment amounts that would have been owed had the Dissolved RDA not been dissolved, the CAC is directed to assume that the requirement still existed to deposit a portion of what would have been tax increment into the LMIHF (Section 34183(a)(1)).

e. The obligation of the CAC to make a distribution from the RPTTF on May 16, 2012 (as required by the Dissolution Act as modified by the Supreme Court) is deleted by AB 1484, thereby sanctioning the previously unauthorized practice implemented by most CACs (Section 34183(a)(2)).

f. The CAC is required to provide estimates of the amounts it will distribute from the RPTTF for the upcoming six-month period on October 1 (was November 1 in the Dissolution Act) and April 1 (was May 1 in the Dissolution Act) (Section 34182(c)(4)).

g. The date for distributions by a CAC from the RPTTF for the first six-month period of each calendar year (starting in 2013) is moved from January 16 to January 2. The distribution date for the second six-month period of each calendar year remains June 1 (Sections 34183(a) and 34185).

h. If there is a confirmed insufficiency of funds available to pay all of a Successor Agency's debt service enforceable obligations, the Dissolution Act established a procedure for reducing various distributions from the RPTTF to deal with such insufficiency, including giving priority of RPTTF distributions to such debt service payments over any statutory pass-through payments that had been subordinated under the applicable statutory procedure to the debt service payments. AB 1484 clarifies that contract pass-through payment obligations entered into prior to 1994 that were expressly subordinated to debt service payments on a particular enforceable obligation are also subordinated for purposes of distributions by the CAC from the RPTTF (Section 34183(b)).

i. Within 10 days after each semi-annual distribution from the RPTTF, the CAC must provide a report to the DOF on specified matters related to such distribution (Section 34183(e)).

j. AB 1484 establishes a procedure for a CAC to adjust the amounts distributed from the RPTTF to a particular taxing entity for a succeeding six-month period to the extent the amount of pass-through payment distributed by the CAC to that taxing entity for the preceding six-month period (based on estimates of the amount owed) varied from the actual amount of pass-through payment owed to that taxing entity (based on more complete subsequent information) (Section 34186(b)).

k. Once a Successor Agency pays off all the enforceable obligations of the Dissolved RDA, AB 1484 directs it to dispose of all remaining assets and terminate its existence within one year of the final debt payment. When the Successor Agency is terminated, all pass-through payment obligations cease and no further property tax is deposited in or distributed from the RPTTF, with the effect that all property tax that would formerly have been tax increment becomes normal property taxes distributed among the taxing entities as if the Dissolved RDA had never existed (Section 34187(b)).

l. Acknowledging that it had created inconsistency and uncertainty in the way it enacted related provisions of the Dissolution Act regarding calculation of the amount of pass-through payments owed, the Legislature in AB 1484 states its intent that the full amount of pass-through payments be made from the RPTTF, and that the apparent reduction in such payments mandated by one of the provisions at issue in the Dissolution Act would not be operative (uncodified Section 36 of AB 1484). Serious questions remain as to whether the payment of full pass-through amounts, as now clarified by AB 1484, violates various provisions of the California Constitution.

4. Reversal of Certain Successor Agency/Sponsoring Community Transactions. AB 1484 directs the SCO to review activities of each Successor Agency to determine if it transferred an asset on or after February 1, 2012 (when the Successor Agency was established) to the Sponsoring Community (city, county, or city and county that formed the Dissolved RDA) other than pursuant to an enforceable obligation contained on an approved and valid ROPS.<sup>9</sup> If such a transfer did occur other than in connection with an enforceable obligation, then the SCO is directed to order the return of the transferred asset to the Successor Agency (unless such return is prohibited by state and federal law), and the "affected local agency" (words used in the statute) is directed to effectuate such return of the applicable asset as soon as practicable. This provision does not apply to the transfer of housing assets (see discussion of housing asset definition in Part II.A) which, if held by the Successor Agency, are allowed and required to be transferred to a Housing Successor (which often will be the Sponsoring Community) for continued housing functions (Section 34178.8).

5. Refunding Bonds. AB 1484 provides much greater flexibility in the refunding of bonds than the Dissolution Act provided. The legislation recognizes the advisability of authorizing the refunding bonds to lower the long-term cost of financing in many situations. Section 34177.5 adopts in most respects the language prepared by a committee of bond counsel from around the State, although it did not include the suggested language to address greater flexibility in refunding variable rate bonds. We suggest consultation with bond counsel for details regarding possible restructuring of any bonds.

As with other actions in the post-redevelopment era, any bond refunding requires Oversight Board approval and DOF review. The statute also provides for subordination of pass-through payments by taxing entities in substantially the same manner as previously provided in the Community Redevelopment Law (Section 34177.5(c)). To provide greater certainty to bond holders and others, the Successor Agency may petition the DOF to provide written confirmation that a DOF approval of an enforceable obligation with payments over time is final and conclusive and reflects the DOF's approval of subsequent payments under that enforceable obligation. If such confirmation is granted by the DOF, DOF review in the future is limited to confirming the payments are required by that prior approved enforceable obligation (Section 34177.5(i)).

A validation action may be brought regarding any bond refunding within 30 days of the Oversight Board approval of the refunding (Section 34177.5(e)). The DOF is required to be notified of a validation action involving a bond refunding (Section 34177.5(d)).

E. Potential Local Benefits of AB 1484.

The following potential benefits to a Successor Agency and its Sponsoring Community are offered under AB 1484 once the Successor Agency has attained a Finding of Completion from the DOF, as further described in Part II.D.2.

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<sup>9</sup> Presumably, the same treatment should apply to a transfer pursuant to an enforceable obligation listed on an approved Enforceable Obligation Payment Schedule in effect prior to the effectiveness of the first ROPS.

1. Property Disposition. The Dissolution Act calls for the Successor Agency, under the direction of the Oversight Board, to dispose of real property it received from the Dissolved RDA either for limited public uses, or for disposition into the private market expeditiously and with a view toward maximizing value, with the disposition proceeds ultimately made available for distribution to the affected taxing entities.

AB 1484 appears to suspend this process,<sup>10</sup> and to provide certain flexibility and local benefits in connection with property disposition for a Successor Agency that has received a DOF Finding of Completion (Section 34191.3). Within six months after receipt of a Finding of Completion, the Successor Agency must submit a long-range property management plan for the real property of the Dissolved RDA for approval by the Oversight Board and the DOF (Section 34191.5(b)). The property management plan must include an inventory (with specified information) about each property, and address the use or disposition of each property (Section 34191.5(c)).

Permitted uses under a property management plan include:

- a. retention of the property for governmental use;
- b. retention of the property for future development;
- c. sale of the property; and
- d. use of the property to fulfill an enforceable obligation.

Upon approval of the property management plan, the properties of the Dissolved RDA are to be placed in a Community Redevelopment Property Trust Fund administered by the Successor Agency in accordance with the approved property management plan (Sections 34191.4(a) and 34191.5(a)). If the property management plan calls for use or liquidation (sale to obtain revenues) of a property for a project identified in an approved redevelopment plan, that property is to be transferred to the Sponsoring Community for that purpose. If the property management plan calls for the liquidation of the property or use of revenues from the property for purposes other than a project identified in a redevelopment plan or other than to fulfill an enforceable obligation, the proceeds from the sale are to be distributed as property taxes to the taxing entities (Section 34191.5(c)(2)(A) and (B)).

In short, use of property placed in the Community Redevelopment Property Trust Fund in accordance with an approved property management plan enables the Successor Agency and the Sponsoring Community to direct the use of specified properties and revenues generated from those properties for community development activities, including affordable housing, in a manner somewhat similar to the uses of property formerly implemented by the Dissolved RDA.

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<sup>10</sup> It is not clear if a Successor Agency can continue to follow the Dissolution Act path and dispose of property under Oversight Board direction to maximize value received for distribution to the affected taxing entities, or is instead compelled to follow the alternative path set out in AB 1484.

2. Sponsoring Community Loans. Under the Dissolution Act, the repayment of many loans made in good faith by a Sponsoring Community to its now Dissolved RDA became unenforceable as of February 1, 2012 and not subject to repayment by the Successor Agency. Under AB 1484, upon application by the Successor Agency and approval by the Oversight Board (which approval in turn creates the opportunity for DOF review and disapproval as further described in Part II.B.3.e), loan agreements between the Sponsoring Community and the Dissolved RDA that were previously deemed not to constitute enforceable obligations as of February 1, 2012, can once again be deemed to be enforceable obligations if the Oversight Board finds that the loan from the Sponsoring Community to the Dissolved RDA was for legitimate redevelopment purposes (Section 34191.4(b)).

However, AB 1484 places several conditions on the repayment by the Successor Agency to the Sponsoring Community of a loan that is reinstated, including:

- a. accumulated interest on the loan is recalculated from loan origination at the Local Agency Investment Fund ("LAIF") interest rate and supersedes any different interest calculation in the loan agreement;
- b. going forward, interest is also limited to the LAIF rate;
- c. loan repayments to the Sponsoring Community cannot begin until FY 2013-14 and are to be made according to a defined schedule over a "reasonable term of years", with the maximum annual repayment being strictly limited by statutory formula;
- d. repayments received by the Sponsoring Community must first be applied to retire any outstanding amounts that had been previously borrowed by the Dissolved RDA from its LMIHF (e.g., amounts borrowed to make SERAF payments); and
- e. 20% of any remaining repayments received by the Sponsoring Community are deducted and placed in the Housing Asset Fund maintained by the Housing Successor (see discussion of this fund in Part II.A.4) (Section 34191.4(b)).

Depending on circumstances, these conditions could significantly reduce the repayment amounts received by the Sponsoring Community under any loan that is reinstated under AB 1484 following Oversight Board approval (and lack of DOF disapproval) of such reinstated loan.

3. Bond Proceeds. The Dissolution Act was ambiguous about the authority for a Successor Agency to expend unencumbered bond proceeds. Under AB 1484, following receipt of a DOF Finding of Completion, a Successor Agency is clearly authorized to spend, in a manner consistent with the original bond covenants, excess bond proceeds (proceeds not already committed to satisfy approved enforceable obligations) from bonds issued prior to 2011. Such expenditures of excess pre-2011 bond proceeds are considered enforceable obligations to be separately listed on the ROPS submitted by the Successor Agency. If such excess bond proceeds cannot be spent in a manner consistent with the bond covenants, then those proceeds are to be used to defease or purchase bonds (Section 34191.4(c)). AB 1484 does not clarify the authority

to expend bond proceeds from bonds issued by a Dissolved RDA in 2011. AB 1484 contains additional provisions regarding expenditures of unencumbered bond proceeds of a bond issuance secured by deposits in the LMIHF (see discussion in Part II.A.3).

F. Other Provisions.

AB 1484 adds other provision, including the following:

1. Economic Development Corporations. AB 1484 adds Section 34167.10 to expand the definition of “city, county and city and county” to include independent entities that are reporting units, component units or controlled by the city, county or city and county. The expanded definition is declarative of existing law and thus applies retroactively to the adoption of the Dissolution Act.

For purposes of determining whether an independent entity is controlled by the Sponsoring Community, the statute list factors to be considered but does not indicate whether all factors must be met or how to weigh the factors. The fact that the independent entity is a separate legal entity is not relevant to the analysis. The factors to be considered include, whether:

- a. the Sponsoring Community exercises substantial municipal control over the independent entity's operations, revenues or expenditures;
- b. the Sponsoring Community has ownership or control over the independent entity's property;
- c. the Sponsoring Community and the independent entity share common or overlapping governing boards or conterminous boundaries;
- d. the Sponsoring Community was involved in the creation of the independent entity;
- e. the independent entity performs functions customarily performed by municipalities and financed through levies of property taxes; and
- f. the Sponsoring Community provides administrative support for the independent entity.

The expanded definition of city, county and city and county is an effort to subject asset transfers to economic development corporations and other types of corporations separate and distinct from the Sponsoring Community to the clawback provisions in the Dissolution Act (Section 34167.5), and make agreements between the Dissolved RDA and such corporations null and void, similar to Sponsoring Community/Dissolved RDA agreements (Section 34178(a)).

2. RDA Land Use Functions. AB 1484 authorizes the transfer of land use plans and land use functions of the Dissolved RDA to the Sponsoring Community at the request of the Sponsoring Community (Section 34173(i)).

3. Statute of Limitations. The Dissolution Act lengthened to two years the statute of limitations on bringing a challenge to a redevelopment plan adoption or amendment, a redevelopment bond issuance, and findings and determinations of a redevelopment agency or legislative body. AB 1484, in turn, completely tolls (suspends) the already lengthened statute of limitations on these matters until the DOF has issued a Finding of Completion (see further discussion in Part II.D.2) to the Successor Agency of the applicable Dissolved RDA. Once the DOF has issued a Finding of Completion, the statute of limitations reverts to the original pre-Dissolution Act 90-day period (which will have long expired at that point) (Sections 33500 and 33501).

Section 34177.5 provides that a Successor Agency may request that the DOF waive the two-year statute of limitations with regard to redevelopment plan adoptions and amendments and findings and determinations made by the Dissolved Agency or its legislative body for plan adoptions, plan amendment, findings and determinations made after January 1, 2011. The DOF may provide this waiver if it determines, in its discretion, that it is necessary for the Successor Agency to fulfill an enforceable obligation.

4. Validation Action Notices and Venue. The DOF and the SCO (and, for certain actions, the affected taxing entities) must be properly notified of any validation action with respect to any action of a Dissolved RDA or Successor Agency or with respect to any enforceable obligation or matter of title to an asset the belonged to a Dissolved RDA. Such notification is a condition to the proper filing of the action. All such actions must be filed in the County of Sacramento (Sections 34189.1 and 34189.2).

5. Post-Suspension Actions. AB 1484 declares that any action taken by a Dissolved RDA after June 27, 2011 does not create an enforceable obligation (Section 34177.3(d)). Serious questions remain as to when the Dissolution Act took effect in late June 2011 (at which time the power to enter into most new redevelopment agreements was suspended), and whether the Legislature can retroactively alter that point of effectiveness in a way that would impair contracts validly entered into at the time of entry (which could, in turn, constitute a constitutionally flawed retroactive impairment of such contract). Also, if a Dissolved RDA had entered into a valid enforceable obligation prior to June 28, 2011 (or whatever point the Dissolution Act actually became effective) that obligated it to enter into a subsequent agreement after the effectiveness of the Dissolution Act, this provision of AB 1484 would likewise seem to constitute a constitutionally flawed impairment of the initial valid enforceable obligation, by preventing the effectiveness of the subsequent contract.

AB 1484 also declares that redevelopment agencies that opted to participate in the Voluntary Alternative Redevelopment Program (ABx1 27, that was subsequently found unconstitutional by the Supreme Court) did not receive a grace period to undertake new activities after the suspension date in the Dissolution Act (Section 34177.3(d)).

6. DOF Budget and Consultants. AB 1484 appropriates \$22 million to the DOF (of which up to \$2 million may be allocated to the State court system) for work associated with applicable portions of the Dissolution Act (uncodified Section 38 of AB 1484). In addition, the DOF is authorized to hire auditors, lawyers, and other types of advisors and consultants to assist, advise and represent the DOF in matters related to the Dissolution Act, and in doing so may avoid certain State law procedures for hirings.

PART III.  
AB 1484 MILESTONE ACTIONS

Following is a checklist of upcoming key milestone actions under the Dissolution Act as amended by AB 1484.

<u>Date</u>	<u>Action</u>
July 9, 2012	Successor Agency to receive from the CAC determination of amount owed, if any, for distributions pursuant to the Section 34183(a)(4) for the initial ROPS period (Section 34183.5(b)(2)(A)).
July 12, 2012	Successor Agency to pay to the CAC any amounts identified as owed to the taxing entities (Section 34183.5(b)(2)(A)).
July 16, 2012	The CAC distributes to the taxing entities amounts received from the Successor Agency on July 12, 2012 (Section 34183.5(b)(2)(A)).
July 18, 2012	The DOF can order offset of sales and use tax due to Sponsoring Community if the Successor Agency has failed to make payments due on July 12, 2012 (Section 34183.5(b)(2)(A)).
August 1, 2012	Housing Successor must submit to DOF list of all housing assets transferred to it by the Dissolved RDA, with explanation of how assets meet criteria set forth in law. DOF to prescribe format for list (Section 34176(a)(2)).
August 10, 2012	Housing Successor provides notice to the Successor Agency of any designations of use or commitments of funds specified in 34176(g)(1)(A) that the Housing Successor empowers the Successor Agency to retain (Section 34179.6(c)).
September 1, 2012	The Successor Agency submits the ROPS for January 1, 2013 through June 30, 2013 to the DOF after Oversight Board approval (Section 34177(m)). Note, the Successor Agency will be assessed a \$10,000 per day penalty for failure to timely submit the ROPS (Section 34177(m)(2)).

<u>Date</u>	<u>Action</u>
September 11, 2012	If the Successor Agency has not submitted a ROPS, the maximum administrative cost allowance for the fiscal year covered by the ROPS will be reduced 25% (Section 34177(m)).
October 1, 2012	The Successor Agency to provide to the Oversight Board, the CAC, the DOF, and the SCO results of the 34179.5 review for the LMIHF balances of a Dissolved RDA conducted by a licensed accountant. Accountant must be approved by the CAC (Section 34179.6(a)).
October 1, 2012	The CAC to complete agreed-upon procedures audit of each Dissolved RDA (Section 34182(a)(1)).
October 1, 2012	The CAC to provide notice to the Successor Agency of any objections to items included on the Third ROPS (Section 34182.5).
October 1, 2012	The CAC to prepare and provide estimates to the DOF and fund recipients of amounts to be allocated and distributed from RPTTF on January 2, 2013 for Third ROPS period (Section 34182(c)(3)).
October 1, 2012	The CAC to report to the SCO and the DOF specified information about property tax distributions (Section 34182(d)).
October 5, 2012	The CAC to provide to the SCO and the DOF results of agreed-upon procedures audit of each Dissolved RDA (Section 34182(b)).
October 15, 2012	The Oversight Board to review, approve and transmit the results of the 34179.5 Review for the LMIHF account balances of the Dissolved RDA and notify the CAC and the DOF (Section 34179.6(c)). Note, that the Oversight Board must hold a public session at least five business days in advance of the meeting to consider approval of the Review (Section 34179.6(b)).
No later than November 9, 2012	The DOF completes review of 34179.5 Review of LMIHF balances and reports findings, determinations, and decisions to overturn Oversight Board decision to allow retention of Successor Agency assets (Section 34179.6(d)).

