

**MEMORANDUM FOR THE  
OVERSIGHT BOARD  
FOR THE  
SOUTH TAHOE REDEVELOPMENT SUCCESSOR AGENCY**

To: Oversight Board for the South Tahoe Redevelopment Successor Agency

Fr: City of South Lake Tahoe

Re: **Agenda Item New Business (d)**  
Redevelopment Successor Agency and Oversight Board Roles and Responsibilities

Attached are various documents provided the entities named on the document to provide a review of the Roles and Responsibilities of the Successor Agency and Oversight Board.

In addition, a brief presentation will be provided discussing the roles and responsibilities of both the Successor Agency and Oversight Board.

## OVERSIGHT BOARD ("OB")

1. Definitions
  - a. BOS - Board of Supervisors
  - b. CA - State of California
  - c. DOF - Department of Finance
  - d. OB - Oversight Board
  - e. RDA - Redevelopment Agency
  - f. SA - Successor Agency
2. Number of OB Members (34179)
  - a. Seven OB members
3. No Compensation (34179)
  - a. OB members shall serve without compensation or reimbursement for expenses
  - b. Issue: AB 1234 Ethics Training may not be required?
4. Selection (34179)
  - a. One OB member appointed by BOS
  - b. One OB member appointed by Mayor
  - c. One OB member appointed by the largest special district - determined by property tax share
  - d. One OB member appointed by the county superintendent of education if the superintendent is elected or by county board of education if the superintendent is appointed
  - e. One OB member appointed by the Chancellor of CA Community Colleges to represent community college districts in the county.
  - f. One OB member of the public appointed by the BOS
  - g. One OB member representing the employees of the former RDA appointed by the mayor from the recognized employee organization representing the largest number of former RDA employees employed by the successor agency at that time
  - h. The Governor may appoint an OB member to fill any OB member position that has not been filled or any OB member position that remains vacant for more than 60 days.
  - i. Each OB member shall serve at the pleasure of the entity that appointed such member.
5. Holding Other Offices (34179)
  - a. OB member may simultaneously be appointed to up to five OBs
  - b. OB Member may simultaneously hold an office in a city, county, city and county, special district, school district, or community college district.
6. Officers of OB (34179)
  - a. OB must elect a Chairperson
    - i. Issue: OB may appoint other officers?
7. OB Reporting Requirement (34179)
  - a. OB must report names of Chairperson and OB members to DOF
8. Fiduciary Obligations (34179)
  - a. OB 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.
9. Staff (34179)
  - a. OB may direct the staff of the SA to perform work in furtherance of the OB's duties and responsibilities under AB 26.
10. Cost of OB Meetings (34179)

- a. The SA shall pay for all of the costs of meetings of the OB and may include such costs in its administrative budget.
11. OB Immunity (34179)
  - a. OB members shall have personal immunity from suit for their actions taken within the scope of their responsibilities as OB members.
12. Quorum (34179)
  - a. A majority of the total membership of the OB shall constitute a quorum for the transaction of business.
13. Action (34179)
  - a. A majority vote of the total membership of the OB is required for the OB to take action.
  - b. All OB actions shall not be effective for three business days, pending a request for review by the DOF.
14. Brown Act (34179)
  - a. The OB shall be deemed to be a local entity for purposes of the Ralph M. Brown Act.
15. Public Records Act (34179)
  - a. The OB shall be deemed to be a local entity for purposes of the Public Records Act.
16. Political Reform Act (34179)
  - a. The OB shall be deemed to be a local entity for purposes of the Political Reform Act.
17. Agenda (34179)
  - a. All notices required by law for proposed OB actions shall also be posted on the successor agency's Internet Website or the OB's Internet Web site.
    - i. Best Practice: Set up a separate OB website to reinforce separate legal entity status of SA.
  - b. Must comply with all Brown Act provisions pertaining to agendas and hearing notices.
    - i. Best Practice: Agenda should be just for the OB and SA under official SA letterhead to reinforce separate legal entity status of SA.
18. DOF Review of OB Actions (34179)
  - a. The DOF may review OB actions/decisions.
  - b. All OB actions shall not be effective for three business days, pending a request for review by the DOF.
  - c. OB shall designate an official to whom the DOF may make such requests and who shall provide the DOF with the telephone number and e-mail contact information for the purpose of communicating with the DOF.
  - d. In the event that the DOF requests a review of a given OB action, it shall have 10 days from the date of its request to approve the OB action or return it to the OB for reconsideration and such OB action shall not be effective until approved by the DOF.
  - e. In the event the DOF returns the OB action to the OB for reconsideration, the OB shall resubmit the modified action for DOF approval and the modified OB action shall not become effective until approved by the DOF.
19. July 1, 2016
  - a. There shall be only one oversight board in the county subject to a different appointment process.
20. Termination of OB
  - a. OB shall cease to exist when all of the indebtedness of the dissolved RDA has been repaid.

