



Legal Update: Redevelopment Agencies Face Elimination

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The good news is that last week Governor Brown signed the 2011-2012 California State Budget. The bad news is that many popular government services and programs are being cut. Among other things, the budget seeks to close the deficit by reallocating money that would otherwise go to redevelopment agencies to other government functions. The State Legislature estimates that redevelopment agencies will "divert" about \$5 billion in property tax revenue from other taxing agencies in the 2011-2012 fiscal year, and want to retain some of that revenue to fund education and other local government services. ABX1 26 and ABX1 27 are "trailer bills" passed by the California Senate and Assembly intended to help implement the State budget bill, by reallocating tax revenue which would otherwise go to redevelopment. In short, these two bills dissolve current redevelopment agencies as of October 1, 2011, but provide a mechanism for continuation of redevelopment agency operations if the agency commits to making specified payments for education and other local government functions.

ABX1 26 dissolves all redevelopment agencies effective October 1, 2011. Property taxes that would have been allocated to the agency if it had not been dissolved will be deposited into a Redevelopment Property Tax Trust Fund in the County in which the agency operates, and that money will be allocated to various taxing entities in the County. ABX1 26 precludes a redevelopment agency from - among other things - issuing new bonds, incurring new debts, entering into new financial obligations, entering into new agreements or amending existing agreements, adopting or amending redevelopment plans, disposing of or acquiring real property, or exercising the power of eminent domain. It requires the agency to continue to make scheduled payments for existing enforceable obligations, and provides a mechanism to do so. ABX1 26 withdraws from redevelopment agencies "all authority to transact business or exercise powers previously granted under the community redevelopment law." So, apart from paying existing obligations, redevelopment agency operations will largely cease.

Companion bill ABX1 27 provides that if a local jurisdiction commits to make specified deposits into an Educational Revenue Augmentation Fund (ERAF) to fund local schools, and into a Special District Allocation Fund (SDAF) to fund other local government functions, the agency may continue to operate and function without regard to the October 1, 2011 elimination date specified in ABX1 26. The payment obligation appears to be the agency's proportionate share of \$1.7 billion, which the Legislature views as the local jurisdictions' share of the approximately \$5 billion in property tax revenues being "diverted" to redevelopment agencies. The redevelopment agencies see this as an attempt to strong-arm "contributions" of redevelopment revenue to other government functions.

These bills are complex and detailed and further study is necessary to determine the impacts. However, it is critical that anyone who is dealing with a redevelopment agency understand the impact of this legislation. The ability of an agency to finance or otherwise undertake redevelopment projects, enter into or amend agreements, or exercise other powers granted under the Community Redevelopment Law (such as condemnation) on a going forward basis is very much in doubt. Moreover, steps need to be taken to ensure that pre-existing enforceable obligations are timely identified as such, as required by the legislation.

The California Redevelopment Association and California League of Cities intend to mount a legal challenge to this legislation on the basis that it improperly diverts funds from redevelopment agencies to other government entities and functions. For those interested, the California Redevelopment Agency has scheduled a free online video conference on Thursday, July 7 at 3:00 p.m. to discuss the



legislation and anticipated legal challenges. Further information can be obtained from the California Redevelopment Association's website at www.calredevelop.org. We will provide further updates as the situation develops.

For more information about this legislation, or other redevelopment related legislative or legal updates, please contact Bill Shiber or JoAnne Dunec at 925-935-9400 or email them at bill.shiber@msrlegal.com or joanne.dunec@msrlegal.com. For more background on redevelopment agencies and how they operate, see Miller & Starr California Real Estate 3d, Chapter 30B "Community Redevelopment".