<u>Date</u>	<u>Action</u>
Within 5 days of receipt of initial determination from the DOF	Successor Agency/Sponsoring Community deadline to request meet and confer with DOF over any dispute regarding amount of the LMIHF to be distributed to Taxing Entities under the 34179.5 Review process (Section 34179.6(e)). The DOF must meet and confer with the Successor Agency and confirm or modify findings within 30 days of request (Section 34179.6(e)).
Within 5 days of receipt of final determination from the DOF	The Successor Agency to transfer to the CAC the LMIHF balances determined to be available pursuant to Section 34179.5 Review of the LMIHF. Sponsoring Community sales and use tax may be offset if funds are not transferred (Section 34179.6(f)).
December 1, 2012	The Successor Agency reports to the CAC if total amount of available revenues (including RPTTF, other revenues, proceeds from sale of assets) will be insufficient to fund enforceable obligations (Section 34183(b)).
December 1, 2012	The CAC provides the DOF report specifying amount remitted by the Successor Agency pursuant to the 34179.5 Review of LMIHF balances (Section 34179.6(g)).
December 15, 2012	The Successor Agency submits to the Oversight Board, the CAC, the DOF, and the SCO results of review required under 34179.5 with respect to all other fund and account balances of a Dissolved RDA (Section 34179.6(a)).
January 2, 2013	The CAC to make distributions from the RPTTF for the Third ROPS period (January-June 2012) (Section 34183(a)(2)).
January 12, 2013	The CAC to provide a report to the DOF regarding most recent distributions from the RPTTF (Section 34283(e)).
January 15, 2013	The Oversight Board to review, approve and transmit the results of the 34179.5 Review for all other fund and account balances of a Dissolved RDA and notify the CAC and the DOF of determination (Section 34179.6(c)). Note, that the Oversight Board must hold a public session at least five business days in advance of the meeting to consider approval of the Review (Section 34179.6(b)).
March 3, 2013	Successor Agency submits ROPS for July 1, 2013 through December 31, 2013 to DOF after Oversight Board approval (Section 34177(m))

<u>Date</u>	<u>Action</u>
No later than April 1, 2013	The DOF completes reviews of 34179.5 Review of other fund balances and reports findings, determinations and decisions to overturn Oversight Board decision to allow retention of Successor Agency assets. (Section 34179.6(a)).
April 1, 2013	The CAC provides estimates to the DOF and all fund recipients of amounts to be allocated and distributed from the RPTTF on June 1 for the July 1, 2013 through December 31, 2013 ROPS period (Section 34182(c)(3)).
Within 5 days of receipt of initial determination from the DOF	Successor Agency/Sponsoring Community deadline to request meet and confer with the DOF over any dispute regarding amount of other fund balances to be distributed to the taxing entities under 34179.5 Review process. The DOF must meet and confer with Successor Agency and confirm or modify findings within 30 days of request (Section 34179.6(e)).
Within 5 days of receipt of final determination from the DOF	The Successor Agency to transfer to the CAC cash and other assets determined to be available pursuant to Section 34179.5 Review of other funds (if meet and confer process is complete). Sponsoring Community sales and use tax may be offset for unfunded amounts (Section 34179.6(f)).
April 20, 2013	The CAC provides the DOF a report specifying the amount remitted by Successor Agencies pursuant to the Section 34179.5 Review of other balances (Section 34179.6(g)).
May 1, 2013	The Successor Agency reports to the CAC if total amount of available revenues (including RPTTF, other revenues, proceeds from sale of assets) will be insufficient to fund enforceable obligations (Section 34183(b)).
June 1, 2013	The CAC to make distributions from the RPTTF for the ROPS period July-December 2013 (Section 34284(c)).

BILL NUMBER: AB 1484      CHAPTERED  
 BILL TEXT

CHAPTER 26  
 FILED WITH SECRETARY OF STATE JUNE 27, 2012  
 APPROVED BY GOVERNOR JUNE 27, 2012  
 PASSED THE SENATE JUNE 27, 2012  
 PASSED THE ASSEMBLY JUNE 27, 2012  
 AMENDED IN SENATE JUNE 25, 2012

INTRODUCED BY Committee on Budget (Blumenfield (Chair), Alejo, Bonilla, Brownley, Buchanan, Butler, Cedillo, Chesbro, Dickinson, Feuer, Gordon, Huffman, Mitchell, Monning, and Swanson)

JANUARY 10, 2012

An act to amend Section 53760.1 of the Government Code, and to amend Sections 33500, 33501, 34163, 34171, 34173, 34175, 34176, 34177, 34178, 34179, 34180, 34181, 34182, 34183, 34185, 34186, 34187, 34188, and 34189 of, to add Sections 34167.10, 34177.3, 34177.5, 34178.8, 34179.5, 34179.6, 34179.7, 34179.8, 34182.5, 34183.5, 34189.1, 34189.2, and 34189.3 to, to add Chapter 9 (commencing with Section 34191.1) to Part 1.85 of Division 24 of, and to add and repeal Section 34176.5 of, the Health and Safety Code, relating to community redevelopment, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

AB 1484, Committee on Budget. Community redevelopment.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, and, among other things, provides that an action may be brought to review the validity of specified agency actions, findings, or determinations that occurred after January 1, 2011, within 2 years of the triggering event.

This bill would toll the time limit for bringing an action until the Department of Finance issues a finding of completion to the successor agency.

Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies, as defined. Existing law requires successor agencies to wind down the affairs of the dissolved redevelopment agencies and to, among other things, make payments due for enforceable obligations, as defined, perform obligations required pursuant to any enforceable obligation, dispose of all assets of the former redevelopment agency, and to remit unencumbered balances of redevelopment agency funds, including housing funds, to the county auditor-controller for distribution to taxing entities.

Existing law authorizes the city, county, or city and county that authorized the creation of a redevelopment agency to retain the housing assets, functions, and powers previously performed by the redevelopment agency, excluding amounts on deposit in the Low and Moderate Income Housing Fund.

The bill would modify provisions relating to the transfer of housing responsibilities associated with dissolved redevelopment agencies and would define the term "housing asset" for these purposes. The bill would impose new requirements on successor

agencies with regard to the submittal of the Recognized Obligation Payment Schedule, the conducting of a due diligence review to determine the unobligated balances available for transfer to affected taxing entities, and the recovery and subsequent remittance of funds determined to have been transferred absent an enforceable obligation. The bill would authorize the Department of Finance to issue a finding of completion to a successor agency that completes the due diligence review and meets other requirements. Upon receiving a finding of completion, the bill would authorize the successor agency to participate in a loan repayment program and limited property management activities.

Existing law authorizes the Department of Finance and the Controller to require any documents associated with enforceable obligations to be provided to them in a manner of their choosing.

The bill would authorize the county auditor-controller and the department, under specified circumstances, to require the return of funds improperly spent or transferred to a public entity and would authorize the department and the Controller to require the State Board of Equalization and the county auditor-controller to offset sales and use tax and property tax allocations, respectively, to the local agency. The bill would authorize the Controller to review the activities of a successor agency to determine if an improper asset transfer had occurred between the successor agency and the city or county that created the former redevelopment agency, and would require the Controller to order the return of these assets if such an asset transfer did occur.

The bill would impose new requirements on the county auditor-controller relating to the allocation of property tax revenues to affected taxing entities during a specified timeframe. By imposing additional duties upon local public officials, the bill would create a state-mandated local program.

The bill would appropriate up to \$22,000,000 to the Department of Finance from the General Fund for costs associated with the bill, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 53760.1 of the Government Code is amended to read:

53760.1. As used in this article the following terms have the following meanings:

(a) "Chapter 9" means Chapter 9 (commencing with Section 901) of Title 11 of the United States Code.

(b) "Creditor" means either of the following:

(1) An entity that has a noncontingent claim against a municipality that arose at the time of or before the commencement of the neutral evaluation process and whose claim represents at least five million dollars (\$5,000,000) or comprises more than 5 percent of the local public entity's debt or obligations, whichever is less.

(2) An entity that would have a noncontingent claim against the

municipality upon the rejection of an executory contract or unexpired lease in a Chapter 9 case and whose claim would represent at least five million dollars (\$5,000,000) or comprises more than 5 percent of the local public entity's debt or obligations, whichever is less.

(c) "Debtor" means a local public entity that may file for bankruptcy under Chapter 9.

(d) "Good faith" means participation by a party in the neutral evaluation process with the intent to negotiate toward a resolution of the issues that are the subject of the neutral evaluation process, including the timely provision of complete and accurate information to provide the relevant parties through the neutral evaluation process with sufficient information, in a confidential manner, to negotiate the readjustment of the municipality's debt.

(e) "Interested party" means a trustee, a committee of creditors, an affected creditor, an indenture trustee, a pension fund, a bondholder, a union that, under its collective bargaining agreements, has standing to initiate contract or debt restructuring negotiations with the municipality, or a representative selected by an association of retired employees of the public entity who receive income from the public entity convening the neutral evaluation. A local public entity may invite holders of contingent claims to participate as interested parties in the neutral evaluation if the local public entity determines that the contingency is likely to occur and the claim may represent five million dollars (\$5,000,000) or comprise more than 5 percent of the local public entity's debt or obligations, whichever is less.

(f) "Local public entity" means any county, city, district, public authority, public agency, or other entity, without limitation, that is a municipality as defined in Section 101(40) of Title 11 of the United States Code (bankruptcy), or that qualifies as a debtor under any other federal bankruptcy law applicable to local public entities, and also includes a successor agency to a redevelopment agency created pursuant to Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code. For purposes of this article, "local public entity" does not include a school district.

(g) "Local public entity representative" means the person or persons designated by the local public agency with authority to make recommendations and to attend the neutral evaluation on behalf of the governing body of the municipality.

(h) "Neutral evaluation" is a form of alternative dispute resolution that may be known as mandatory mediation. A "neutral evaluator" may also be known as a mediator.

SEC. 2. Section 33500 of the Health and Safety Code is amended to read:

33500. (a) Notwithstanding any other provision of law, including Section 33501, an action may be brought to review the validity of the adoption or amendment of a redevelopment plan at any time within 90 days after the date of the adoption of the ordinance adopting or amending the plan, if the adoption of the ordinance occurred prior to January 1, 2011.

(b) Notwithstanding any other provision of law, including Section 33501, an action may be brought to review the validity of any findings or determinations by the agency or the legislative body at any time within 90 days after the date on which the agency or the legislative body made those findings or determinations, if the findings or determinations occurred prior to January 1, 2011.

(c) Notwithstanding any other law, including Section 33501, an action may be brought to review the validity of the adoption or amendment of a redevelopment plan at any time within two years after the date of the adoption of the ordinance adopting or amending the

plan, if the adoption of the ordinance occurred after January 1, 2011.

(d) Notwithstanding any other law, including Section 33501, an action may be brought to review the validity of any findings or determinations by the agency or the legislative body at any time within two years after the date on which the agency or the legislative body made those findings or determinations, if the findings or determinations occurred after January 1, 2011.

(e) The time limit for bringing an action under subdivision (c) or (d) shall be tolled with respect to the adoptions, findings, and determinations of any former redevelopment agency or its legislative body until the Department of Finance has issued a finding of completion to the successor agency of that former redevelopment agency pursuant to Section 34179.7. Subdivisions (c) and (d) shall not apply to any adoption, finding, or determination of any former redevelopment agency or its legislative body after the department has issued a finding of completion to the successor agency of that former redevelopment agency pursuant to Section 34179.7.

SEC. 3. Section 33501 of the Health and Safety Code is amended to read:

33501. (a) An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of bonds and the redevelopment plan to be financed or refinanced, in whole or in part, by the bonds, or to determine the validity of a redevelopment plan not financed by bonds, including without limiting the generality of the foregoing, the legality and validity of all proceedings theretofore taken for or in any way connected with the establishment of the agency, its authority to transact business and exercise its powers, the designation of the survey area, the selection of the project area, the formulation of the preliminary plan, the validity of the finding and determination that the project area is predominantly urbanized, and the validity of the adoption of the redevelopment plan, and also including the legality and validity of all proceedings theretofore taken and (as provided in the bond resolution) proposed to be taken for the authorization, issuance, sale, and delivery of the bonds, and for the payment of the principal thereof and interest thereon.

(b) Notwithstanding subdivision (a), an action to determine the validity of a redevelopment plan, or amendment to a redevelopment plan that was adopted prior to January 1, 2011, may be brought within 90 days after the date of the adoption of the ordinance adopting or amending the plan.

(c) Any action that is commenced on or after January 1, 2011, which is brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity or legality of any issue, document, or action described in subdivision (a), may be brought within two years after any triggering event that occurred after January 1, 2011. The time limit for bringing an action under this subdivision shall be tolled with respect to the validity or legality of any issue, document, or action described in subdivision (a) of any former redevelopment agency or its legislative body until the Department of Finance has issued a finding of completion to the successor agency of that former redevelopment agency pursuant to Section 34179.7. This subdivision shall not apply to any adoption, finding, or determination of any former redevelopment agency or its legislative body after the department has issued a finding of completion to the successor agency of that former redevelopment agency pursuant to Section 34179.7.

(d) For the purposes of protecting the interests of the state, the

Attorney General and the Department of Finance are interested persons pursuant to Section 863 of the Code of Civil Procedure in any action brought with respect to the validity of an ordinance adopting or amending a redevelopment plan pursuant to this section.

(e) For purposes of contesting the inclusion in a project area of lands that are enforceably restricted, as that term is defined in Sections 422 and 422.5 of the Revenue and Taxation Code, or lands that are in agricultural use, as defined in subdivision (b) of Section 51201 of the Government Code, the Department of Conservation, the county agricultural commissioner, the county farm bureau, the California Farm Bureau Federation, and agricultural entities and general farm organizations that provide a written request for notice, are interested persons pursuant to Section 863 of the Code of Civil Procedure, in any action brought with respect to the validity of an ordinance adopting or amending a redevelopment plan pursuant to this section.

SEC. 4. Section 34163 of the Health and Safety Code is amended to read:

34163. Notwithstanding Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100), or any other law, commencing on the effective date of this part, an agency shall not have the authority to, and shall not, do any of the following:

(a) Make loans or advances or grant or enter into agreements to provide funds or provide financial assistance of any sort to any entity or person for any purpose, including, but not limited to, all of the following:

(1) Loans of moneys or any other thing of value or commitments to provide financing to nonprofit organizations to provide those organizations with financing for the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing or the acquisition of commercial property for lease, each pursuant to Chapter 7.5 (commencing with Section 33741) of Part 1.

(2) Loans of moneys or any other thing of value for residential construction, improvement, or rehabilitation pursuant to Chapter 8 (commencing with Section 33750) of Part 1. These include, but are not limited to, construction loans to purchasers of residential housing, mortgage loans to purchasers of residential housing, and loans to mortgage lenders, or any other entity, to aid in financing pursuant to Chapter 8 (commencing with Section 33750).

(3) The purchase, by an agency, of mortgage or construction loans from mortgage lenders or from any other entities.

(b) Enter into contracts with, incur obligations, or make commitments to, any entity, whether governmental, tribal, or private, or any individual or groups of individuals for any purpose, including, but not limited to, loan agreements, passthrough agreements, regulatory agreements, services contracts, leases, disposition and development agreements, joint exercise of powers agreements, contracts for the purchase of capital equipment, agreements for redevelopment activities, including, but not limited to, agreements for planning, design, redesign, development, demolition, alteration, construction, reconstruction, rehabilitation, site remediation, site development or improvement, removal of graffiti, land clearance, and seismic retrofits.

(c) Amend or modify existing agreements, obligations, or commitments with any entity, for any purpose, including, but not limited to, any of the following:

(1) Renewing or extending term of leases or other agreements, except that the agency may extend lease space for its own use to a

date not to exceed six months after the effective date of the act adding this part and for a rate no more than 5 percent above the rate the agency currently pays on a monthly basis.

(2) Modifying terms and conditions of existing agreements, obligations, or commitments.

(3) Forgiving all or any part of the balance owed to the agency on existing loans or extend the term or change the terms and conditions of existing loans.

(4) Making any future deposits to the Low and Moderate Income Housing Fund created pursuant to Section 33334.3.

(5) Transferring funds out of the Low and Moderate Income Housing Fund, except to meet the minimum housing-related obligations that existed as of January 1, 2011, to make required payments under Sections 33690 and 33690.5, and to borrow funds pursuant to Section 34168.5.

(d) Dispose of assets by sale, long-term lease, gift, grant, exchange, transfer, assignment, or otherwise, for any purpose, including, but not limited to, any of the following:

(1) Assets, including, but not limited to, real property, deeds of trust, and mortgages held by the agency, moneys, accounts receivable, contract rights, proceeds of insurance claims, grant proceeds, settlement payments, rights to receive rents, and any other rights to payment of whatever kind.

(2) Real property, including, but not limited to, land, land under water and waterfront property, buildings, structures, fixtures, and improvements on the land, any property appurtenant to, or used in connection with, the land, every estate, interest, privilege, easement, franchise, and right in land, including rights-of-way, terms for years, and liens, charges, or encumbrances by way of judgment, mortgage, or otherwise, and the indebtedness secured by the liens.