## MEMORANDUM

**DATE:** January 16, 2011  
**TO:** Redevelopment Agency Clients  
**RE:** Compliance with ABx1 26 – Redevelopment Agency Dissolution and Successor Agency Responsibilities

On December 29, 2011, the California Supreme Court issued an opinion in *California Redevelopment Association v. Matosantos*, upholding Assembly Bill x1 26 (codified as Health and Safety Code Sections 34161-34191) (“ABx1 26”) and invalidating Assembly Bill x1 27 (the legislation that would have permitted redevelopment agencies to continue operation if their sponsoring jurisdiction agreed to make certain payments for the benefit of schools and special districts). As a result, all California redevelopment agencies will be dissolved, effective February 1, 2012.

This memorandum summarizes actions that agencies and their sponsoring jurisdictions (the city or county that formed the agency) must undertake pursuant to ABx1 26, and indicates the deadlines for such actions as modified by the Supreme Court ruling. Please contact me or any member of the Meyers Nave Redevelopment Practice Group if you have questions about ABx1 26 implementation, required actions and deadlines, or pending legislation.

### Schedule of Required Actions.<sup>1</sup>

January 13, 2012      Deadline for sponsoring jurisdiction to adopt a resolution declining to serve as the successor agency to a dissolving redevelopment agency. The resolution must be filed with county auditor-controller by this deadline. §34173(d)(1). The legislation provides that if no action is taken, the city or county that formed the redevelopment agency is designated as the successor agency. §§34173(a), 34171(j). If the sponsoring jurisdiction declines to serve as successor agency, then any

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<sup>1</sup> All statutory citations are to the California Health & Safety Code.

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city, county, or special district in the county of the dissolved agency may elect to serve in such capacity. §34173(d)(2). If no local agency elects to serve as the successor agency, a “designated local authority” is immediately formed to serve such role, with three county residents appointed by the Governor serving as the governing board of the authority. §34173(d)(3).

January 31, 2012 Deadline for sponsoring jurisdiction to adopt a resolution electing to assume the dissolving redevelopment agency’s housing assets and obligations. If the sponsoring jurisdiction does not elect to retain the dissolving agency’s housing functions, the agency’s housing assets and obligations are transferred to the local housing authority, or to the State Department of Housing and Community Development (“HCD”) if there is no local housing authority. If there is more than one local housing authority, the sponsoring jurisdiction may select which will serve as the housing successor. §34176(b).<sup>2</sup>

January 31, 2012 Deadline for agency to amend the Enforceable Obligation Payment Schedule (“EOPS”). Until a Recognized Obligation Payment Schedule is approved by the oversight board (see below), the successor agency may only make payments for obligations listed on the EOPS. §34177(a)(1). All agencies should have previously adopted an EOPS covering the period through December 31, 2011. §34169(g). Since there will be a gap between the date redevelopment agencies are dissolved and the date upon which the ROPS becomes effective, we recommend that prior to their dissolution on February 1, all agencies adopt an amended EOPS covering the period through June 30, 2012. Amendments may be adopted at any public meeting of the agency or the successor agency. §§34169(g)(2), 34177(a)(1). The schedule must be posted on the agency’s (and successor agency’s) website, and a notice of adoption with website information must be delivered to the State Controller, the State Department of Finance, and the County Auditor-Controller. §34169(g)(2). The Schedule must list all “enforceable obligations” (i.e., bond debt service and reserves, loan payments, state and federal obligations, judgments and settlements, agreements necessary for agency administration, and other legally binding contracts), and for each obligation must include: (a) the project name,

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<sup>2</sup> Proposed legislation (SB 654) provides that a housing authority may decline to accept the agency’s housing obligations, and provides that in such event, the agency’s housing assets and obligations would be transferred to HCD.

