



Real Estate & Land Use

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Governor Signed Trailer Bills Today to Eliminate Redevelopment Agencies

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In connection with the 2011-2012 budget adopted by the legislature last night and signed into law today, Gov. Jerry Brown signed two trailer bills, ABX1 26 and ABX1 27 that would eliminate California's redevelopment agencies (RDAs) by October 1, 2011 unless the counties or cities that established the RDAs agree to reduced funding.

To preserve its RDA, a city or county must elect by November 1, 2011 to participate in a voluntary alternative redevelopment program and agree to share some of its revenues with schools and special districts. The California Redevelopment Association and the League of California Cities contend that these bills are illegal as they violate the state constitution and Proposition 22 passed by the voters last fall. Legal challenge is almost certain.

ABX1 26 Summary

Effective as of October 1, RDAs will be disestablished and "successor agencies" (defined as the county or city that authorized the RDA in the first place) would be charged with wrapping up operations of the former RDAs under the direction of an "oversight board" (consisting largely of appointed education and county interests, together with a representative of the city or county that formed the RDA). Until that date, RDAs are prohibited from taking any actions other than paying off existing indebtedness and performing existing contractual obligations.

In winding up an RDA's affairs, successor agencies' obligations will include the following:

- continuing to make payments and perform all obligations under enforceable contracts – and, beginning September 4, make only those payments listed in a payment schedule approved by the oversight board
- remitting unencumbered balances of RDA funds to the county auditor-controller for distribution to the taxing entities which would have received the funds had the RDAs never existed
- ceasing performance of and termination of all existing agreements that do not qualify as enforceable obligations (as directed by the oversight board)
- collecting loans, rents and other revenues due to the RDA
- transferring low and moderate income housing funds, assets and functions to the city or county that authorized the creation of the RDA
- overseeing development activities for “approved development projects“ defined as a project where construction, site remediation, design or environmental assessment work or property acquisition is required by the former RDA pursuant to an enforceable obligation between the RDA and a party other than the entity that created the RDA and either: (1) substantial performance took place prior to adoption of the bill or (2) the oversight board determines that it would be beneficial for the taxing entities to continue the project even though there had not been substantial performance
- disposing of RDA assets and properties except those deemed part of approved development projects or enforceable obligations as directed by the oversight board. Disposal is required be done expeditiously and to maximize value. All proceeds not needed to wind up the RDA's affairs will be transferred to the county auditor-controller for distribution as property tax proceeds

Future tax increment will be disbursed by the county auditor-controller in the following order of priority:

- first, towards any contractual or statutory pass-through payments that would be due to taxing agencies, if the RDAs had not dissolved

- second, to the successor agency for scheduled payments due under enforceable obligations
- third, to each successor agency for administrative costs
- fourth to cities, counties and non-enterprise special districts

ABX1 27 Summary

Notwithstanding the previously discussed bill, ABX1 27 provides a framework under which cities and counties may elect (upon the enactment of an ordinance complying with the bill no later than November 1, 2011) to continue their redevelopment programs. If a city or county elected to continue its redevelopment program, its RDA would be exempt from ABX1 26's requirements regarding dissolution and suspension, and would be allowed to continue to operate as it did prior to the enactment of ABX1 26, albeit with less funding, as described below. If a city or county intends to enact the ordinance after October 1, 2011, it must indicate its intention by adopting a nonbinding resolution to that effect prior to October 1, 2011 and notifying the State Department of Finance, the State Controller and the county auditor before October 1, 2011.

The "voluntary" program requires that the host city or county commit to making annual payments into two funds – one to benefit special districts and one to benefit education. These funds would be established for each county and administered by the county's auditor-controller. The amount of the payments will be calculated by the State Department of Finance. For the 2011-12 fiscal year, the city or county is required pay its proportionate share of \$1.7 billion. For the following fiscal years, the city or county will be required to pay its proportionate share of \$400 million. For the 2011-12 fiscal year only, an RDA within a city or county that makes the required payments may be exempt from making the full allocation required to be made to its low and moderate income housing fund if the RDA finds that there are insufficient other moneys to make the payment.