(e) Acquire real property by any means for any purpose, including, but not limited to, the purchase, lease, or exercising of an option to purchase or lease, exchange, subdivide, transfer, assume, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise acquire any real property, any interest in real property, and any improvements on it, including the repurchase of developed property previously owned by the agency and the acquisition of real property by eminent domain; provided, however, that nothing in this subdivision is intended to prohibit the acceptance or transfer of title for real property acquired prior to the effective date of this part.

(f) Transfer, assign, vest, or delegate any of its assets, funds, rights, powers, ownership interests, or obligations for any purpose to any entity, including, but not limited to, the community, the legislative body, another member of a joint powers authority, a trustee, a receiver, a partner entity, another agency, a nonprofit corporation, a contractual counterparty, a public body, a limited-equity housing cooperative, the state, a political subdivision of the state, the federal government, any private entity, or an individual or group of individuals.

(g) Accept financial or other assistance from the state or federal government or any public or private source if the acceptance necessitates or is conditioned upon the agency incurring indebtedness as that term is described in this part.

SEC. 5. Section 34167.10 is added to the Health and Safety Code, to read:

34167.10. (a) Notwithstanding any other law, for purposes of this part and Part 1.85 (commencing with Section 34170), the definition of a city, county, or city and county includes, but is not limited

to, the following entities:

(1) Any reporting entity of the city, county, or city and county for purposes of its comprehensive annual financial report or similar report.

(2) Any component unit of the city, county, or city and county.

(3) Any entity which is controlled by the city, county, or city and county, or for which the city, county, or city and county is financially responsible or accountable.

(b) The following factors shall be considered in determining that an entity is controlled by the city, county, or city and county, and are therefore included in the definition of a city, county, or city and county for purposes of this part and Part 1.85 (commencing with Section 34170):

(1) The city, county, or city and county exercises substantial municipal control over the entity's operations, revenues, or expenditures.

(2) The city, county, or city and county has ownership or control over the entity's property or facilities.

(3) The city, county, or city and county and the entity share common or overlapping governing boards, or coterminous boundaries.

(4) The city, county, or city and county was involved in the creation or formation of the entity.

(5) The entity performs functions customarily or historically performed by municipalities and financed thorough levies of property taxes.

(6) The city, county, or city and county provides administrative and related business support for the entity, or assumes the expenses incurred in the normal daily operations of the entity.

(c) For purposes of this section, it shall not be relevant that the entity is formed as a separate legal entity, nonprofit corporation, or otherwise, or is not subject to the constitution debt limitation otherwise applicable to a city, county, or city and county. The provisions in this section are declarative of existing law as the entities described herein are and were intended to be included within the requirements of this part and Part 1.85 (commencing with Section 34170) and any attempt to determine otherwise would thwart the intent of these two parts.

SEC. 6. Section 34171 of the Health and Safety Code is amended to read:

34171. The following terms shall have the following meanings:

(a) "Administrative budget" means the budget for administrative costs of the successor agencies as provided in Section 34177.

(b) "Administrative cost allowance" means an amount that, subject to the approval of the oversight board, is payable from property tax revenues of up to 5 percent of the property tax allocated to the successor agency on the Recognized Obligation Payment Schedule covering the period January 1, 2012, through June 30, 2012, and up to 3 percent of the property tax allocated to the Redevelopment Obligation Retirement Fund money that is allocated to the successor agency for each fiscal year thereafter; provided, however, that the amount shall not be less than two hundred fifty thousand dollars (\$250,000), unless the oversight board reduces this amount, for any fiscal year or such lesser amount as agreed to by the successor agency. However, the allowance amount shall exclude, and shall not apply to, any administrative costs that can be paid from bond proceeds or from sources other than property tax. Administrative cost allowances shall exclude any litigation expenses related to assets or obligations, settlements and judgments, and the costs of maintaining assets prior to disposition. Employee costs associated with work on specific project implementation activities, including,

but not limited to, construction inspection, project management, or actual construction, shall be considered project-specific costs and shall not constitute administrative costs.

(c) "Designated local authority" shall mean a public entity formed pursuant to subdivision (d) of Section 34173.

(d) (1) "Enforceable obligation" means any of the following:

(A) Bonds, as defined by Section 33602 and bonds issued pursuant to Chapter 10.5 (commencing with Section 5850) of Division 6 of Title 1 of the Government Code, including the required debt service, reserve set-asides, and any other payments required under the indenture or similar documents governing the issuance of the outstanding bonds of the former redevelopment agency. A reserve may be held when required by the bond indenture or when the next property tax allocation will be insufficient to pay all obligations due under the provisions of the bond for the next payment due in the following half of the calendar year.

(B) Loans of moneys borrowed by the redevelopment agency for a lawful purpose, to the extent they are legally required to be repaid pursuant to a required repayment schedule or other mandatory loan terms.

(C) Payments required by the federal government, preexisting obligations to the state or obligations imposed by state law, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183, or legally enforceable payments required in connection with the agencies' employees, including, but not limited to, pension payments, pension obligation debt service, unemployment payments, or other obligations conferred through a collective bargaining agreement. Costs incurred to fulfill collective bargaining agreements for layoffs or terminations of city employees who performed work directly on behalf of the former redevelopment agency shall be considered enforceable obligations payable from property tax funds. The obligations to employees specified in this subparagraph shall remain enforceable obligations payable from property tax funds for any employee to whom those obligations apply if that employee is transferred to the entity assuming the housing functions of the former redevelopment agency pursuant to Section 34176. The successor agency or designated local authority shall enter into an agreement with the housing entity to reimburse it for any costs of the employee obligations.

(D) Judgments or settlements entered by a competent court of law or binding arbitration decisions against the former redevelopment agency, other than passthrough payments that are made by the county auditor-controller pursuant to Section 34183. Along with the successor agency, the oversight board shall have the authority and standing to appeal any judgment or to set aside any settlement or arbitration decision.

(E) Any legally binding and enforceable agreement or contract that is not otherwise void as violating the debt limit or public policy. However, nothing in this act shall prohibit either the successor agency, with the approval or at the direction of the oversight board, or the oversight board itself from terminating any existing agreements or contracts and providing any necessary and required compensation or remediation for such termination. Titles of or headings used on or in a document shall not be relevant in determining the existence of an enforceable obligation.

(F) Contracts or agreements necessary for the administration or operation of the successor agency, in accordance with this part, including, but not limited to, agreements concerning litigation expenses related to assets or obligations, settlements and judgements, and the costs of maintaining assets prior to disposition,

and agreements to purchase or rent office space, equipment and supplies, and pay-related expenses pursuant to Section 33127 and for carrying insurance pursuant to Section 33134.

(G) Amounts borrowed from, or payments owing to, the Low and Moderate Income Housing Fund of a redevelopment agency, which had been deferred as of the effective date of the act adding this part; provided, however, that the repayment schedule is approved by the oversight board. Repayments shall be transferred to the Low and Moderate Income Housing Asset Fund established pursuant to subdivision (d) of Section 34176 as a housing asset and shall be used in a manner consistent with the affordable housing requirements of the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(2) For purposes of this part, "enforceable obligation" does not include any agreements, contracts, or arrangements between the city, county, or city and county that created the redevelopment agency and the former redevelopment agency. However, written agreements entered into (A) at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and (B) solely for the purpose of securing or repaying those indebtedness obligations may be deemed enforceable obligations for purposes of this part. Notwithstanding this paragraph, loan agreements entered into between the redevelopment agency and the city, county, or city and county that created it, within two years of the date of creation of the redevelopment agency, may be deemed to be enforceable obligations.

(3) Contracts or agreements between the former redevelopment agency and other public agencies, to perform services or provide funding for governmental or private services or capital projects outside of redevelopment project areas that do not provide benefit to the redevelopment project and thus were not properly authorized under Part 1 (commencing with Section 33000) shall be deemed void on the effective date of this part; provided, however, that such contracts or agreements for the provision of housing properly authorized under Part 1 (commencing with Section 33000) shall not be deemed void.

(e) "Indebtedness obligations" means bonds, notes, certificates of participation, or other evidence of indebtedness, issued or delivered by the redevelopment agency, or by a joint exercise of powers authority created by the redevelopment agency, to third-party investors or bondholders to finance or refinance redevelopment projects undertaken by the redevelopment agency in compliance with the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(f) "Oversight board" shall mean each entity established pursuant to Section 34179.

(g) "Recognized obligation" means an obligation listed in the Recognized Obligation Payment Schedule.

(h) "Recognized Obligation Payment Schedule" means the document setting forth the minimum payment amounts and due dates of payments required by enforceable obligations for each six-month fiscal period as provided in subdivision (m) of Section 34177.

(i) "School entity" means any entity defined as such in subdivision (f) of Section 95 of the Revenue and Taxation Code.

(j) "Successor agency" means the successor entity to the former redevelopment agency as described in Section 34173.

(k) "Taxing entities" means cities, counties, a city and county, special districts, and school entities, as defined in subdivision (f) of Section 95 of the Revenue and Taxation Code, that receive passthrough payments and distributions of property taxes pursuant to the provisions of this part.

(l) "Property taxes" include all property tax revenues, including those from unitary and supplemental and roll corrections applicable to tax increment.

(m) "Department" means the Department of Finance unless the context clearly refers to another state agency.

(n) "Sponsoring entity" means the city, county, or city and county, or other entity that authorized the creation of each redevelopment agency.

(o) "Final judicial determination" means a final judicial determination made by any state court that is not appealed, or by a court of appellate jurisdiction that is not further appealed, in an action by any party.

SEC. 7. Section 34173 of the Health and Safety Code is amended to read:

34173. (a) Successor agencies, as defined in this part, are hereby designated as successor entities to the former redevelopment agencies.

(b) Except for those provisions of the Community Redevelopment Law that are repealed, restricted, or revised pursuant to the act adding this part, all authority, rights, powers, duties, and obligations previously vested with the former redevelopment agencies, under the Community Redevelopment Law, are hereby vested in the successor agencies.

(c) (1) If the redevelopment agency was in the form of a joint powers authority, and if the joint powers agreement governing the formation of the joint powers authority addresses the allocation of assets and liabilities upon dissolution of the joint powers authority, then each of the entities that created the former redevelopment agency may be a successor agency within the meaning of this part and each shall have a share of assets and liabilities based on the provisions of the joint powers agreement.

(2) If the redevelopment agency was in the form of a joint powers authority, and if the joint powers agreement governing the formation of the joint powers authority does not address the allocation of assets and liabilities upon dissolution of the joint powers authority, then each of the entities that created the former redevelopment agency may be a successor agency within the meaning of this part, a proportionate share of the assets and liabilities shall be based on the assessed value in the project areas within each entity's jurisdiction, as determined by the county assessor, in its jurisdiction as compared to the assessed value of land within the boundaries of the project areas of the former redevelopment agency.

(d) (1) A city, county, city and county, or the entities forming the joint powers authority that authorized the creation of each redevelopment agency may elect not to serve as a successor agency under this part. A city, county, city and county, or any member of a joint powers authority that elects not to serve as a successor agency under this part must file a copy of a duly authorized resolution of its governing board to that effect with the county auditor-controller no later than January 13, 2012.

(2) The determination of the first local agency that elects to become the successor agency shall be made by the county auditor-controller based on the earliest receipt by the county auditor-controller of a copy of a duly adopted resolution of the local agency's governing board authorizing such an election. As used in this section, "local agency" means any city, county, city and county, or special district in the county of the former redevelopment agency.

(3) (A) If no local agency elects to serve as a successor agency for a dissolved redevelopment agency, a public body, referred to

herein as a "designated local authority" shall be immediately formed, pursuant to this part, in the county and shall be vested with all the powers and duties of a successor agency as described in this part. The Governor shall appoint three residents of the county to serve as the governing board of the authority. The designated local authority shall serve as successor agency until a local agency elects to become the successor agency in accordance with this section.

(B) Designated local authority members are protected by the immunities applicable to public entities and public employees governed by Part 1 (commencing with Section 810) and Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code.

(4) A city, county, or city and county, or the entities forming the joint powers authority that authorized the creation of a redevelopment agency and that elected not to serve as the successor agency under this part, may subsequently reverse this decision and agree to serve as the successor agency pursuant to this section. Any reversal of this decision shall not become effective for 60 days after notice has been given to the current successor agency and the oversight board and shall not invalidate any action of the successor agency or oversight board taken prior to the effective date of the transfer of responsibility.

(e) The liability of any successor agency, acting pursuant to the powers granted under the act adding this part, shall be limited to the extent of the total sum of property tax revenues it receives pursuant to this part and the value of assets transferred to it as a successor agency for a dissolved redevelopment agency.

(f) Any existing cleanup plans and liability limits authorized under the Polanco Redevelopment Act (Article 12.5 (commencing with Section 33459) of Chapter 4 of Part 1) shall be transferred to the successor agency and may be transferred to the successor housing entity at that entity's request.

(g) A successor agency is a separate public entity from the public agency that provides for its governance and the two entities shall not merge. The liabilities of the former redevelopment agency shall not be transferred to the sponsoring entity and the assets shall not become assets of the sponsoring entity. A successor agency has its own name, can be sued, and can sue. All litigation involving a redevelopment agency shall automatically be transferred to the successor agency. The separate former redevelopment agency employees shall not automatically become sponsoring entity employees of the sponsoring entity and the successor agency shall retain its own collective bargaining status. As successor entities, successor agencies succeed to the organizational status of the former redevelopment agency, but without any legal authority to participate in redevelopment activities, except to complete any work related to an approved enforceable obligation. Each successor agency shall be deemed to be a local entity for purposes of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

(h) The city, county, or city and county that authorized the creation of a redevelopment agency may loan or grant funds to a successor agency for administrative costs, enforceable obligations, or project-related expenses at the city's discretion, but the receipt and use of these funds shall be reflected on the Recognized Obligation Payment Schedule or the administrative budget and therefore are subject to the oversight and approval of the oversight board. An enforceable obligation shall be deemed to be created for the repayment of those loans.

(i) At the request of the city, county, or city and county,

notwithstanding Section 33205, all land use related plans and functions of the former redevelopment agency are hereby transferred to the city, county, or city and county that authorized the creation of a redevelopment agency; provided, however, that the city, county, or city and county shall not create a new project area, add territory to, or expand or change the boundaries of a project area, or take any action that would increase the amount of obligated property tax (formerly tax increment) necessary to fulfill any existing enforceable obligation beyond what was authorized as of June 27, 2011.

SEC. 8. Section 34175 of the Health and Safety Code is amended to read:

34175. (a) It is the intent of this part that pledges of revenues associated with enforceable obligations of the former redevelopment agencies are to be honored. It is intended that the cessation of any redevelopment agency shall not affect either the pledge, the legal existence of that pledge, or the stream of revenues available to meet the requirements of the pledge.

(b) All assets, properties, contracts, leases, books and records, buildings, and equipment of the former redevelopment agency are transferred on February 1, 2012, to the control of the successor agency, for administration pursuant to the provisions of this part. This includes all cash or cash equivalents and amounts owed to the redevelopment agency as of February 1, 2012. Any legal or contractual restrictions on the use of these funds or assets shall also be transferred to the successor agency.

SEC. 9. Section 34176 of the Health and Safety Code is amended to read:

34176. (a) (1) The city, county, or city and county that authorized the creation of a redevelopment agency may elect to retain the housing assets and functions previously performed by the redevelopment agency. If a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a redevelopment agency, all rights, powers, duties, obligations, and housing assets, as defined in subdivision (e), excluding any amounts on deposit in the Low and Moderate Income Housing Fund and enforceable obligations retained by the successor agency, shall be transferred to the city, county, or city and county.

(2) The entity assuming the housing functions of the former redevelopment agency shall submit to the Department of Finance by August 1, 2012, a list of all housing assets that contains an explanation of how the assets meet the criteria specified in subdivision (e). The Department of Finance shall prescribe the format for the submission of the list. The list shall include assets transferred between February 1, 2012, and the date upon which the list is created. The department shall have up to 30 days from the date of receipt of the list to object to any of the assets or transfers of assets identified on the list. If the Department of Finance objects to assets on the list, the entity assuming the housing functions of the former redevelopment agency may request a meet and confer process within five business days of receiving the department objection. If the transferred asset is deemed not to be a housing asset as defined in subdivision (e), it shall be returned to the successor agency and the provision of Section 34178.8 may apply. If a housing asset has been previously pledged to pay for bonded indebtedness, the successor agency shall maintain control of the asset in order to pay for the bond debt.

(b) If a city, county, or city and county does not elect to retain the responsibility for performing housing functions previously

performed by a redevelopment agency, all rights, powers, assets, duties, and obligations associated with the housing activities of the agency, excluding enforceable obligations retained by the successor agency and any amounts in the Low and Moderate Income Housing Fund, shall be transferred as follows:

(1) If there is no local housing authority in the territorial jurisdiction of the former redevelopment agency, to the Department of Housing and Community Development.

(2) If there is one local housing authority in the territorial jurisdiction of the former redevelopment agency, to that local housing authority.

(3) If there is more than one local housing authority in the territorial jurisdiction of the former redevelopment agency, to the local housing authority selected by the city, county, or city and county that authorized the creation of the redevelopment agency.

(c) Commencing on the operative date of this part, the entity that assumes the housing functions formerly performed by the redevelopment agency and receives the transferred housing assets may enforce affordability covenants and perform related activities pursuant to applicable provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000)), including, but not limited to, Section 33418.