(b) the payee, (c) a description of the work, product, service or other purpose for the payment, and (d) the amount payable by month. §34169(g)(1). Although not required by the legislation, it may be prudent to list obligations by project area if the agency operated two or more redevelopment project areas that were not fiscally merged. The EOPS is subject to oversight board approval as soon as the board has sufficient members to form a quorum (i.e., a majority of the total membership). §34177(a)(1), 34179(e). In addition, the State Department of Finance and State Controller have authority to obtain documents associated with the EOPS and to file actions to enjoin violations of the statute. §34177(a)(2).

February 1, 2012 Redevelopment agencies are dissolved. §§34170(a), 34172(a)(1). The dissolved agency's assets are transferred to successor agencies by operation of law. §34175(b). Housing assets (with the exception of any balance in the Low and Moderate Income Housing Fund) are transferred to the successor housing agency. §34176(a). Legislation has been introduced that would (i) extend the dissolution date to April 15, 2012 (SB 659), and (ii) permit the Low and Moderate Income Housing Fund balance to be transferred to the entity assuming the agency's housing functions (SB 654). Passage of each of these measures will require a two-thirds' vote of the State Senate and Assembly.

February 1, 2012 Successor agency must establish a Redevelopment Obligation Retirement Fund. §34170.5(a). Funds provided by the County Auditor-Controller for payment of enforceable obligations are deposited into this fund. §34185.

March 1, 2012 Deadline to prepare a draft "Recognized Obligation Payment Schedule" ("ROPS") that lists enforceable obligations, payment due dates and source of payment (i.e., low and moderate income housing fund; bond proceeds; administrative cost allowance; rents, interest and other revenues; property taxes to be allocated to the successor agency) for the period through June 30, 2012. §§34177(l)(1), 34177(l)(2)(A), 34177(l)(3). The ROPS is not effective until it has been certified by an independent external auditor, approved by the oversight board, provided to the county auditor-controller, the State Department of Finance and State Controller, and posted on the successor agency's website. §34177(l)(2). A new Recognized Obligation Payment Schedule must be adopted for each successive six-month fiscal period. §§34177(l)(3), 34171(h). Although not required by the legislation, if the agency operated two or more redevelopment project areas that were not fiscally merged, it may be prudent to list obligations by project area.

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- April 1, 2012 Successor agency must report to the county auditor-controller if the property tax to be allocated to the successor agency, together with other funds available through asset sales and operations, will be insufficient to pay enforceable obligations and administrative expenses payable during the next six-month period. §34183(b). A similar report is due each successive December 1 and May 1.
- April 15, 2012 The ROPS must be submitted to the State Department of Finance and State Controller. §34177(l)(3).
- May 1, 2012 Names of oversight board appointees and the oversight board chair must be sent to the State Department of Finance. The chair is selected by the members of the oversight board. §34179(a).
- For city redevelopment agencies, the mayor of the sponsoring city appoints two oversight board members (including one that represents former agency employees). The county board of supervisors appoints two members (including one member of the public). The county superintendent of education (if the superintendent is elected, or the county board of education if the superintendent is appointed), the Chancellor of the California Community Colleges, and the largest special district by property tax share with territory within the jurisdiction of the former agency each appoint one member of the oversight board. §34179(a).
- May 1, 2012 Once approved by the oversight board, the ROPS replaces the EOPS. §34177(a)(1). Commencing May 1, the successor agency may only pay obligations listed on the ROPS. §34177(a)(3).
- May 15, 2012 Unfilled positions on the oversight board may be filled by the Governor. §34179(b).
- January 1, 2013 Deadline for California Law Revision Commission to draft Community Redevelopment Law cleanup bill for consideration by the legislature. §34189(b).
- July 1, 2016 In counties where more than one oversight board was created, boards are consolidated into one oversight board per county, with membership as specified in Section 34179(j).

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March 2, 2012

**Dear County Board of Supervisors, City Administrators, and  
Redevelopment Successor Agency Representatives:**

The purpose of this letter is to provide information on some of the most important next steps required to implement Assembly Bill 26, First Extraordinary Session (ABX1 26, Chapter 5, Statutes of 2011), which dissolved redevelopment agencies (RDAs) effective February 1, 2012 and replaced them with successor agencies. According to our records, your city (or county) has chosen to act as the successor agency for your former RDA.

Before it was dissolved, your former RDA submitted to the Department of Finance (Finance) an Enforceable Obligation Payment Schedule (EOPS) which listed the various financial obligations that the RDA believed to be Enforceable Obligations, as that term is defined by ABX1 26. The EOPS should be extended until a Recognized Obligation Payment Schedule (ROPS) listing all enforceable obligations proposed for payment between January 1, 2012 and June 30, 2012 can be adopted and is valid.