(d) Except as specifically provided in Section 34191.4, any funds transferred to the city, county, or city and county or designated entity pursuant to this section, together with any funds generated from housing assets, as defined in subdivision (e), shall be maintained in a separate Low and Moderate Income Housing Asset Fund which is hereby created in the accounts of the entity assuming the housing functions pursuant to this section. Funds in this account shall be used in accordance with applicable housing-related provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(e) For purposes of this part, "housing asset" includes all of the following:

(1) Any real property, interest in, or restriction on the use of real property, whether improved or not, and any personal property provided in residences, including furniture and appliances, all housing-related files and loan documents, office supplies, software licenses, and mapping programs, that were acquired for low- and moderate-income housing purposes, either by purchase or through a loan, in whole or in part, with any source of funds.

(2) Any funds that are encumbered by an enforceable obligation to build or acquire low- and moderate-income housing, as defined by the Community Redevelopment Law (Part 1 (commencing with Section 33000)) unless required in the bond covenants to be used for repayment purposes of the bond.

(3) Any loan or grant receivable, funded from the Low and Moderate Income Housing Fund, from homebuyers, homeowners, nonprofit or for-profit developers, and other parties that require occupancy by persons of low or moderate income as defined by the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(4) Any funds derived from rents or operation of properties acquired for low- and moderate-income housing purposes by other parties that were financed with any source of funds, including residual receipt payments from developers, conditional grant repayments, cost savings and proceeds from refinancing, and principal and interest payments from homebuyers subject to enforceable income limits.

(5) A stream of rents or other payments from housing tenants or operators of low- and moderate-income housing financed with any

source of funds that are used to maintain, operate, and enforce the affordability of housing or for enforceable obligations associated with low- and moderate-income housing.

(6) (A) Repayments of loans or deferrals owed to the Low and Moderate Income Housing Fund pursuant to subparagraph (G) of paragraph (1) of subdivision (d) of Section 34171, which shall be used consistent with the affordable housing requirements in the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(B) Loan or deferral repayments shall not be made prior to the 2013-14 fiscal year. Beginning in the 2013-14 fiscal year, the maximum repayment amount authorized each fiscal year for repayments made pursuant to this paragraph and subdivision (b) of Section 34191.4 combined shall be equal to one-half of the increase between the amount distributed to taxing entities pursuant to paragraph (4) of subdivision (a) of Section 34183 in that fiscal year and the amount distributed to taxing entities pursuant to that paragraph in the 2012-13 base year. Loan or deferral repayments made pursuant to this paragraph shall take priority over amounts to be repaid pursuant to subdivision (b) of Section 34191.4.

(f) If a development includes both low- and moderate-income housing that meets the definition of a housing asset under subdivision (e) and other types of property use, including, but not limited to, commercial use, governmental use, open space, and parks, the oversight board shall consider the overall value to the community as well as the benefit to taxing entities of keeping the entire development intact or dividing the title and control over the property between the housing successor and the successor agency or other public or private agencies. The disposition of those assets may be accomplished by a revenue-sharing arrangement as approved by the oversight board on behalf of the affected taxing entities.

(g) (1) (A) The entity assuming the housing functions pursuant to this section may 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. The proceeds shall 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. Enforceable obligations may be satisfied by the creation of reserves for the projects that are the subject of the enforceable obligation that are consistent with the contractual obligations for those projects, or by expending funds to complete the projects.

(B) The entity assuming the housing functions pursuant to this section shall provide notice to the successor agency of any designations of use or commitments of funds specified in subparagraph (A) that it wishes to make at least 20 days before the deadline for submission of the Recognized Obligation Payment Schedule to the oversight board. Commitments and designations shall not be valid and binding on any party until they are included in an approved and valid Recognized Obligation Payment Schedule. The review of these designations and commitments by the successor agency, oversight board, and Department of Finance shall be limited to a determination that the designations and commitments are consistent with bond covenants and that there are sufficient funds available.

(2) Funds shall be used and committed in a manner consistent with the purposes of the Low and Moderate Income Housing Asset Fund. Notwithstanding any other law, the successor agency shall retain and expend the excess housing obligation proceeds at the discretion of

the succeeding housing entity, provided that the successor agency ensures that the proceeds are expended in a manner consistent with the indebtedness obligation covenants and with any requirements relating to the tax status of those obligations. The amount expended shall not exceed the amount of indebtedness obligation proceeds available and such expenditure shall constitute the creation of excess housing proceeds expenditures to be paid from the excess proceeds. Excess housing proceeds expenditures shall be listed separately on the Recognized Obligation Payment Schedule submitted by the successor agency.

SEC. 10. Section 34176.5 is added to the Health and Safety Code, to read:

34176.5. (a) Notwithstanding any other law, the Director of Finance is authorized to contract with auditors, lawyers, and other types of advisors and consultants to assist, advise, and represent the director and the Department of Finance in any matter or action arising out of or contemplated by this part or Part 1.8 (commencing with Section 34161). In furtherance of this authorization, Sections 14827.1, 14827.2, and 14838 of the Government Code, and Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of and Section 10295 of, the Public Contract Code shall not apply to any agreement entered into by the director pursuant to this section.

(b) In addition to the waivers of statute provided in subdivision (a), Section 6072 of the Business and Professions Code shall not apply to the legal services agreement entered into by the director pursuant to this section.

(c) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 11. Section 34177 of the Health and Safety Code is amended to read:

34177. Successor agencies are required to do all of the following:

(a) Continue to make payments due for enforceable obligations.

(1) On and after February 1, 2012, and until a Recognized Obligation Payment Schedule becomes operative, only payments required pursuant to an enforceable obligations payment schedule shall be made. The initial enforceable obligation payment schedule shall be the last schedule adopted by the redevelopment agency under Section 34169. However, payments associated with obligations excluded from the definition of enforceable obligations by paragraph (2) of subdivision (d) of Section 34171 shall be excluded from the enforceable obligations payment schedule and be removed from the last schedule adopted by the redevelopment agency under Section 34169 prior to the successor agency adopting it as its enforceable obligations payment schedule pursuant to this subdivision. The enforceable obligation payment schedule may be amended by the successor agency at any public meeting and shall be subject to the approval of the oversight board as soon as the board has sufficient members to form a quorum. In recognition of the fact that the timing of the California Supreme Court's ruling in the case California Redevelopment Association v. Matosantos (2011) 53 Cal.4th 231 delayed the preparation by successor agencies and the approval by oversight boards of the January 1, 2012, through June 30, 2012, Recognized Obligation Payment Schedule, a successor agency may amend the Enforceable Obligation Payment Schedule to authorize the continued payment of enforceable obligations until the time that the January 1, 2012, through June 30, 2012, Recognized Obligation Payment Schedule has been approved by the oversight board and by the Department of

Finance.

(2) The Department of Finance and the Controller shall each have the authority to require any documents associated with the enforceable obligations to be provided to them in a manner of their choosing. Any taxing entity, the department, and the Controller shall each have standing to file a judicial action to prevent a violation under this part and to obtain injunctive or other appropriate relief.

(3) Commencing on the date the Recognized Obligation Payment Schedule is valid pursuant to subdivision (1), only those payments listed in the Recognized Obligation Payment Schedule may be made by the successor agency from the funds specified in the Recognized Obligation Payment Schedule. In addition, after it becomes valid, the Recognized Obligation Payment Schedule shall supersede the Statement of Indebtedness, which shall no longer be prepared nor have any effect under the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

(4) Nothing in the act adding this part is to be construed as preventing a successor agency, with the prior approval of the oversight board, as described in Section 34179, from making payments for enforceable obligations from sources other than those listed in the Recognized Obligation Payment Schedule.

(5) From February 1, 2012, to July 1, 2012, a successor agency shall have no authority and is hereby prohibited from accelerating payment or making any lump-sum payments that are intended to prepay loans unless such accelerated repayments were required prior to the effective date of this part.

(b) Maintain reserves in the amount required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds.

(c) Perform obligations required pursuant to any enforceable obligation.

(d) Remit unencumbered balances of redevelopment agency funds to the county auditor-controller for distribution to the taxing entities, including, but not limited to, the unencumbered balance of the Low and Moderate Income Housing Fund of a former redevelopment agency. In making the distribution, the county auditor-controller shall utilize the same methodology for allocation and distribution of property tax revenues provided in Section 34188.

(e) Dispose of assets and properties of the former redevelopment agency as directed by the oversight board; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of certain assets pursuant to subdivision (a) of Section 34181. The disposal is to be done expeditiously and in a manner aimed at maximizing value. Proceeds from asset sales and related funds that are no longer needed for approved development projects or to otherwise wind down the affairs of the agency, each as determined by the oversight board, shall be transferred to the county auditor-controller for distribution as property tax proceeds under Section 34188. The requirements of this subdivision shall not apply to a successor agency that has been issued a finding of completion by the Department of Finance pursuant to Section 34179.7.

(f) Enforce all former redevelopment agency rights for the benefit of the taxing entities, including, but not limited to, continuing to collect loans, rents, and other revenues that were due to the redevelopment agency.

(g) Effectuate transfer of housing functions and assets to the appropriate entity designated pursuant to Section 34176.

(h) Expeditiously wind down the affairs of the redevelopment agency pursuant to the provisions of this part and in accordance with

the direction of the oversight board.

(i) Continue to oversee development of properties until the contracted work has been completed or the contractual obligations of the former redevelopment agency can be transferred to other parties. Bond proceeds shall be used for the purposes for which bonds were sold unless the purposes can no longer be achieved, in which case, the proceeds may be used to defease the bonds.

(j) Prepare a proposed administrative budget and submit it to the oversight board for its approval. The proposed administrative budget shall include all of the following:

(1) Estimated amounts for successor agency administrative costs for the upcoming six-month fiscal period.

(2) Proposed sources of payment for the costs identified in paragraph (1).

(3) Proposals for arrangements for administrative and operations services provided by a city, county, city and county, or other entity.

(k) Provide administrative cost estimates, from its approved administrative budget that are to be paid from property tax revenues deposited in the Redevelopment Property Tax Trust Fund, to the county auditor-controller for each six-month fiscal period.

(l) (1) Before each six-month fiscal period, prepare a Recognized Obligation Payment Schedule in accordance with the requirements of this paragraph. For each recognized obligation, the Recognized Obligation Payment Schedule shall identify one or more of the following sources of payment:

(A) Low and Moderate Income Housing Fund.

(B) Bond proceeds.

(C) Reserve balances.

(D) Administrative cost allowance.

(E) The Redevelopment Property Tax Trust Fund, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation or by the provisions of this part.

(F) Other revenue sources, including rents, concessions, asset sale proceeds, interest earnings, and any other revenues derived from the former redevelopment agency, as approved by the oversight board in accordance with this part.

(2) A Recognized Obligation Payment Schedule shall not be deemed valid unless all of the following conditions have been met:

(A) A Recognized Obligation Payment Schedule is prepared by the successor agency for the enforceable obligations of the former redevelopment agency. The initial schedule shall project the dates and amounts of scheduled payments for each enforceable obligation for the remainder of the time period during which the redevelopment agency would have been authorized to obligate property tax increment had the a redevelopment agency not been dissolved.

(B) The Recognized Obligation Payment Schedule is submitted to and duly approved by the oversight board. The successor agency shall submit a copy of the Recognized Obligation Payment Schedule to the county administrative officer, the county auditor-controller, and the Department of Finance at the same time that the successor agency submits the Recognized Obligation Payment Schedule to the oversight board for approval.

(C) A copy of the approved Recognized Obligation Payment Schedule is submitted to the county auditor-controller and both the Controller's office and the Department of Finance and be posted on the successor agency's Internet Web site.

(3) The Recognized Obligation Payment Schedule shall be forward

looking to the next six months. The first Recognized Obligation Payment Schedule shall be submitted to the Controller's office and the Department of Finance by April 15, 2012, for the period of January 1, 2012, to June 30, 2012, inclusive. This Recognized Obligation Payment Schedule shall include all payments made by the former redevelopment agency between January 1, 2012, through January 31, 2012, and shall include all payments proposed to be made by the successor agency from February 1, 2012, through June 30, 2012. Former redevelopment agency enforceable obligation payments due, and reasonable or necessary administrative costs due or incurred, prior to January 1, 2012, shall be made from property tax revenues received in the spring of 2011 property tax distribution, and from other revenues and balances transferred to the successor agency.

(m) The Recognized Obligation Payment Schedule for the period of January 1, 2013, to June 30, 2013, shall be submitted by the successor agency, after approval by the oversight board, no later than September 1, 2012. Commencing with the Recognized Obligation Payment Schedule covering the period July 1, 2013, through December 31, 2013, successor agencies shall submit an oversight board-approved Recognized Obligation Payment Schedule to the Department of Finance and to the county auditor-controller no fewer than 90 days before the date of property tax distribution. The Department of Finance shall make its determination of the enforceable obligations and the amounts and funding sources of the enforceable obligations no later than 45 days after the Recognized Obligation Payment Schedule is submitted. Within five business days of the department's determination, a successor agency may request additional review by the department and an opportunity to meet and confer on disputed items. The meet and confer period may vary; an untimely submittal of a Recognized Obligation Payment Schedule may result in a meet and confer period of less than 30 days. The department shall notify the successor agency and the county auditor-controllers as to the outcome of its review at least 15 days before the date of property tax distribution.

(1) The successor agency shall submit a copy of the Recognized Obligation Payment Schedule to the Department of Finance electronically, and the successor agency shall complete the Recognized Obligation Payment Schedule in the manner provided for by the department. A successor agency shall be in noncompliance with this paragraph if it only submits to the department an electronic message or a letter stating that the oversight board has approved a Recognized Obligation Payment Schedule.

(2) If a successor agency does not submit a Recognized Obligation Payment Schedule by the deadlines provided in this subdivision, the city, county, or city and county that created the redevelopment agency shall be subject to a civil penalty equal to ten thousand dollars (\$10,000) per day for every day the schedule is not submitted to the department. The civil penalty shall be paid to the county auditor-controller for allocation to the taxing entities under Section 34183. If a successor agency fails to submit a Recognized Obligation Payment Schedule by the deadline, any creditor of the successor agency or the Department of Finance or any affected taxing entity shall have standing to and may request a writ of mandate to require the successor agency to immediately perform this duty. Those actions may be filed only in the County of Sacramento and shall have priority over other civil matters. Additionally, if an agency does not submit a Recognized Obligation Payment Schedule within ten days of the deadline, the maximum administrative cost allowance for that period shall be reduced by 25 percent.

(3) If a successor agency fails to submit to the department an oversight board-approved Recognized Obligation Payment Schedule that

complies with all requirements of this subdivision within five business days of the date upon which the Recognized Obligation Payment Schedule is to be used to determine the amount of property tax allocations, the department may determine if any amount should be withheld by the county auditor-controller for payments for enforceable obligations from distribution to taxing entities, pending approval of a Recognized Obligation Payment Schedule. The county auditor-controller shall distribute the portion of any of the sums withheld pursuant to this paragraph to the affected taxing entities in accordance with paragraph (4) of subdivision (a) of Section 34183 upon notice by the department that a portion of the withheld balances are in excess of the amount of enforceable obligations. The county auditor-controller shall distribute withheld funds to the successor agency only in accordance with a Recognized Obligation Payment Schedule approved by the department. County auditor-controllers shall lack the authority to withhold any other amounts from the allocations provided for under Section 34183 or 34188 unless required by a court order.

(n) Cause a postaudit of the financial transactions and records of the successor agency to be made at least annually by a certified public accountant.

SEC. 12. Section 34177.3 is added to the Health and Safety Code, to read:

34177.3. (a) Successor agencies shall lack the authority to, and shall not, create new enforceable obligations under the authority of the Community Redevelopment Law (Part 1 (commencing with Section 33000)) or begin new redevelopment work, except in compliance with an enforceable obligation that existed prior to June 28, 2011.

(b) Successor agencies may create enforceable obligations to conduct the work of winding down the redevelopment agency, including hiring staff, acquiring necessary professional administrative services and legal counsel, and procuring insurance.

(c) Successor agencies shall lack the authority to, and shall not, transfer any powers or revenues of the successor agency to any other party, public or private, except pursuant to an enforceable obligation on a Recognized Obligation Payment Schedule approved by the department. Any such transfers of authority or revenues that are not made pursuant to an enforceable obligation on a Recognized Obligation Payment Schedule approved by the Department of Finance are hereby declared to be void, and the successor agency shall take action to reverse any of those transfers. The Controller may audit any transfer of authority or revenues prohibited by this section and may order the prompt return of any money or other things of value from the receiving party.

(d) Redevelopment agencies that resolved to participate in the Voluntary Alternative Redevelopment Program under Chapter 6 of the First Extraordinary Session of the Statutes of 2011 were and are subject to the provisions of Part 1.8 (commencing with Section 34161). Any actions taken by redevelopment agencies to create obligations after June 27, 2011, are ultra vires and do not create enforceable obligations.

(e) The Legislature finds and declares that the provisions of this section are declaratory of existing law.

SEC. 13. Section 34177.5 is added to the Health and Safety Code, to read:

34177.5. (a) In addition to the powers granted to each successor agency, and notwithstanding anything in the act adding this part, including, but not limited to, Sections 34162 and 34189, a successor agency shall have the authority, rights, and powers of the redevelopment agency to which it succeeded solely for the following

purposes:

(1) For the purpose of issuing bonds or incurring other indebtedness to refund the bonds or other indebtedness of its former redevelopment agency or of the successor agency to provide savings to the successor agency, provided that (A) the total interest cost to maturity on the refunding bonds or other indebtedness plus the principal amount of the refunding bonds or other indebtedness shall not exceed the total remaining interest cost to maturity on the bonds or other indebtedness to be refunded plus the remaining principal of the bonds or other indebtedness to be refunded, and (B) the principal amount of the refunding bonds or other indebtedness shall not exceed the amount required to defease the refunded bonds or other indebtedness, to establish customary debt service reserves, and to pay related costs of issuance. If the foregoing conditions are satisfied, the initial principal amount of the refunding bonds or other indebtedness may be greater than the outstanding principal amount of the bonds or other indebtedness to be refunded. The successor agency may pledge to the refunding bonds or other indebtedness the revenues pledged to the bonds or other indebtedness being refunded, and that pledge, when made in connection with the issuance of such refunding bonds or other indebtedness, shall have the same lien priority as the pledge of the bonds or other obligations to be refunded, and shall be valid, binding, and enforceable in accordance with its terms.

(2) For the purpose of issuing bonds or other indebtedness to finance debt service spikes, including balloon maturities, provided that (A) the existing indebtedness is not accelerated, except to the extent necessary to achieve substantially level debt service, and (B) the principal amount of the bonds or other indebtedness shall not exceed the amount required to finance the debt service spikes, including establishing customary debt service reserves and paying related costs of issuance.

(3) For the purpose of amending an existing enforceable obligation under which the successor agency is obligated to reimburse a political subdivision of the state for the payment of debt service on a bond or other obligation of the political subdivision, or to pay all or a portion of the debt service on the bond or other obligation of the political subdivision to provide savings to the successor agency, provided that (A) the enforceable obligation is amended in connection with a refunding of the bonds or other obligations of the political subdivision so that the enforceable obligation will apply to the refunding bonds or other refunding indebtedness of the political subdivision, (B) the total interest cost to maturity on the refunding bonds or other indebtedness plus the principal amount of the refunding bonds or other indebtedness shall not exceed the total remaining interest cost to maturity on the bonds or other indebtedness to be refunded plus the remaining principal of the bonds or other indebtedness to be refunded, and (C) the principal amount of the refunding bonds or other indebtedness shall not exceed the amount required to defease the refunded bonds or other indebtedness, to establish customary debt service reserves and to pay related costs of issuance. The pledge set forth in that amended enforceable obligation, when made in connection with the execution of the amendment of the enforceable obligation, shall have the same lien priority as the pledge in the enforceable obligation prior to its amendment and shall be valid, binding, and enforceable in accordance with its terms.

(4) For the purpose of issuing bonds or incurring other indebtedness to make payments under enforceable obligations when the enforceable obligations include the irrevocable pledge of property

tax increment, formerly tax increment revenues prior to the effective date of this part, or other funds and the obligation to issue bonds secured by that pledge. The successor agency may pledge to the bonds or other indebtedness the property tax revenues and other funds described in the enforceable obligation, and that pledge, when made in connection with the issuance of the bonds or the incurring of other indebtedness, shall be valid, binding, and enforceable in accordance with its terms. This paragraph shall not be deemed to authorize a successor agency to increase the amount of property tax revenues pledged under an enforceable obligation or to pledge any property tax revenue not already pledged pursuant to an enforceable obligation. This paragraph does not constitute a change in, but is declaratory of, the existing law.

(b) The refunding bonds authorized under this section may be issued under the authority of Article 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code, and the refunding bonds may be sold at public or private sale, or to a joint powers authority pursuant to the Marks-Roos Local Bond Pooling Act (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code).

(c) (1) Prior to incurring any bonds or other indebtedness pursuant to this section, the successor agency may subordinate to the bonds or other indebtedness the amount required to be paid to an affected taxing entity pursuant to paragraph (1) of subdivision (a) of Section 34183, provided that the affected taxing entity has approved the subordinations pursuant to this subdivision.

(2) At the time the successor agency requests an affected taxing entity to subordinate the amount to be paid to it, the successor agency shall provide the affected taxing entity with substantial evidence that sufficient funds will be available to pay both the debt service on the bonds or other indebtedness and the payments required by paragraph (1) of subdivision (a) of Section 34183, when due.

(3) Within 45 days after receipt of the agency's request, the affected taxing entity shall approve or disapprove the request for subordination. An affected taxing entity may disapprove a request for subordination only if it finds, based upon substantial evidence, that the successor agency will not be able to pay the debt service payments and the amount required to be paid to the affected taxing entity. If the affected taxing entity does not act within 45 days after receipt of the agency's request, the request to subordinate shall be deemed approved and shall be final and conclusive.

(d) An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of bonds or other obligations authorized by this section, the pledge of revenues to those bonds or other obligations authorized by this section, the legality and validity of all proceedings theretofore taken and, as provided in the resolution of the legislative body of the successor agency authorizing the bonds or other obligations authorized by this section, proposed to be taken for the authorization, execution, issuance, sale, and delivery of the bonds or other obligations authorized by this section, and for the payment of debt service on the bonds or the payment of amounts under other obligations authorized by this section. Subdivision (c) of Section 33501 shall not apply to any such action. The Department of Finance shall be notified of the filing of any action as an affected party.

(e) Notwithstanding any other law, including, but not limited to, Section 33501, an action to challenge the issuance of bonds, the incurrence of indebtedness, the amendment of an enforceable

obligation, or the execution of a financing agreement by a successor agency shall be brought within 30 days after the date on which the oversight board approves the resolution of the successor agency approving the issuance of bonds, the incurrence of indebtedness, the amendment of an enforceable obligation, or the execution of a financing agreement authorized under this section.

(f) The actions authorized in this section shall be subject to the approval of the oversight board, as provided in Section 34180. Additionally, an oversight board may direct the successor agency to commence any of the transactions described in subdivision (a) so long as the successor agency is able to recover its related costs in connection with the transaction. After a successor agency, with approval of the oversight board, issues any bonds, incurs any indebtedness, or executes an amended enforceable obligation pursuant to subdivision (a), the oversight board shall not unilaterally approve any amendments to or early termination of the bonds, indebtedness, or enforceable obligation. If, under the authority granted to it by subdivision (h) of Section 34179, the Department of Finance either reviews and approves or fails to request review within five business days of an oversight board approval of an action authorized by this section, the scheduled payments on the bonds or other indebtedness shall be listed in the Recognized Obligation Payment Schedule and shall not be subject to further review and approval by the department or the Controller. The department may extend its review time to 60 days for actions authorized in this section and may seek the assistance of the Treasurer in evaluating proposed actions under this section.

(g) Any bonds, indebtedness, or amended enforceable obligation authorized by this section shall be considered indebtedness incurred by the dissolved redevelopment agency, with the same legal effect as if the bonds, indebtedness, financing agreement, or amended enforceable obligation had been issued, incurred, or entered into prior to June 29, 2011, in full conformity with the applicable provisions of the Community Redevelopment Law that existed prior to that date, shall be included in the successor agency's Recognized Obligation Payment Schedule, and shall be secured by a pledge of, and lien on, and shall be repaid from moneys deposited from time to time in the Redevelopment Property Tax Trust Fund established pursuant to subdivision (c) of Section 34172, as provided in paragraph (2) of subdivision (a) of Section 34183. Property tax revenues pledged to any bonds, indebtedness, or amended enforceable obligations authorized by this section are taxes allocated to the successor agency pursuant to subdivision (b) of Section 33670 and Section 16 of Article XVI of the California Constitution.

(h) The successor agency shall make diligent efforts to ensure that the lowest long-term cost financing is obtained. The financing shall not provide for any bullets or spikes and shall not use variable rates. The successor agency shall make use of an independent financial advisor in developing financing proposals and shall make the work products of the financial advisor available to the Department of Finance at its request.

(i) If an enforceable obligation provides for an irrevocable commitment of property tax revenue and where allocation of such revenues is expected to occur over time, the successor agency may petition the Department of Finance to provide written confirmation that its determination of such enforceable obligation as approved in a Recognized Obligation Payment Schedule is final and conclusive, and reflects the department's approval of subsequent payments made pursuant to the enforceable obligation. If the confirmation is granted, then the department's review of such payments in future

Recognized Obligation Payment Schedules shall be limited to confirming that they are required by the prior enforceable obligation.

(j) The successor agency may request that the department provide a written determination to waive the two-year statute of limitations on an action to review the validity of the adoption or amendment of a redevelopment plan pursuant to subdivision (c) of Section 33500 or on any findings or determinations made by the agency pursuant to subdivision (d) of Section 33500. The department at its discretion may provide a waiver if it determines it is necessary for the agency to fulfill an enforceable obligation.

SEC. 14. Section 34178 of the Health and Safety Code is amended to read:

34178. (a) Commencing on the operative date of this part, agreements, contracts, or arrangements between the city or county, or city and county that created the redevelopment agency and the redevelopment agency are invalid and shall not be binding on the successor agency; provided, however, that a successor entity wishing to enter or reenter into agreements with the city, county, or city and county that formed the redevelopment agency that it is succeeding may do so upon obtaining the approval of its oversight board. A successor agency or an oversight board shall not exercise the powers granted by this subdivision to restore funding for an enforceable obligation that was deleted or reduced by the Department of Finance pursuant to subdivision (h) of Section 34179 unless it reflects the decisions made during the meet and confer process with the Department of Finance or pursuant to a court order.

(b) Notwithstanding subdivision (a), any of the following agreements are not invalid and may bind the successor agency:

(1) A duly authorized written agreement entered into at the time of issuance, but in no event later than December 31, 2010, of indebtedness obligations, and solely for the purpose of securing or repaying those indebtedness obligations.

(2) A written agreement between a redevelopment agency and the city, county, or city and county that created it that provided loans or other startup funds for the redevelopment agency that were entered into within two years of the formation of the redevelopment agency.

(3) A joint exercise of powers agreement in which the redevelopment agency is a member of the joint powers authority. However, upon assignment to the successor agency by operation of the act adding this part, the successor agency's rights, duties, and performance obligations under that joint exercise of powers agreement shall be limited by the constraints imposed on successor agencies by the act adding this part.

SEC. 15. Section 34178.8 is added to the Health and Safety Code, to read:

34178.8. Commencing on the effective date of the act adding this section, the Controller shall review the activities of successor agencies in the state to determine if an asset transfer has occurred after January 31, 2012, between the successor agency and the city, county, or city and county that created a redevelopment agency, or any other public agency, that was not made pursuant to an enforceable obligation on an approved and valid Recognized Obligation Payment Schedule. If such an asset transfer did occur, to the extent not prohibited by state and federal law, the Controller shall order the available assets to be returned to the successor agency. Upon receiving that order from the Controller, an affected local agency shall, as soon as practicable, reverse the transfer and return the applicable assets to the successor agency. This section shall not apply to housing assets as defined in subdivision (e) of Section

34176.

SEC. 16. Section 34179 of the Health and Safety Code is amended to read:

34179. (a) Each successor agency shall have an oversight board composed of seven members. The members shall elect one of their members as the chairperson and shall report the name of the chairperson and other members to the Department of Finance on or before May 1, 2012. Members shall be selected as follows:

(1) One member appointed by the county board of supervisors.

(2) One member appointed by the mayor for the city that formed the redevelopment agency.

(3) (A) One member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is of the type of special district that is eligible to receive property tax revenues pursuant to Section 34188.

(B) On or after the effective date of this subparagraph, the county auditor-controller may determine which is the largest special district for purposes of this section.

(4) One member appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made pursuant to this paragraph shall be made by the county board of education.

(5) One member appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.

(6) One member of the public appointed by the county board of supervisors.

(7) One member representing the employees of the former redevelopment agency appointed by the mayor or chair of the board of supervisors, as the case may be, from the recognized employee organization representing the largest number of former redevelopment agency employees employed by the successor agency at that time. In the case where city or county employees performed administrative duties of the former redevelopment agency, the appointment shall be made from the recognized employee organization representing those employees. If a recognized employee organization does not exist for either the employees of the former redevelopment agency or the city or county employees performing administrative duties of the former redevelopment agency, the appointment shall be made from among the employees of the successor agency. In voting to approve a contract as an enforceable obligation, a member appointed pursuant to this paragraph shall not be deemed to be interested in the contract by virtue of being an employee of the successor agency or community for purposes of Section 1090 of the Government Code.

(8) If the county or a joint powers agency formed the redevelopment agency, then the largest city by acreage in the territorial jurisdiction of the former

redevelopment agency may select one member. If there are no cities with territory in a project area of the redevelopment agency, the county superintendent of education may appoint an additional member to represent the public.

(9) If there are no special districts of the type that are eligible to receive property tax pursuant to Section 34188, within the territorial jurisdiction of the former redevelopment agency, then the county may appoint one member to represent the public.

(10) If a redevelopment agency was formed by an entity that is both a charter city and a county, the oversight board shall be composed of seven members selected as follows: three members

appointed by the mayor of the city, if that appointment is subject to confirmation by the county board of supervisors, one member appointed by the largest special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency, which is the type of special district that is eligible to receive property tax revenues pursuant to Section 34188, one member appointed by the county superintendent of education to represent schools, one member appointed by the Chancellor of the California Community Colleges to represent community college districts, and one member representing employees of the former redevelopment agency appointed by the mayor of the city if that appointment is subject to confirmation by the county board of supervisors, to represent the largest number of former redevelopment agency employees employed by the successor agency at that time.

(b) The Governor may appoint individuals to fill any oversight board member position described in subdivision (a) that has not been filled by May 15, 2012, or any member position that remains vacant for more than 60 days.

(c) The oversight board may direct the staff of the successor agency to perform work in furtherance of the oversight board's duties and responsibilities under this part. The successor agency shall pay for all of the costs of meetings of the oversight board and may include such costs in its administrative budget. Oversight board members shall serve without compensation or reimbursement for expenses.

(d) Oversight board members are protected by the immunities applicable to public entities and public employees governed by Part 1 (commencing with Section 810) and Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code.

(e) A majority of the total membership of the oversight board shall constitute a quorum for the transaction of business. A majority vote of the total membership of the oversight board is required for the oversight board to take action. The oversight board shall be deemed to be a local entity for purposes of the Ralph M. Brown Act, the California Public Records Act, and the Political Reform Act of 1974. All actions taken by the oversight board shall be adopted by resolution.

(f) All notices required by law for proposed oversight board actions shall also be posted on the successor agency's Internet Web site or the oversight board's Internet Web site.

(g) Each member of an oversight board shall serve at the pleasure of the entity that appointed such member.

(h) The Department of Finance may review an oversight board action taken pursuant to this part. Written notice and information about all actions taken by an oversight board shall be provided to the department by electronic means and in a manner of the department's choosing. An action shall become effective five business days after notice in the manner specified by the department is provided unless the department requests a review. Each oversight board shall designate an official to whom the department may make those requests and who shall provide the department with the telephone number and e-mail contact information for the purpose of communicating with the department pursuant to this subdivision. Except as otherwise provided in this part, in the event that the department requests a review of a given oversight board action, it shall have 40 days from the date of its request to approve the oversight board action or return it to the oversight board for reconsideration and the oversight board action shall not be effective until approved by the department. In the event that the department returns the oversight board action to the oversight board for reconsideration, the oversight board shall

resubmit the modified action for department approval and the modified oversight board action shall not become effective until approved by the department. If the department reviews a Recognized Obligation Payment Schedule, the department may eliminate or modify any item on that schedule prior to its approval. The county auditor-controller shall reflect the actions of the department in determining the amount of property tax revenues to allocate to the successor agency. The department shall provide notice to the successor agency and the county auditor-controller as to the reasons for its actions. To the extent that an oversight board continues to dispute a determination with the department, one or more future recognized obligation schedules may reflect any resolution of that dispute. The department may also agree to an amendment to a Recognized Obligation Payment Schedule to reflect a resolution of a disputed item; however, this shall not affect a past allocation of property tax or create a liability for any affected taxing entity.

(i) Oversight boards shall have fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188. Further, the provisions of Division 4 (commencing with Section 1000) of the Government Code shall apply to oversight boards. Notwithstanding Section 1099 of the Government Code, or any other law, any individual may simultaneously be appointed to up to five oversight boards and may hold an office in a city, county, city and county, special district, school district, or community college district.

(j) Commencing on and after July 1, 2016, in each county where more than one oversight board was created by operation of the act adding this part, there shall be only one oversight board appointed as follows:

(1) One member may be appointed by the county board of supervisors.

(2) One member may be appointed by the city selection committee established pursuant to Section 50270 of the Government Code. In a city and county, the mayor may appoint one member.

(3) One member may be appointed by the independent special district selection committee established pursuant to Section 56332 of the Government Code, for the types of special districts that are eligible to receive property tax revenues pursuant to Section 34188.

(4) One member may be appointed by the county superintendent of education to represent schools if the superintendent is elected. If the county superintendent of education is appointed, then the appointment made pursuant to this paragraph shall be made by the county board of education.

(5) One member may be appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.

(6) One member of the public may be appointed by the county board of supervisors.

(7) One member may be appointed by the recognized employee organization representing the largest number of successor agency employees in the county.

(k) The Governor may appoint individuals to fill any oversight board member position described in subdivision (j) that has not been filled by July 15, 2016, or any member position that remains vacant for more than 60 days.

(l) Commencing on and after July 1, 2016, in each county where only one oversight board was created by operation of the act adding this part, then there will be no change to the composition of that oversight board as a result of the operation of subdivision (b).

(m) Any oversight board for a given successor agency shall cease to exist when all of the indebtedness of the dissolved redevelopment agency has been repaid.

(n) An oversight board may direct a successor agency to provide additional legal or financial advice than what was given by agency staff.

(o) An oversight board is authorized to contract with the county or other public or private agencies for administrative support.

(p) On matters within the purview of the oversight board, decisions made by the oversight board supersede those made by the successor agency or the staff of the successor agency.

SEC. 17. Section 34179.5 is added to the Health and Safety Code, to read:

34179.5. (a) In furtherance of subdivision (d) of Section 34177, each successor agency shall employ a licensed accountant, approved by the county auditor-controller and with experience and expertise in local government accounting, to conduct a due diligence review to determine the unobligated balances available for transfer to taxing entities. As an alternative, an audit provided by the county auditor-controller that provides the information required by this section may be used to comply with this section with the concurrence of the oversight board.