Pursuant to the timeline in ABX1 26 as revised by the Supreme Court's order, the first ROPS must be approved in initial form by your successor agency's governing body no later than March 1, 2012. The ROPS must be approved by the oversight board in final form no later than April 15, 2012, and also must be submitted to Finance, the State Controller, and the county auditor-controller for review no later than the April 15, 2012. Beginning May 1, 2012, only those payments on an approved ROPS should be made for the period through June 30, 2012. The ROPS for the period July 1, through December 31, 2012 must be submitted to Finance and the county auditor as soon as possible but no later than May 11. This will leave 10 working days for our review and four working days for the county auditor-controller to prepare to make timely payments to successor agencies and taxing agencies on June 1, 2012, as required by ABX1 26. While Finance will make every effort to reach agreement with successor agencies on items to be included in the ROPS by those dates, additional time may be needed to review complex items. Thus we encourage agencies with complex issues to bring them to our attention as soon as possible.

In order to expedite our review of the ROPS, Finance auditors are currently reviewing the EOPS that has been submitted to identify any items which may require more information to assist our review. We request that your staff cooperate with requests for information. We anticipate that some items that we do not believe are enforceable obligations may be identified in this process and we will be providing you with notice of those so that they may be removed from the ROPS.

Finance staff will notify the staff contact for the successor agency within three days by e-mail if we are exercising our right to further review items in the ROPS. We will provide notice of which items we are reviewing within 10 days. After that notice and after May 1, no payment related to any such items should be made, even if they are on a previously adopted EOPS, until Finance agrees to the inclusion of the item on the ROPS.

While we hope that agreement can be reached on most items, there are likely to be some items included on the ROPS on which agreement cannot be reached by the time payments are to be made to successors and taxing agencies under the law. We believe that the fiduciary duty a successor agency owes to its undisputed creditors takes precedence over any right to dispute whether other items are enforceable obligations. We respect the rights of a successor agency to maintain a different position with regard to such items and recognize that litigation may be necessary to resolve some disputes. We will endeavor to minimize the cost of litigation by continuing to research and discuss any disputed items until it is clear that no mutually satisfactory resolution is possible. Once a payment date is reached, Finance views the undisputed items to be the ROPS for purposes of distribution of funds from the Redevelopment Property Tax Trust Fund for that six month period and will be providing notice to the county auditor of those items no later than five working days prior to a statutory distribution date. If resolution of the dispute later determines that an item is an enforceable obligation, it may be placed on the next ROPS.

The review of the ROPS by the public and the oversight board is very important and adequate time should be allowed for this to take place. Given these compressed timeframes, we believe it would be prudent for your oversight board to review, approve, and submit the ROPS to Finance at the earliest possible time. If we object to any items on your ROPS, this early submittal will help ensure any problems are resolved before May 1 and May 11 deadlines, thereby enabling your Successor Agency to make debt payments timely and to receive funding for all enforceable obligations.

Your successor agency's oversight board has seven members, of whom one is appointed by the city, two by the county board of supervisors, one by the county superintendent of education, one by the California Community Colleges, one by the largest special district by property tax share with territory in the former RDA's project areas, and one to represent the employees of the former RDA. Since the ROPS must be approved by the oversight board by April 15, and since the ROPS cannot be submitted to Finance until it has been approved by the oversight board, we encourage you to work expeditiously with the various appointing powers to ensure they name their oversight board members as soon as possible.

Finally, ABX1 26 states that the initial ROPS must be submitted to the auditor performing the agreed upon procedures audit for review. While it would be preferred that this take place in conjunction with the completion of the agreed upon procedures audit, this review of the initial ROPS is a separate action that should not be delayed pending completion of the audit.

County auditor-controllers have until July 1, 2012 to arrange for completion of these audits pursuant to the California Supreme Court's revised ABX1 26 timeline, and we understand many auditors may require even longer to actually complete the audits. Consequently, if the auditor designated by your county auditor-controller states the review of the ROPS cannot be completed by April 15, we advise you to submit your ROPS to Finance without waiting for the auditor's review. If, however, your auditor states they will complete the ROPS review by April 15, we advise you to not submit the ROPS until the review is complete. We advise you to consult your county auditor-controller on the timing of the agreed-upon-procedures audit.

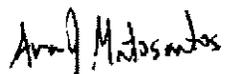
We would appreciate receiving a copy of the auditor's report when it is completed. This will help expedite review of your ROPS.

The Department of Finance website contains substantial additional information about ABX1 26 that is updated as we develop responses to questions and work with other parties. This can be found at the following link:

[http://www.dof.ca.gov/assembly\\_bills\\_26-27/view.php](http://www.dof.ca.gov/assembly_bills_26-27/view.php)

Thank you for your attention to this matter. Please direct any questions to Finance staff at (916) 445-1546, or send an e-mail to: [redevelopment\\_administration@dof.ca.gov](mailto:redevelopment_administration@dof.ca.gov).

Sincerely,



ANA J. MATOSANTOS  
Director

## Redevelopment Agency Dissolution Under ABx1 26

### Frequently Asked Questions

#### **Q. What are the enforceable obligations for projects partially underway?**

Many agencies and parties interested in various projects have asked about instances in which a "project" may have been defined very broadly and within it are various actual or potential land acquisitions, site remediation, site improvements, building construction or reconstruction, and other work. Some contracts may exist for portions of this broadly defined project but other components may not yet be fully obligated by contract with other parties. Work components may be completed or in progress. These questions revolve around what, if any, portions of these projects can be considered enforceable obligations under ABx1 26.

**A.** Generally, Finance believes ABx1 26 provides that written contracts for specific performance with parties that are not the sponsoring agency are what qualify as enforceable obligations. Plans, statements of intent, statements of intent to award, designations of project areas, descriptions or lists of projects, or commitments by the agency without any counter party (other than the local agency that formed the redevelopment agency) will not be considered enforceable obligations. Contracts too vague to be enforceable are also not enforceable obligations. Contracts to develop future proposals or future contracts are limited to the work that is specified sufficiently so that it could be enforced. A contract to design something does not imply or become a contract to construct unless such extension or inclusion is specifically called out in the contract and compensation is specified for it, such as in a design-build contract.

Specific situations involving bonds that have been sold but for which the specific things to be done with the bond proceeds are not obligated through contracts for performance will have to be reviewed to see if obligations to bond holders require such contracts to be made by successor agencies or whether bonds must be defeased.

While this may result in some work being completed that has little apparent current value, ABx1 26 provides that the oversight board may terminate contracts and provide compensation to avoid wastage of funds. Department of Finance encourages successor agencies and oversight boards to review opportunities to do this as they are constructing and approving Recognized Obligation Payment Schedules.

There are many different fact situations that will arise that we cannot anticipate or provide advance guidance on. Finance encourages parties that are concerned about specific situations to bring them to our attention by submitting questions and information regarding the specific situation to the Redevelopment Administration website. While we cannot promise to provide a quick or definitive answer, we will endeavor to do so whenever possible. We will try to provide a fairly early indication that we think the situation requires further information and review. Please provide the name, phone number and e-mail address of a principal contact person with whom we can follow up.

In those cases where Finance and the Controller do not initially come to a conclusion or need further review time, we are prepared to approve the Recognized Obligation Payment Schedule (ROPS) without the questioned item, if that is a practical option. If

timing issues require an earlier decision with regard to a Recognized Obligation Payment Schedule, we may or may not forgo objection at that time but reserve the right to take action under Sec. 34177 or object to the inclusion of the items in a future ROPS. Finance and the Controller are prepared to make commitments with regard to future actions on specific situations once our review is completed.

**Q. Can interagency loans be enforceable obligations?** Agencies have been the recipients of funds provided by sponsoring agencies. In some instances these have been described as loans. In some instances there have been specified repayment schedules and terms, in other cases no repayment schedule was specified before the operative date of ABx1 26. In some instances the repayment schedules have not been adhered to. ABx1 26 provides that until oversight boards are established, no new repayment schedules can be established. Questions have been raised about a variety of these types of situations with regard to whether the repayment is prohibited by Sec. 34171 (d) (2).

A. Except for loan agreements made within the first two years of the life of the agency, or loans that relate to issued securities, the act does not recognize such loans to be enforceable obligations. Instead effectively it treats them as contributions of funds.

**Q. Does AB x1 26 or other law require successor agencies to retain all redevelopment agency employees, maintain their current contractual compensation indefinitely, or transfer the employees into city or county jobs unrelated to successor activities?**

A. ABx1 26 and labor law generally do not require the retention by the successor of any redevelopment employees. The laying off of represented employees is governed by the applicable memorandum of understanding, if there is one in force. ABx1 26 does require the MOU to pass to the successor agency until it would expire under its own terms and provides some authority to transition employees to jobs within the entity that is also the successor entity.