(b) For purposes of this section the following terms shall have the following meanings:

(1) "Cash" and "cash equivalents" includes, but is not limited to, cash in hand, bank deposits, Local Agency Investment Fund deposits, deposits in the city or county treasury or any other pool, marketable securities, commercial paper, United States Treasury bills, banker's acceptances, payables on demand and amounts due from other parties as defined in subdivision (c), and any other money owned by the successor agency.

(2) "Enforceable obligation" includes any of the items listed in subdivision (d) of Section 34171, contracts detailing specific work to be performed that were entered into by the former redevelopment agency prior to June 28, 2011, with a third party that is other than the city, county, or city and county that created the former redevelopment agency, and indebtedness obligations as defined in subdivision (e) of Section 34171.

(3) "Transferred" means the transmission of money to another party that is not in payment for goods or services or an investment or where the payment is de minimus. Transfer also means where the payments are ultimately merely a restriction on the use of the money.

(c) At a minimum, the review required by this section shall include the following:

(1) The dollar value of assets transferred from the former redevelopment agency to the successor agency on or about February 1, 2012.

(2) The dollar value of assets and cash and cash equivalents transferred after January 1, 2011, through June 30, 2012, by the redevelopment agency or the successor agency to the city, county, or city and county that formed the redevelopment agency and the purpose of each transfer. The review shall provide documentation of any enforceable obligation that required the transfer.

(3) The dollar value of any cash or cash equivalents transferred after January 1, 2011, through June 30, 2012, by the redevelopment agency or the successor agency to any other public agency or private party and the purpose of each transfer. The review shall provide documentation of any enforceable obligation that required the transfer.

(4) The review shall provide expenditure and revenue accounting information and identify transfers and funding sources for the 2010-11 and 2011-12 fiscal years that reconciles balances, assets, and liabilities of the successor agency on June 30, 2012 to those reported to the Controller for the 2009-10 fiscal year.

(5) A separate accounting for the balance for the Low and Moderate Income Housing Fund for all other funds and accounts combined shall be made as follows:

(A) A statement of the total value of each fund as of June 30, 2012.

(B) An itemized statement listing any amounts that are legally restricted as to purpose and cannot be provided to taxing entities. This could include the proceeds of any bonds, grant funds, or funds provided by other governmental entities that place conditions on their use.

(C) An itemized statement of the values of any assets that are not cash or cash equivalents. This may include physical assets, land, records, and equipment. For the purpose of this accounting, physical assets may be valued at purchase cost or at any recently estimated market value. The statement shall list separately housing-related assets.

(D) An itemized listing of any current balances that are legally or contractually dedicated or restricted for the funding of an enforceable obligation that identifies the nature of the dedication or restriction and the specific enforceable obligation. In addition, the successor agency shall provide a listing of all approved enforceable obligations that includes a projection of annual spending requirements to satisfy each obligation and a projection of annual revenues available to fund those requirements. If a review finds that future revenues together with dedicated or restricted balances are insufficient to fund future obligations and thus retention of current balances is required, it shall identify the amount of current balances necessary for retention. The review shall also detail the projected property tax revenues and other general purpose revenues to be received by the successor agency, together with both the amount and timing of the bond debt service payments of the successor agency, for the period in which the oversight board anticipates the successor agency will have insufficient property tax revenue to pay the specified obligations.

(E) An itemized list and analysis of any amounts of current balances that are needed to satisfy obligations that will be placed on the Recognized Obligation Payment Schedules for the current fiscal year.

(6) The review shall total the net balances available after deducting the total amounts described in subparagraphs (B) to (E), inclusive, of paragraph (5). The review shall add any amounts that were transferred as identified in paragraphs (2) and (3) of subdivision (c) if an enforceable obligation to make that transfer did not exist. The resulting sum shall be available for allocation to affected taxing entities pursuant to Section 34179.6. It shall be a rebuttable presumption that cash and cash equivalent balances available to the successor agency are available and sufficient to disburse the amount determined in this paragraph to taxing entities. If the review finds that there are insufficient cash balances to transfer or that cash or cash equivalents are specifically obligated to the purposes described in subparagraphs (B), (D), and (E) of paragraph (5) in such amounts that there is insufficient cash to provide the full amount determined pursuant to this paragraph, that amount shall be demonstrated in an additional itemized schedule.

SEC. 18. Section 34179.6 is added to the Health and Safety Code,

to read:

34179.6. The review required pursuant to Section 34179.5 shall be submitted to the oversight board for review. The successor agency shall submit a copy of the Recognized Obligation Payment Schedule to the county administrative officer, the county auditor-controller, and the Department of Finance at the same time that the successor agency submits the review to the oversight board for review.

(a) By October 1, 2012, each successor agency shall provide to the oversight board, the county auditor-controller, the Controller, and the Department of Finance the results of the review conducted pursuant to Section 34179.5 for the Low and Moderate Income Housing Fund and specifically the amount of cash and cash equivalents determined to be available for allocation to taxing entities. By December 15, 2012, each successor agency shall provide to the oversight board, the county auditor-controller, the Controller, and the department the results of the review conducted pursuant to Section 34179.5 for all of the other fund and account balances and specifically the amount of cash and cash equivalents determined to be available for allocation to taxing entities. The department may request any supporting documentation and review results to assist in its review under subdivision (d). The department may specify the form and manner information about the review shall be provided to it.

(b) Upon receipt of the review, the oversight board shall convene a public comment session to take place at least five business days before the oversight board holds the approval vote specified in subdivision (c). The oversight board also shall consider any opinions offered by the county auditor-controller on the review results submitted by the successor agencies.

(c) By October 15, 2012, for the Low and Moderate Income Housing Fund and by January 15, 2013, for all other funds and accounts, the oversight board shall review, approve, and transmit to the department and the county auditor-controller the determination of the amount of cash and cash equivalents that are available for disbursement to taxing entities as determined according to the method provided in Section 34179.5. The oversight board may adjust any amount provided in the review to reflect additional information and analysis. The review and approval shall occur in public sessions. The oversight board may request from the successor agency any materials it deems necessary to assist in its review and approval of the determination. The oversight board shall be empowered to authorize a successor agency to retain assets or funds identified in subparagraphs (B) to (E), inclusive, of paragraph (5) of subdivision (c) of Section 34179.5. An oversight board that makes that authorization also shall identify to the department the amount of funds authorized for retention, the source of those funds, and the purposes for which those funds are being retained. The determination and authorization to retain funds and assets shall be subject to the review and approval of the department pursuant to subdivision (d).

(d) The department may adjust any amount associated with the determination of the resulting amount described in paragraph (6) of subdivision (c) of Section 34179.5 based on its analysis and information provided by the successor agency and others. The department shall consider any findings or opinions of the county auditor-controllers and the Controller. The department shall complete its review of the determinations provided pursuant to subdivision (c) no later than November 9, 2012, for the Low and Moderate Income Housing Fund and also shall notify the oversight board and the successor agency of its decision to overturn any decision of the oversight board to authorize a successor agency to retain assets or funds made pursuant to subdivision (c). The department shall complete

its review of the determinations provided pursuant to subdivision (c) no later than April 1, 2013, for the other funds and accounts and also shall notify the oversight board and the successor agency of its decision to overturn any oversight board authorizations made pursuant to subdivision (c). The department shall provide the oversight board and the successor agency an explanation of its basis for overturning or modifying any findings, determinations, or authorizations of the oversight board made pursuant to subdivision (c).

(e) The successor agency and the entity or entities that created the former redevelopment agency may request to meet and confer with the department to resolve any disputes regarding the amounts or sources of funds identified as determined by the department. The request shall be made within five business days of the transmission, and no later than November 16, 2012, for the determination regarding the Low and Moderate Income Housing Fund, to the successor agency or the designated local authority of the department's determination, decisions, and explanations and shall be accompanied by an explanation and documentation of the basis of the dispute. The department shall meet and confer with the requesting party and modify its determinations and decisions accordingly. The department shall either confirm or modify its determinations and decisions within 30 days of the request to meet and confer.

(f) Each successor agency shall transmit to the county auditor-controller the amount of funds required pursuant to the determination of the department within five working days of receipt of the notification under subdivision (c) or (e) if a meet and confer request is made. Successor agencies shall make diligent efforts to recover any money determined to have been transferred without an enforceable obligation as described in paragraphs (2) and (3) of subdivision (c) of Section 34179.5. The department shall notify the county auditor-controllers of its actions and the county auditor-controllers shall disburse the funds received from successor agencies to taxing entities pursuant to Section 34188 within five working days of receipt. Amounts received after November 28, 2012, and April 10, 2013, may be held and disbursed with the regular payments to taxing entities pursuant to Section 34183.

(g) By December 1, 2012, the county auditor-controller shall provide the department a report specifying the amount submitted by each successor agency pursuant to subdivision (d) for low- and moderate-income housing funds, and specifically noting those successor agencies that failed to remit the full required amount. By April 20, 2013, the county auditor-controller shall provide the department a report detailing the amount submitted by each successor agency pursuant to subdivision (d) for all other funds and accounts, and specifically noting those successor agencies that failed to remit the full required amount.

(h) If a successor agency fails to remit to the county auditor-controller the sums identified in subdivisions (d) and (f), by the deadlines specified in those subdivisions, the following remedies are available:

(1) (A) If the successor agency cannot promptly recover the funds that have been transferred to another public agency without an enforceable obligation as described in paragraphs (2) and (3) of subdivision (c) of Section 34179.5, the funds may be recovered through an offset of sales and use tax or property tax allocations to the local agency to which the funds were transferred. To recover such funds, the Department of Finance may order the State Board of Equalization to make an offset pursuant to subdivision (a) of Section 34179.8. If the Department of Finance does not order a sales tax

offset, the county auditor-controller may reduce the property tax allocations to any local agency in the county that fails to repay funds pursuant to subdivision (c) of Section 34179.8.

(B) The county auditor-controller and the department shall each have the authority to demand the return of funds improperly spent or transferred to a private person or other private entity. If funds are not repaid within 60 days, they may be recovered through any lawful means of collection and are subject to a ten percent penalty plus interest at the rate charged for late personal income tax payments from the date the improper payment was made to the date the money is repaid.

(C) If the city, county, or city and county that created the former redevelopment agency is also performing the duties of the successor agency, the Department of Finance may order an offset to the distribution provided to the sales and use tax revenue to that agency pursuant to subdivision (a) of Section 34179.8. This offset shall be equal to the amount the successor fails to remit pursuant to subdivision (f). If the Department of Finance does not order a sales tax offset, the county auditor-controller may reduce the property tax allocations of the city, county, or city and county that created the former redevelopment agency pursuant to subdivision (c) of Section 34179.8.

(D) The department and the county auditor-controller shall coordinate their actions undertaken pursuant to this paragraph.

(2) Alternatively or in addition to the remedies provided in paragraph (1), the department may direct the county auditor-controller to deduct the unpaid amount from future allocations of property tax to the successor agency under Section 34183 until the amount of payment required pursuant to subdivision (d) is accomplished.

(3) If the Department of Finance determines that payment of the full amount required under subdivision (d) is not currently feasible or would jeopardize the ability of the successor agency to pay enforceable obligations in a timely manner, it may agree to an installment payment plan.

(i) (1) If a legal action contesting a withholding effectuated by the State Board of Equalization pursuant to subparagraphs (B), (C), or (B) and (C) of paragraph (2) of subdivision (b) of Section 34183.5 is successful and results in a final judicial determination, the court shall order the state to pay to the prevailing party a penalty equal to a percentage of the amount of funds found by the court to be improperly withheld, as provided in Section 34179.8. This percentage shall be equivalent to the number of months the funds have been found by the court to be improperly withheld, not to exceed 10 percent.

(2) If a legal action contesting an offset effectuated by the State Board of Equalization or the county auditor-controller pursuant to subdivision (h) is successful and results in a final judicial determination, the court shall order the state or the county auditor-controller to pay to the prevailing party a penalty equal to 10 percent of the amount of funds found by the court to be improperly offset, as provided in Section 34179.8.

(j) If a legal challenge to invalidate any provision in subdivision (h) or subparagraph (B) or (C), or subparagraphs (B) and (C) of paragraph (2) of subdivision (b) of Section 34183.5 is successful and results in a final judicial determination, the invalidated provision shall become inoperative and subdivision (i) shall become inoperative with respect to the invalidated provision.

SEC. 19. Section 34179.7 is added to the Health and Safety Code, to read:

34179.7. Upon full payment of the amounts determined in subdivision (d) or (e) of Section 34179.6 as reported by the county auditor-controller pursuant to subdivision (g) of Section 34179.6 and of any amounts due as determined by Section 34183.5, or upon a final judicial determination of the amounts due and confirmation that those amounts have been paid by the county auditor-controller, the department shall issue, within five business days, a finding of completion of the requirements of Section 34179.6 to the successor agency.

SEC. 20. Section 34179.8 is added to the Health and Safety Code, to read:

34179.8. (a) If an offset or withholding of sales and use tax is ordered by the Department of Finance pursuant to this part, the State Board of Equalization shall reduce the distribution of sales and use taxes collected under Chapter 1 (commencing with Section 7200) of Part 1.5 of Division 2 of the Revenue and Taxation Code to the entity that is the subject of the offset or withholding and shall direct the Controller to issue a warrant in the amount of any offset pursuant to subdivision (h) of Section 34179.6 to the county auditor-controller. The county auditor-controller shall distribute this amount to the taxing entities for the former redevelopment area according to Section 34188.

(b) (1) If a court has issued a final judicial determination or the department determines that some or all of the amount collected through the offset of sales and use tax has been paid by another means and no additional amount is owed, the court or the department shall notify the State Board of Equalization of that determination. Upon notification, the State Board of Equalization shall reverse the relevant amount of sales and use tax offset, add any penalty payable under subdivision (i) of Section 34179.6, and adjust the next distribution of sales and use tax to the affected local entity by reducing the allocation of tax to the General Fund and increasing the distribution to the local entity by that sum.

(2) The board shall inform the Controller of the reversal of the offset of sales and use tax undertaken pursuant to paragraph (1). The Controller shall send a demand for payment to the county auditor-controller for the amount of the offset reversal, excluding any penalty amount determined by the court pursuant to subdivision (i) of Section 34179.6 to be applicable to the offset. The auditor-controller shall reduce allocations to taxing entities in the next distributions under Section 34188 until the amount of the reversed offset is recovered and shall pay such recovered amounts to the State Controller for deposit in the General Fund.

(c) (1) If an offset of property tax is ordered by the county auditor-controller pursuant to this part, the auditor-controller shall reduce the distribution of property taxes to the entity that is the subject of the offset and shall distribute the amount to the taxing entities for the former redevelopment area according to Section 34188.

(2) If a court has issued a final judicial determination or the department determines that some or all of the amount collected through the offset made pursuant to paragraph (1) has been paid by another means and no additional amount is owed, the court or the department shall notify the county auditor-controller of that determination. Upon notification, the county auditor-controller shall reverse the relevant amount of property tax revenues offset in the next distribution of property tax to the affected local entity by reducing the allocation of tax to the taxing entities of the former redevelopment area under Section 34188 and increasing the

distribution of property taxes to the local entity that was subject to the offset.

SEC. 21. Section 34180 of the Health and Safety Code is amended to read:

34180. All of the following successor agency actions shall first be approved by the oversight board:

(a) The establishment of new repayment terms for outstanding loans where the terms have not been specified prior to the date of this part. An oversight board shall not have the authority to reestablish loan agreements between the successor agency and the city, county, or city and county that formed the redevelopment agency except as provided in Chapter 9 (commencing with Section 34191.1).

(b) The issuance of bonds or other indebtedness or the pledge or agreement for the pledge of property tax revenues (formerly tax increment prior to the effective date of this part) pursuant to subdivision (a) of Section 34177.5.

(c) Setting aside of amounts in reserves as required by indentures, trust indentures, or similar documents governing the issuance of outstanding redevelopment agency bonds.

(d) Merging of project areas.

(e) Continuing the acceptance of federal or state grants, or other forms of financial assistance from either public or private sources, if that assistance is conditioned upon the provision of matching funds, by the successor entity as successor to the former redevelopment agency, in an amount greater than 5 percent.

(f) (1) If a city, county, or city and county wishes to retain any properties or other assets for future redevelopment activities, funded from its own funds and under its own auspices, it must reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base property tax, as determined pursuant to Section 34188, for the value of the property retained.

(2) If no other agreement is reached on valuation of the retained assets, the value will be the fair market value as of the 2011 property tax lien date as determined by an independent appraiser approved by the oversight board.

(g) Establishment of the Recognized Obligation Payment Schedule.

(h) A request by the successor agency to enter into an agreement with the city, county, or city and county that formed the redevelopment agency that it is succeeding. An oversight board shall not have the authority to reestablish loan agreements between the successor agency and the city, county, or city and county that formed the redevelopment agency except as provided in Chapter 9 (commencing with Section 34191.1). Any actions to reestablish any other agreements that are in furtherance of enforceable obligations, with the city, county, or city and county that formed the redevelopment agency are invalid until they are included in an approved and valid Recognized Obligation Payment Schedule.

(i) A request by a successor agency or taxing entity to pledge, or to enter into an agreement for the pledge of, property tax revenues pursuant to subdivision (b) of Section 34178.

(j) Any document submitted by a successor agency to an oversight board for approval by any provision of this part shall also be submitted to the county administrative officer, the county auditor-controller, and the Department of Finance at the same time that the successor agency submits the document to the oversight board.

SEC. 22. Section 34181 of the Health and Safety Code is amended to read:

34181. The oversight board shall direct the successor agency to

do all of the following:

(a) Dispose of all assets and properties of the former redevelopment agency; provided, however, that the oversight board may instead direct the successor agency to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, police and fire stations, libraries, and local agency administrative buildings, to the appropriate public jurisdiction pursuant to any existing agreements relating to the construction or use of such an asset. Any compensation to be provided to the successor agency for the transfer of the asset shall be governed by the agreements relating to the construction or use of that asset. Disposal shall be done expeditiously and in a manner aimed at maximizing value. Asset disposition may be accomplished by a distribution of income to taxing entities proportionate to their property tax share from one or more properties that may be transferred to a public or private agency for management pursuant to the direction of the oversight board.