**Q. Does the successor agency merge with or become a part of the city or county that chooses to perform the duties of the successor agency?**

A. Finance views the successor agency as separate employer from the city or county for labor law purposes. ABx1 26 provides that the liability of the successor agency only extend as far as the money available from tax increment and former assets of the agency will fund. Thus redevelopment employees do not become city employees unless they already were or if they are hired to do a city job at the discretion of the city.

Finance expects that successor agencies will promptly release any employees who no longer have work to do, consistent with the terms of their employment contracts, and retain those employees necessary for the wind down activities. The successor agencies are authorized however, to use any employees they wish to use for this work.

**Q. Does the 5 percent limitation on administrative expenses in Sec. 34171 (b) force the reduction of staff and related support expenses to this level immediately?**

A. No. The limitation applies only to administrative staff and related expenses funded with property tax. Employees funded with bond proceeds or other project funds do not

count against this limit, nor do employees funded from rents or other revenues or grants. Generally employees working on specific project implementation activities such as construction inspection, project management or actual construction would not be viewed by Finance as "administrative." The ability to fund project oversight work from bond funds may be restricted by the terms of each bond.

Additionally we view this as a limit on the amount of property tax that may be retained by the successor from each distribution of property taxes. Thus administrative costs funded from retained balances also will not count against this limitation. It is our expectation that oversight boards will exercise prudence in determining administrative budgets and project budgets and determining what funding sources to use so as to preserve the revenues to taxing agencies.

**Q. Are unfunded liabilities for pensions and other employee benefits enforceable obligations that must be paid immediately upon dissolution?**

A. Finance is exploring issues related to this with PERS. We hope to have further guidance on this soon. We expect that many of these costs will be determined to be enforceable obligations up to the date the employees are separated. We expect some reasonable payment schedule or reserving schedule can be arranged. The specific requirements of MOUs or other contractual agreements will have to be specifically reviewed. ABx1 26 provides that successor agencies are only liable up to the limit of the total of property tax allocable to the former redevelopment agency.

**Q. Are successor agencies responsible for costs of site remediation or environmental damages beyond the funds available to the successor agency from redevelopment revenues and assets?**

A. Sec. 34173 (e) states that the liability of a successor agency is limited to the funds transferred to it by ABx1 26.

## Department of Finance – Housing Frequently Asked Questions

Q. Is the low and moderate income housing set-aside required or an enforceable obligation under AB X1 26?

A. The low-moderate income housing set-aside is not a continuing obligation. Thus payments that would have been made into the fund in the future had the redevelopment agency continued to exist should not appear on the Recognized Obligation Payment Schedule (ROPS). While redevelopment agencies may have deposited property tax into their Low and Moderate Income Housing Fund (Low-Mod Fund) prior to February 1, 2012, no new obligations should have been made against those funds after June 26, 2012. Funds which would have been deposited into the Low-Mod Fund to pay for enforceable housing obligations, such as payments for housing bond debt service, should be placed on the ROPS.

Q. Do the housing assets transferred to the sponsoring agency or local housing authority include funds or other monetary assets in the Low and Moderate Income Housing Fund?

A. Unencumbered funds in the Low and Moderate Income Housing Fund are specifically provided to the taxing agencies for distribution as property tax in Section 34176. Funds that are encumbered by enforceable obligations may be retained by the successor agency to satisfy those obligations. With approval of the oversight board, both obligations and funds to satisfy them may be transferred to the housing successor. The definition of what is an enforceable obligation for housing is the same as it is for all other obligations of the former redevelopment agency. For example, plans, resolutions, project designations, or other acts of the agency proposing to construct, buy, lease, or remodel housing, that were not specifically contracted for with an external party prior to June 29, 2011 are not enforceable obligations. No obligations should have been created against the low-moderate housing fund after June 26, 2011.

Q. For purposes of AB X1 26, what is a housing asset that can transfer to the housing successor?

A. Housing assets to be transferred to the housing successor agency must be approved by the oversight board and thus are also subject to review by Department of Finance. In our view, housing assets are:

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 (such as furniture and appliances) that was acquired for housing purposes (either by purchase or through a loan) in whole or part with funds from the Low and Moderate Income Housing Fund (Low-Mod Fund) . The share of the asset value that should be considered housing assets should be proportionate to the share of ownership of the asset that is held by the successor agency or if ownership shares are not defined by contract, in proportion to funding provided by the redevelopment agency in proportion to the total funding for the project.
2. Any funds that are encumbered by an enforceable obligation to build or acquire low and moderate income housing as low and moderate income housing are defined by the Community Redevelopment Law. For this purpose, an enforceable obligation is defined the same way it is for AB X1 26 generally.

3. A stream of repayments from a loan of Low-Mod Fund money, if the repayments are encumbered by enforceable obligations to provide low-mod housing or for enforceable obligations associated with low-mod housing. Otherwise they are surplus funds that should be provide to taxing agencies.
4. A stream of rents or other payments from housing tenants or operators of low-mod housing that are enforceably obligated to provide low-mod housing or for enforceable obligations associated with low-mod housing. Thus money not contractually pledged for maintenance, operation, rent subsidy, or other specific purposes associated with the low-mod housing is surplus and should be provided to the taxing agencies.

We expect that most low-mod housing acquired with redevelopment funds will have long-term or permanent affordability covenants on it and thus will have little or no market value. While we expect that most housing built or acquired with low-mod funds will have long-term restrictions on rents and sales that were required by providers of other financing involved in the projects, there may be instances where this is not the case. If the redevelopment agency had sole title to the housing and it was not built with any low-mod funds and thus is a market property, any rental revenue, or proceeds from sale, and the property itself are not housing assets that transfer to the housing successor.

We also expect that some projects involving housing are mixed use and could include governmental-use property, commercial property, market rate housing, and housing that meets the Community Redevelopment Law definition of low-mod housing. While we would expect that significant amounts low-mod funds were not used to acquire commercial property or governmental-use property per se, there could be situations where title to the various types of properties is in the name of the redevelopment agency but the value (either of sales of assets or revenue streams) should be apportioned between the low-mod fund and other funders, including the redevelopment agency general fund. Such assets may transfer to the housing successor only with approval of the oversight board. It may be preferable that these assets continue to be held and managed by the successor agency to the redevelopment agency.

Exhibit H  
 Distribution, Reporting, and Transaction Periods for Redevelopment Property Tax Trust Funds  
 ABX1 26 Dissolution of RDAs