(b) Cease performance in connection with and terminate all existing agreements that do not qualify as enforceable obligations.

(c) Transfer housing assets pursuant to Section 34176.

(d) Terminate any agreement, between the dissolved redevelopment agency and any public entity located in the same county, obligating the redevelopment agency to provide funding for any debt service obligations of the public entity or for the construction, or operation of facilities owned or operated by such public entity, in any instance where the oversight board has found that early termination would be in the best interests of the taxing entities.

(e) Determine whether any contracts, agreements, or other arrangements between the dissolved redevelopment agency and any private parties should be terminated or renegotiated to reduce liabilities and increase net revenues to the taxing entities, and present proposed termination or amendment agreements to the oversight board for its approval. The board may approve any amendments to or early termination of those agreements if it finds that amendments or early termination would be in the best interests of the taxing entities.

(f) All actions taken pursuant to subdivisions (a) and (c) shall be approved by resolution of the oversight board at a public meeting after at least 10 days' notice to the public of the specific proposed actions. The actions shall be subject to review by the Department of Finance pursuant to Section 34179 except that the department may extend its review period by up to 60 days. If the department does not object to an action subject to this section, and if no action challenging an action is commenced within 60 days of the approval of the action by the oversight board, the action of the oversight board shall be considered final and can be relied upon as conclusive by any person. If an action is brought to challenge an action involving title to or an interest in real property, a notice of pendency of action shall be recorded by the claimant as provided in Title 4.5 (commencing with Section 405) of Part 2 of the Code of Civil Procedure within a 60-day period.

SEC. 23. Section 34182 of the Health and Safety Code is amended to read:

34182. (a) (1) The county auditor-controller shall conduct or cause to be conducted an agreed-upon procedures audit of each redevelopment agency in the county that is subject to this part, to be completed by October 1, 2012.

(2) The purpose of the audits shall be to establish each redevelopment agency's assets and liabilities, to document and determine each redevelopment agency's passthrough payment obligations

to other taxing entities, and to document and determine both the amount and the terms of any indebtedness incurred by the redevelopment agency pursuant to the initial Recognized Obligation Payment Schedule.

(3) The county auditor-controller may charge the Redevelopment Property Tax Trust Fund for any costs incurred by the county auditor-controller pursuant to this part.

(b) By October 5, 2012, the county auditor-controller shall provide the Controller's office and the Department of Finance a copy of all audits performed pursuant to this section. The county auditor-controller shall maintain a copy of all documentation and working papers for use by the Controller.

(c) (1) The county auditor-controller shall determine the amount of property taxes that would have been allocated to each redevelopment agency in the county had the redevelopment agency not been dissolved pursuant to the operation of the act adding this part. These amounts are deemed property tax revenues within the meaning of subdivision (a) of Section 1 of Article XIII A of the California Constitution and are available for allocation and distribution in accordance with the provisions of the act adding this part. The county auditor-controller shall calculate the property tax revenues using current assessed values on the last equalized roll on August 20, pursuant to Section 2052 of the Revenue and Taxation Code, and pursuant to statutory formulas or contractual agreements with other taxing entities, as of the effective date of this section, and shall deposit that amount in the Redevelopment Property Tax Trust Fund.

(2) Each county auditor-controller shall administer the Redevelopment Property Tax Trust Fund for the benefit of the holders of former redevelopment agency enforceable obligations and the taxing entities that receive passthrough payments and distributions of property taxes pursuant to this part.

(3) In connection with the allocation and distribution by the county auditor-controller of property tax revenues deposited in the Redevelopment Property Tax Trust Fund, in compliance with this part, the county auditor-controller shall prepare estimates of amounts of property tax to be allocated and distributed and the amounts of passthrough payments to be made in the upcoming six-month period, and provide those estimates to both the entities receiving the distributions and the Department of Finance, no later than October 1 and April 1 of each year.

(4) Each county auditor-controller shall disburse proceeds of asset sales or reserve balances, which have been received from the successor entities pursuant to Sections 34177 and 34187, to the taxing entities. In making such a distribution, the county auditor-controller shall utilize the same methodology for allocation and distribution of property tax revenues provided in Section 34188.

(d) By October 1, 2012, the county auditor-controller shall report the following information to the Controller's office and the Director of Finance:

(1) The sums of property tax revenues remitted to the Redevelopment Property Tax Trust Fund related to each former redevelopment agency.

(2) The sums of property tax revenues remitted to each agency under paragraph (1) of subdivision (a) of Section 34183.

(3) The sums of property tax revenues remitted to each successor agency pursuant to paragraph (2) of subdivision (a) of Section 34183.

(4) The sums of property tax revenues paid to each successor agency pursuant to paragraph (3) of subdivision (a) of Section 34183.

(5) The sums paid to each city, county, and special district, and the total amount allocated for schools pursuant to paragraph (4) of subdivision (a) of Section 34183.

(6) Any amounts deducted from other distributions pursuant to subdivision (b) of Section 34183.

(e) A county auditor-controller may charge the Redevelopment Property Tax Trust Fund for the costs of administering the provisions of this part.

(f) The Controller may audit and review any county auditor-controller action taken pursuant to the act adding this part. As such, all county auditor-controller actions shall not be effective for three business days, pending a request for review by the Controller. In the event that the Controller requests a review of a given county auditor-controller action, he or she shall have 10 days from the date of his or her request to approve the county auditor-controller's action or return it to the county auditor-controller for reconsideration and the county auditor-controller's action shall not be effective until approved by the Controller. In the event that the Controller returns the county auditor-controller's action to the county auditor-controller for reconsideration, the county auditor-controller must resubmit the modified action for Controller approval and the modified county auditor-controller's action shall not become effective until approved by the Controller.

SEC. 24. Section 34182.5 is added to the Health and Safety Code, to read:

34182.5. A county auditor-controller may review the Recognized Obligation Payment Schedules and object to the inclusion of any items that are not demonstrated to be enforceable obligations and may object to the funding source proposed for any items. This review may take place prior to the submission of the Recognized Obligation Payment Schedule to the oversight board or subsequent to oversight board action. The county auditor-controller shall promptly transmit notice of any of those objections to the successor agency, the oversight board, and the Department of Finance. Notice shall be given at least 60 days prior to an allocation date specified in Section 34183, except that for the January 1, 2013 to June 30, 2013 Recognized Obligation Payment Schedule, notice shall be given no later than October 1, 2012. If an oversight board disputes the finding of the county auditor-controller, it may refer the matter to the Department of Finance for a determination of what will be approved for inclusion in the Recognized Obligation Payment Schedule.

SEC. 25. Section 34183 of the Health and Safety Code is amended to read:

34183. (a) Notwithstanding any other law, from February 1, 2012, to July 1, 2012, and for each fiscal year thereafter, the county auditor-controller shall, after deducting administrative costs allowed under Section 34182 and Section 95.3 of the Revenue and Taxation Code, allocate moneys in each Redevelopment Property Tax Trust Fund as follows:

(1) Subject to any prior deductions required by subdivision (b), first, the county auditor-controller shall remit from the Redevelopment Property Tax Trust Fund to each local agency and school entity an amount of property tax revenues in an amount equal to that which would have been received under Section 33401, 33492.140, 33607, 33607.5, 33607.7, or 33676, as those sections read on January 1, 2011, or pursuant to any passthrough agreement between a redevelopment agency and a taxing entity that was entered into prior to January 1, 1994, that would be in force during that fiscal year,

had the redevelopment agency existed at that time. The amount of the payments made pursuant to this paragraph shall be calculated solely on the basis of passthrough payment obligations, existing prior to the effective date of this part and continuing as obligations of successor entities, shall occur no later than May 16, 2012, and no later than June 1, 2012, and each January 2 and June 1 thereafter. Notwithstanding subdivision (e) of Section 33670, that portion of the taxes in excess of the amount identified in subdivision (a) of Section 33670, which are attributable to a tax rate levied by a taxing entity for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness for the acquisition or improvement of real property shall be allocated to, and when collected shall be paid into, the fund of that taxing entity. The amount of passthrough payments computed pursuant to this section, including any passthrough agreements, shall be computed as though the requirement to set aside funds for the Low and Moderate Income Housing Fund was still in effect.

(2) Second, on June 1, 2012, and each January 2 and June 1 thereafter, to each successor agency for payments listed in its Recognized Obligation Payment Schedule for the six-month fiscal period beginning January 1, 2012, and July 1, 2012, and each January 2 and June 1 thereafter, in the following order of priority:

(A) Debt service payments scheduled to be made for tax allocation bonds.

(B) Payments scheduled to be made on revenue bonds, but only to the extent the revenues pledged for them are insufficient to make the payments and only if the agency's tax increment revenues were also pledged for the repayment of the bonds.

(C) Payments scheduled for other debts and obligations listed in the Recognized Obligation Payment Schedule that are required to be paid from former tax increment revenue.

(3) Third, on June 1, 2012, and each January 2 and June 1 thereafter, to each successor agency for the administrative cost allowance, as defined in Section 34171, for administrative costs set forth in an approved administrative budget for those payments required to be paid from former tax increment revenues.

(4) Fourth, on June 1, 2012, and each January 2 and June 1 thereafter, any moneys remaining in the Redevelopment Property Tax Trust Fund after the payments and transfers authorized by paragraphs (1) to (3), inclusive, shall be distributed to local agencies and school entities in accordance with Section 34188.

(b) If the successor agency reports, no later than April 1, 2012, and May 1, 2012, and each December 1 and May 1 thereafter, to the county auditor-controller that the total amount available to the successor agency from the Redevelopment Property Tax Trust Fund allocation to that successor agency's Redevelopment Obligation Retirement Fund, from other funds transferred from each redevelopment agency, and from funds that have or will become available through asset sales and all redevelopment operations, are insufficient to fund the payments required by paragraphs (1) to (3), inclusive, of subdivision (a) in the next six-month fiscal period, the county auditor-controller shall notify the Controller and the Department of Finance no later than 10 days from the date of that notification. The county auditor-controller shall verify whether the successor agency will have sufficient funds from which to service debts according to the Recognized Obligation Payment Schedule and shall report the findings to the Controller. If the Controller concurs that there are insufficient funds to pay required debt service, the amount of the deficiency shall be deducted first from the amount remaining to be

distributed to taxing entities pursuant to paragraph (4), and if that amount is exhausted, from amounts available for distribution for administrative costs in paragraph (3). If an agency, pursuant to the provisions of Section 33492.15, 33492.72, 33607.5, 33671.5, 33681.15, or 33688 or as expressly provided in a passthrough agreement entered into pursuant to Section 33401, made passthrough payment obligations subordinate to debt service payments required for enforceable obligations, funds for servicing bond debt may be deducted from the amounts for passthrough payments under paragraph (1), as provided in those sections, but only to the extent that the amounts remaining to be distributed to taxing entities pursuant to paragraph (4) and the amounts available for distribution for administrative costs in paragraph (3) have all been exhausted.

(c) The county treasurer may loan any funds from the county treasury to the Redevelopment Property Tax Trust Fund of the successor agency for the purpose of paying an item approved on the Recognized Obligation Payment Schedule at the request of the Department of Finance that are necessary to ensure prompt payments of redevelopment agency debts. An enforceable obligation is created for repayment of those loans.

(d) The Controller may recover the costs of audit and oversight required under this part from the Redevelopment Property Tax Trust Fund by presenting an invoice therefor to the county auditor-controller who shall set aside sufficient funds for and disburse the claimed amounts prior to making the next distributions to the taxing entities pursuant to Section 34188. Subject to the approval of the Director of Finance, the budget of the Controller may be augmented to reflect the reimbursement, pursuant to Section 28.00 of the Budget Act.

(e) Within 10 days of each distribution of property tax, the county auditor-controller shall provide a report to the department regarding the distribution for each successor agency that includes information on the total available for allocation, the passthrough amounts and how they were calculated, the amounts distributed to successor agencies, and the amounts distributed to taxing entities in a manner and form specified by the department. This reporting requirement shall also apply to distributions required under subdivision (b) of Section 34183.5.

SEC. 26. Section 34183.5 is added to the Health and Safety Code, to read:

34183.5. (a) The Legislature hereby finds and declares that due to the delayed implementation of this part due to the California Supreme Court's ruling in the case California Redevelopment Association v. Matosantos et al. (2011) 53 Cal.4th 231, some disruption to the intended application of this part and other law with respect to passthrough payments may have occurred.

(1) If a redevelopment agency or successor agency did not pay any portion of an amount owed for the 2011-12 fiscal year to an affected taxing entity pursuant to Section 33401, 33492.140, 33607, 33607.5, 33607.7, or 33676, or pursuant to any passthrough agreement entered into before January 1, 1994, between a redevelopment agency and an affected taxing entity, and to the extent the county auditor-controller did not remit the amounts owed for passthrough payments during the 2011-12 fiscal year, the county auditor-controller shall make the required payments to the taxing entities owed passthrough payments and shall reduce the amounts to which the successor agency would otherwise be entitled pursuant to paragraph (2) of subdivision (a) of Section 34183 at the next allocation of property tax under this part, subject to the provisions of subdivision (b) of Section 34183. If the amount of available

property tax allocation to the successor agency is not sufficient to make the required payment, the county auditor-controller shall continue to reduce allocations to the successor agency under paragraph (2) of subdivision (a) of Section 34183 until the time that the owed amount is fully paid. Alternately, the county auditor-controller may accept payment from the successor agency's reserve funds for payments of passthrough payments owed as defined in this subdivision.

(2) If a redevelopment agency did not pay any portion of the amount owed for the 2011-12 fiscal year to an affected taxing entity pursuant to Section 33401, 33492.140, 33607, 33607.5, 33607.7, or 33676, or pursuant to any passthrough agreement entered into before January 1, 1994, between a redevelopment agency and an affected taxing entity, but the county auditor-controller did pay the difference that was owing, the auditor controller shall deduct from the next allocation of property tax to the successor agency under paragraph (2) of subdivision (a) of Section 34183, the amount of the payment made on behalf of the successor agency by the county auditor-controller, not to exceed one-half the amount of passthrough payments owed for the 2011-12 fiscal year. If the amount of available property tax allocation to the successor agency is not sufficient to make the required deduction, the county auditor-controller shall continue to reduce allocations to the successor agency under paragraph (2) of subdivision (a) of Section 34183 until the time that the amount is fully deducted. Alternatively, the auditor-controller may accept payment from the successor agency's reserve funds for deductions of passthrough payments owed as defined in this subdivision. Amounts reduced from successor agency payments under this paragraph are available for the purposes of paragraphs (2) to (4), inclusive, of subdivision (a) of Section 34183 for the six-month period for which the property tax revenues are being allocated.

(b) In recognition of the fact that county auditor-controllers were unable to make the payments required by paragraph (4) of subdivision (a) of Section 34183 for the period January 1, 2012, through June 30, 2012, on January 16, 2012, due to the California Supreme Court's ruling in the case of California Redevelopment Association v. Matosantos (2011) 53 Cal.4th 231, in addition to taking the actions specified in Section 34183 with respect to the June 1 property tax allocations, county auditor-controllers should have made allocations as provided in paragraph (1).

(1) From the allocations made on June 1, 2012, for the Recognized Obligation Payment Schedule covering the period July 1, 2012, through December 31, 2012, deduct from the amount that otherwise would be deposited in the Redevelopment Property Tax Trust Fund on behalf of the successor agency an amount equivalent to the amount that each affected taxing entity was entitled to pursuant to paragraph (4) of subdivision (a) of Section 34183 for the period January 1, 2012, through June 30, 2012. The amount to be retained by taxing entities pursuant to paragraph (4) of subdivision (a) of Section 34183 for the January 1, 2012, through June 30, 2012, period is determined based on the Recognized Obligation Payment Schedule approved by the Department of Finance pursuant to subdivision (h) of Section 34179 and any amount determined to be owed pursuant to subdivision (b). Any amounts so computed shall not be offset by any shortages in funding for recognized obligations for the period covering July 1, 2012, through December 31, 2012.

(2) (A) If an affected taxing entity has not received the full amount to which it was entitled pursuant to paragraph (4) of subdivision (a) of Section 34183 of the property tax distributed for

the period January 1, 2012, through June 30, 2012, and paragraph (1), no later than July 9, 2012, the county auditor-controller shall determine the amount, if any, that is owed by each successor agency to taxing entities and send a demand for payment from the funds of the successor agency for the amount owed to taxing entities if it has distributed the June 1, 2012, allocation to the successor agencies. No later than July 12, 2012, successor agencies shall make payment of the amounts demanded to the county auditor-controller for deposit into the Redevelopment Property Tax Trust Fund and subsequent distribution to taxing entities. No later than July 16, 2012, the county auditor-controller shall make allocations of all money received by that date from successor agencies in amounts owed to taxing entities under this paragraph to taxing entities in accordance with Section 34183. The county auditor-controller shall make allocations of any money received after that date under this paragraph within five business days of receipt. These duties are not discretionary and shall be carried out with due diligence.

(B) If a county auditor-controller fails to determine the amounts owed to taxing entities and present a demand for payment by July 9, 2012, to the successor agencies, the Department of Finance or any affected taxing entity may request a writ of mandate to require the county auditor-controller to immediately perform this duty. Such actions may be filed only in the County of Sacramento and shall have priority over other civil matters. Any county in which the county auditor-controller fails to perform the duties under this paragraph shall be subject to a civil penalty of 10 percent of the amount owed to taxing entities plus 1.5 percent of the amount owed to taxing entities for each month that the duties are not performed. The civil penalties shall be payable to the taxing entities under Section 34183. Additionally, any county in which the county auditor-controller fails to make the required determinations and demands for payment under this paragraph by July 9, 2012, or fails to distribute the full amount of funds received from successor agencies as required by this paragraph shall not receive the distribution of sales and use tax scheduled for July 18, 2012, or any subsequent payment, up to the amount owed to taxing entities, until the county auditor-controller performs the duties required by this paragraph.

(C) If a successor agency fails to make the payment demanded under subparagraph (A) by July 12, 2012, the Department of Finance or any affected taxing entity may file for a writ of mandate to require the successor agency to immediately make this payment. Such actions may be filed only in the County of Sacramento and shall have priority over other civil matters. Any successor agency that fails to make payment by July 12, 2012, under this paragraph shall be subject to a civil penalty of 10 percent of the amount owed to taxing entities plus one and one-half percent of the amount owed to taxing entities for each month that the payments are not made. Additionally, the city or county or city and county that created the redevelopment agency shall also be subject to a civil penalty of 10 percent of the amount owed to taxing entities plus 1.5 percent of the amount owed to taxing entities for each month the payment is late. The civil penalties shall be payable to the taxing entities under Section 34183. If the Department of Finance finds that the imposition of penalties will jeopardize the payment of enforceable obligations it may request the court to waive some or all of the penalties. A successor agency that does not pay the amount required under this subparagraph by July 12, 2012, shall not pay any obligations other than bond debt service until full payment is made to the county auditor-controller. Additionally, any city, county or city and county that created the redevelopment agency that fails to make the required payment under

this paragraph by July 12, 2012, shall not receive the distribution of sales and use tax scheduled for July 18, 2012, or any subsequent payment, up to the amount owed to taxing entities, until the payment required by this paragraph is made.

(D) The Legislature hereby finds and declares that time is of the essence. Funds that should have been received and were expected and spent in anticipation of receipt by community colleges, schools, counties, cities, and special districts have not been received resulting in significant fiscal impact to the state and taxing entities. Continued delay and uncertainly whether funds will be received warrants the availability of extraordinary relief as authorized herein.

(3) If an affected taxing entity has not received the full amount to which it was entitled pursuant to paragraph (4) of subdivision (a) of Section 34183 for the period January 1, 2012, through June 30, 2012, and paragraph (1), the county auditor-controller shall reapply the provisions of paragraph (1) to each subsequent property tax allocation until such time as the affected taxing entity has received the full amount to which it was entitled pursuant to paragraph (4) of subdivision (a) of Section 34183 for the period January 1, 2012, through June 30, 2012.

SEC. 27. Section 34185 of the Health and Safety Code is amended to read:

34185. Commencing on June 1, 2012, and on each January 2 and June 1 thereafter, the county auditor-controller shall transfer, from the Redevelopment Property Tax Trust Fund of each successor agency into the Redevelopment Obligation Retirement Fund of that agency, an amount of property tax revenues equal to that specified in the Recognized Obligation Payment Schedule for that successor agency as payable from the Redevelopment Property Tax Trust Fund subject to the limitations of subdivision (1) of Section 34177 and Section 34183.

SEC. 28. Section 34186 of the Health and Safety Code is amended to read:

34186. (a) Differences between actual payments and past estimated obligations on recognized obligation payment schedules shall be reported in subsequent recognized obligation payment schedules and shall adjust the amount to be transferred to the Redevelopment Obligation Retirement Fund pursuant to this part. These estimates and accounts shall be subject to audit by county auditor-controllers and the Controller.

(b) Differences between actual passthrough obligations and property tax amounts and the amounts used by the county auditor-controller in determining the amounts to be allocated under Sections 34183 and 34188 for a prior six-month period shall be applied as adjustments to the property tax and passthrough amounts in subsequent periods as they become known. County auditor-controllers shall not delay payments under this part to successor agencies or taxing entities based on pending transactions, disputes, or for any other reason, other than a court order, and shall use the Recognized Obligation Payment Schedule approved by the Department of Finance and the most current data for passthroughs and property tax available prior to the statutory distribution dates to make the allocations required on the dates required.

SEC. 29. Section 34187 of the Health and Safety Code is amended to read:

34187. (a) (1) Commencing May 1, 2012, whenever a recognized obligation that had been identified in the Recognized Payment Obligation Schedule is paid off or retired, either through early payment or payment at maturity, the county auditor-controller shall distribute to the taxing entities, in accordance with the provisions

of the Revenue and Taxation Code, all property tax revenues that were associated with the payment of the recognized obligation.

(2) Notwithstanding paragraph (1), the Department of Finance may authorize a successor agency to retain property tax that otherwise would be distributed to affected taxing entities pursuant to this subdivision, to the extent the department determines the successor agency requires those funds for the payment of enforceable obligations. Upon making a determination, the department shall provide the county auditor-controller with information detailing the amounts that it has authorized the successor agency to retain. Upon determining the successor agency no longer requires additional funds pursuant to this subdivision, the department shall notify the successor agency and the county auditor-controller. The county auditor-controller shall then distribute the funds in question to the affected taxing entities in accordance with the provisions of the Revenue and Taxation Code.

(b) When all of the debt of a redevelopment agency has been retired or paid off, the successor agency shall dispose of all remaining assets and terminate its existence within one year of the final debt payment. When the successor agency is terminated, all passthrough payment obligations shall cease and no property tax shall be allocated to the Redevelopment Property Tax Trust Fund for that agency.

SEC. 30. Section 34188 of the Health and Safety Code is amended to read:

34188. For all distributions of property tax revenues and other moneys pursuant to this part, the distribution to each taxing entity shall be in an amount proportionate to its share of property tax revenues in the tax rate area in that fiscal year, as follows:

(a) (1) For distributions from the Redevelopment Property Tax Trust Fund, the share of each taxing entity shall be applied to the amount of property tax available in the Redevelopment Property Tax Trust Fund after deducting the amount of any distributions under paragraphs (2) and (3) of subdivision (a) of Section 34183.

(2) For each taxing entity that receives passthrough payments, that agency shall receive the amount of any passthrough payments identified under paragraph (1) of subdivision (a) of Section 34183, in an amount not to exceed the amount that it would receive pursuant to this section in the absence of the passthrough agreement. However, to the extent that the passthrough payments received by the taxing entity are less than the amount that the taxing entity would receive pursuant to this section in the absence of a passthrough agreement, the taxing entity shall receive an additional payment that is equivalent to the difference between those amounts.

(b) Property tax shares of local agencies shall be determined based on property tax allocation laws in effect on the date of distribution, without the revenue exchange amounts allocated pursuant to Section 97.68 of the Revenue and Taxation Code, and without the property taxes allocated pursuant to Section 97.70 of the Revenue and Taxation Code.

(c) The total school share, including passthroughs, shall be the share of the property taxes that would have been received by school entities, as defined in subdivision (f) of Section 95 of the Revenue and Taxation Code, in the jurisdictional territory of the former redevelopment agency, including, but not limited to, the amounts specified in Sections 97.68 and 97.70 of the Revenue and Taxation Code.

(d) This section shall not be construed to increase any allocations of excess, additional, or remaining funds that would otherwise have been allocated to cities, counties, cities and

counties, or special districts pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2, clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3, or Article 4 (commencing with Section 98) of Chapter 6 of Part 0.5 of Division 1, of the Revenue and Taxation Code, had this section not been enacted.

SEC. 31. Section 34189 of the Health and Safety Code is amended to read:

34189. (a) Commencing on the effective date of this part, all provisions of the Community Redevelopment Law that depend on the allocation of tax increment to redevelopment agencies, including, but not limited to, Sections 33445, 33640, 33641, 33645, and subdivision (b) of Section 33670, shall be inoperative, except as those sections apply to a redevelopment agency operating pursuant to Part 1.9 (commencing with Section 34192).

(b) To the extent that a provision of Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), and Part 1.7 (commencing with Section 34100) conflicts with this part, the provisions of this part shall control. Further, if a provision of Part 1 (commencing with Section 33000), Part 1.5 (commencing with Section 34000), Part 1.6 (commencing with Section 34050), or Part 1.7 (commencing with Section 34100) provides an authority that the act adding this part is restricting or eliminating, the restriction and elimination provisions of the act adding this part shall control.

(c) It is intended that the provisions of this part shall be read in a manner as to avoid duplication of payments.

SEC. 32. Section 34189.1 is added to the Health and Safety Code, to read:

34189.1. No party, public or private, may pursue, nor does a court have jurisdiction over, a validation action with respect to any action of a redevelopment agency or a successor agency to a redevelopment agency that took place on or after January 1, 2011, unless the Department of Finance and the Controller, representing interests of the State of California and each of the taxing entities who could be affected financially by the action, has been properly noticed. All actions shall be filed in the County of Sacramento.

SEC. 33. Section 34189.2 is added to the Health and Safety Code, to read:

34189.2. A successor agency or any party to an enforceable obligation as defined under this part shall properly notice the state with respect to a validation action involving any enforceable obligation or matter of title to an asset that belonged to a redevelopment agency. For such an action to be properly filed, both the Controller and the Director of Finance shall be noticed and actions shall be filed in the County of Sacramento.

SEC. 34. Section 34189.3 is added to the Health and Safety Code, to read:

34189.3. An action contesting any act taken or determinations or decisions made pursuant to this part or Part 1.8 (commencing with Section 34161) may be brought in superior court and shall be filed in the County of Sacramento.

SEC. 35. Chapter 9 (commencing with Section 34191.1) is added to Part 1.85 of Division 24 of the Health and Safety Code, to read:

#### CHAPTER 9. POSTCOMPLIANCE PROVISIONS

34191.1. The provisions of this chapter shall apply to a successor agency upon that agency's receipt of a finding of completion by the Department of Finance pursuant to Section 34179.7.

34191.3. Notwithstanding Section 34191.1, the requirements specified in subdivision (e) of Section 34177 and subdivision (a) of Section 34181 shall be suspended, except as those provisions apply to the transfers for governmental use, until the Department of Finance has approved a long-range property management plan pursuant to subdivision (b) of Section 34191.5, at which point the plan shall govern, and supersede all other provisions relating to, the disposition and use of the real property assets of the former redevelopment agency. If the department has not approved a plan by January 1, 2015, subdivision (e) of Section 34177 and subdivision (a) of Section 34181 shall be operative with respect to that successor agency.

34191.4. The following provisions shall apply to any successor agency that has been issued a finding of completion by the Department of Finance:

(a) All real property and interests in real property identified in subparagraph (C) of paragraph (5) of subdivision (c) of Section 34179.5 shall be transferred to the Community Redevelopment Property Trust Fund of the successor agency upon approval by the Department of Finance of the long-range property management plan submitted by the successor agency pursuant to subdivision (b) of Section 34191.7 unless that property is subject to the requirements of any existing enforceable obligation.

(b) (1) Notwithstanding subdivision (d) of Section 34171, upon application by the successor agency and approval by the oversight board, loan agreements entered into between the redevelopment agency and the city, county, or city and county that created by the redevelopment agency shall be deemed to be enforceable obligations provided that the oversight board makes a finding that the loan was for legitimate redevelopment purposes.

(2) If the oversight board finds that the loan is an enforceable obligation, the accumulated interest on the remaining principal amount of the loan shall be recalculated from origination at the interest rate earned by funds deposited into the Local Agency Investment Fund. The loan shall be repaid to the city, county, or city and county in accordance with a defined schedule over a reasonable term of years at an interest rate not to exceed the interest rate earned by funds deposited into the Local Agency Investment Fund. The annual loan repayments provided for in the recognized obligations payment schedules shall be subject to all of the following limitations:

(A) Loan repayments shall not be made prior to the 2013-14 fiscal year. Beginning in the 2013-14 fiscal year, the maximum repayment amount authorized each fiscal year for repayments made pursuant to this subdivision and paragraph (7) of subdivision (e) of Section 34176 combined shall be equal to one-half of the increase between the amount distributed to the taxing entities pursuant to paragraph (4) of subdivision (a) of Section 34183 in that fiscal year and the amount distributed to taxing entities pursuant to that paragraph in the 2012-13 base year. Loan or deferral repayments made pursuant to this subdivision shall be second in priority to amounts to be repaid pursuant to paragraph (7) of subdivision (e) of Section 34176.

(B) Repayments received by the city, county or city and county that formed the redevelopment agency shall first be used to retire any outstanding amounts borrowed and owed to the Low and Moderate Income Housing Fund of the former redevelopment agency for purposes of the Supplemental Educational Revenue Augmentation Fund and shall be distributed to the Low and Moderate Income Housing Asset Fund established by subdivision (d) of Section 34176.

(C) Twenty percent of any loan repayment shall be deducted from

the loan repayment amount and shall be transferred to the Low and Moderate Income Housing Asset Fund, after all outstanding loans from the Low and Moderate Income Housing Fund for purposes of the Supplemental Educational Revenue Augmentation Fund have been paid.

(c) (1) Bond proceeds derived from bonds issued on or before December 31, 2010, shall be used for the purposes for which the bonds were sold.

(2) (A) Notwithstanding Section 34177.3 or any other conflicting provision of law, bond proceeds in excess of the amounts needed to satisfy approved enforceable obligations shall thereafter be expended in a manner consistent with the original bond covenants. Enforceable obligations may be satisfied by the creation of reserves for projects that are the subject of the enforceable obligation and that are consistent with the contractual obligations for those projects, or by expending funds to complete the projects. An expenditure made pursuant to this paragraph shall constitute the creation of excess bond proceeds obligations to be paid from the excess proceeds. Excess bond proceeds obligations shall be listed separately on the Recognized Obligation Payment Schedule submitted by the successor agency.

(B) If remaining bond proceeds cannot be spent in a manner consistent with the bond covenants pursuant to subparagraph (A), the proceeds shall be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation.

34191.5. (a) There is hereby established a Community Redevelopment Property Trust Fund, administered by the successor agency, to serve as the repository of the former redevelopment agency's real properties identified in subparagraph (C) of paragraph (5) of subdivision (c) of Section 34179.5.

(b) The successor agency shall prepare a long-range property management plan that addresses the disposition and use of the real properties of the former redevelopment agency. The report shall be submitted to the oversight board and the Department of Finance for approval no later than six months following the issuance to the successor agency of the finding of completion.

(c) The long-range property management plan shall do all of the following:

(1) Include an inventory of all properties in the trust. The inventory shall consist of all of the following information:

(A) The date of the acquisition of the property and the value of the property at that time, and an estimate of the current value of the property.

(B) The purpose for which the property was acquired.

(C) Parcel data, including address, lot size, and current zoning in the former agency redevelopment plan or specific, community, or general plan.

(D) An estimate of the current value of the parcel including, if available, any appraisal information.

(E) An estimate of any lease, rental, or any other revenues generated by the property, and a description of the contractual requirements for the disposition of those funds.

(F) The history of environmental contamination, including designation as a brownfield site, any related environmental studies, and history of any remediation efforts.

(G) A description of the property's potential for transit-oriented development and the advancement of the planning objectives of the successor agency.

(H) A brief history of previous development proposals and activity, including the rental or lease of property.

(2) Address the use or disposition of all of the properties in the

trust. Permissible uses include the retention of the property for governmental use pursuant to subdivision (a) of Section 34181, the retention of the property for future development, the sale of the property, or the use of the property to fulfill an enforceable obligation. The plan shall separately identify and list properties in the trust dedicated to governmental use purposes and properties retained for purposes of fulfilling an enforceable obligation. With respect to the use or disposition of all other properties, all of the following shall apply:

(A) If the plan directs the use or liquidation of the property for a project identified in an approved redevelopment plan, the property shall transfer to the city, county, or city and county.

(B) If the plan directs the liquidation of the property or the use of revenues generated from the property, such as lease or parking revenues, for any purpose other than to fulfill an enforceable obligation or other than that specified in subparagraph (A), the proceeds from the sale shall be distributed as property tax to the taxing entities.

(C) Property shall not be transferred to a successor agency, city, county, or city and county, unless the long-range property management plan has been approved by the oversight board and the Department of Finance.

SEC. 36. The Legislature finds and declares as follows:

(a) Certain provisions of Assembly Bill 26 of the 2011-12 First Extraordinary Session of 2011 (Ch. 5, 2011-12 First Ex. Sess.) are internally inconsistent, or uncertain in their meaning, with regard to the calculation of the amount to be paid by a county auditor-controller from the Redevelopment Property Tax Trust Fund to meet passthrough payment obligations to local agencies and school entities.

(b) Consistent with the statement in Section 34183 of the Health and Safety Code, as added by the measure identified in subdivision (a), that the provisions of that section are to apply "notwithstanding any other law," it was the intent of the Legislature in enacting that measure that the amount of the passthrough payments that are addressed by that section be determined in the manner specified by paragraph (1) of subdivision (a) of Section 34183 of the Health and Safety Code, and that the amount so calculated not be reduced or adjusted pursuant to the operation of any other provision of that measure.

SEC. 37. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application and to this end, the provisions of this act are severable.

SEC. 38. There is hereby appropriated up to twenty-two million dollars (\$22,000,000) from the General Fund, for allocation to departments by the Director of Finance in furtherance of the objectives of this act. Up to two million dollars (\$2,000,000) of this amount may be allocated to the Director of the Trial Court Trust Fund for allocation by the Administrative Office of the Courts to the Superior Court of California,

County of Sacramento for work associated with Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code. An allocation of funds approved by the Director of Finance under this item shall become effective no sooner than 30 days after the director files written notification thereof with the Chairperson of the Joint Legislative Budget Committee, and the chairpersons of the fiscal committees in each house of the Legislature, or no sooner than any lesser time the chairperson of the

joint committee, or his or her designee, may in each instance determine.

SEC. 39. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.

SEC. 40. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.