4/5/2012

		Relationship to RPTTF Distribution Date															
		Resource Inflows Period			Administrative Cost to Others			Outflows for the Period					Reporting for the Period				
RPTTF Distribution Date H&S 34183(a)(1)-(4)	As Tax Increment direct to RDA	As Deposit Transactions into RPTTF* H&S 34182(c)(1)	PTAF† H&S 34183(a)	Period of Costs Incurred by A-C Admin H&S 34183(a)	SCO Invoices Received H&S 34183(d)	Pass-thru Payments H&S 34813(a)(1)	Transactions H&S 34188	To Fund ROPS Covering Period H&S 34183(a)(2)	Successor Agency Admin Cost Allowance H&S 34183(a)(3) H&S 34171(b)	Residual Pmts H&S 34183(a)(4) H&S 34188	Related ROPS due to DOF/SCO/AC from SA§ H&S 34177(i)	Estimate of Admin Cost Allowance due to AC from SA† H&S 34177(k)	Estimate of Distribution due to DOF/TE from AC H&S 34182(c)(3)	Supplemental Info to be Reported by AC on Estimate	AC Annual Report of Actuals‡ H&S 34182(d)	Comments	
1st Year - FY 2011-12	May 16, 2012 This date was originally Jan 16, 2012 in bill but changed by Supreme Court Decision.	7/1/2011-1/31/2012	None†	None	None	None	None	1/1/2012 to 6/30/2012- These Enforceable Obligations are to Be Paid by existing RDA/SA Resources	None	None	3/1/2012 Draft (Nov 1, 2011) 4/15/2012 Final (Dec 15, 2011)	None	3/1/2012	Increment paid to former RDA 7/1/11-1/31/12 and any pass-through payments related this TI distributed by AC to ATEs and any PTAF (SB2557) that may have been charged against this distribution.	None	This first distribution is synchronized with the period the RDAs were still in existence and receiving Tax Increment Distributed 7/1/2011-1/31/2012 or end of RDA Life if earlier.	
	June 1, 2012	N/A	2/1/2012 to 4/30/2012**	100%†	7/1/11 to 4/30/12	7/1/11 to 4/30/12	For deposits made to RPTTF during period 2/1/12 to 4/30/12 May have address any unpaid PTP stemming from TI distributed to RDAs for period 7/1/2011 to 1/31/12. Seems should be a RDA/SA obligation, but need to address if not paid by them.	7/1/2012 to 12/31/2012	3% of Distribution for ROPS during this Period - minimum of \$250k / year	on 6/1/2012	AC needs to prepare estimates due to DOF/SCO.§  DUE AC: 4/15/2012 Final Version DUE DOF: 5/15/2012	AC needs to prepare estimates due to DOF/SCO.†  DUE AC: 4/15/2012	5/1/2012	None	By October 1, 2012, AC to Report to SCO/DOF, SA and ATEs for the period 2/1/2012 through 6/30/2012: . Property Tax Revenues Deposited into RPTTF . Pass-through payments to ATE . ROPS payment to SA . SA Admin Cost Allowance . RPTTF Residual Amounts to ATEs . Any reductions due to insufficient moneys available  Although not required suggest following to also be reported: . Administrative Costs to County, AC and SCO distributed from RPTTF . Distributions of Other Moneys (proceeds from Asset Sales etc.)		
2nd Year and Thereafter - FY 2012-13.	Jan 16, 2013...	N/A	5/1/2012... to 12/31/2012...	50%†	5/1/2012... to 12/31/2012...	5/1/2012... to 12/31/2012...	5/1/2012... to 12/31/2012...	1/01/13... to 6/30/13...	3% of Distribution for ROPS during this Period - minimum of \$250k/ year‡	on Jan 16	10/1/2012...§	10/1/2012...†	11/1/2012...	None	By October 1, AC to Report to SCO/DOF, SA and ATEs for the previous period 7/1 through 6/30: . Deposits into RPTTF .. Outflows from RPTTF: ... Pass-through pmts ... ROPS payment to SA ... SA Admin Cost Allowance ... RPTTF Residual Amounts to ATEs .. Any reductions due to insufficient moneys available .. Distributions of Other Moneys (proceeds from Asset Sales etc.)		
	June 1, 2013...	N/A	1/01/2013... to 4/30/13... **	50%†	1/01/13... to 4/30/13...	1/01/13... to 4/30/13...	1/01/13... to 4/30/13...	7/01/13... to 12/31/13...	3% of Distribution for ROPS during this Period - minimum of \$250k/ year‡	on June 1	4/1/2013...§	4/1/2013...†	5/1/2013...	None	By October 1, AC to Report to SCO/DOF, SA and ATEs for the previous period 7/1 through 6/30: . Deposits into RPTTF .. Outflows from RPTTF: ... Pass-through pmts ... ROPS payment to SA ... SA Admin Cost Allowance ... RPTTF Residual Amounts to ATEs .. Any reductions due to insufficient moneys available .. Distributions of Other Moneys (proceeds from Asset Sales etc.)		

\* RPTTF Resource Inflow Period Ending cut-off dates of 12/31/xx & 4/30/XX are to allow time for Auditor to balance activity, calculate distribution and prepare necessary reporting as noted in Tax Managers Guidelines.

† Counties may vary on when they assess the Ptax Admin fees so this could be split between the two period cycle which for the first year of implementation the first cycle might have been already charged to the RDA TI that was distributed or one annual amount in either period.

‡ The Successor Agency's Administrative Cost Allowance (minimum annual amount is \$250k) to be distributed as set forth in semi-annual estimates reporting to AC, subject to "true-up" in following period to actual. See footnote ¶ below.

§ Although no reporting date is specified by code, DOF established these deadlines which are 30 days prior to the Auditor's requirement to report estimates, except for SA's ROPS reporting for the period 7/1/2012-12/31/2012 to be due 4/15/2012 to AC and 5/15/212 to DOF.

- Any estimated items on prior period ROPS is to be "true-up" on following period's ROPS by reporting the Prior Estimate, Prior Actual and difference which is to be netted against current period ROPS

¶ Although no reporting date is specified by code, DOF requires Successor Agencies to submit their estimated Administrative Cost Allowance as separate schedule along with ROPS (see previous footnote). Current period estimate to include "true-up" of prior Actuals to prior Estimates with difference being netted against current period estimate.

⌘ Although not required in code, suggest annual report of deposits, and outflows for RPTTF including any necessary reductions due to insufficient funds continue to be reported to DOF, SCO, SA and ATEs along with distributions of other moneys for years beginning FY 2012-13

\*\* This period is to include the 2nd major installment of Secured/Unsecured Tax Increment. Those counties, if any, that normally distribute this installment in May, will have to change their process to ensure it is included in this period.

AC Auditor Controller  
 DOF State Department of Finance  
 SCO State Controllers Office  
 TE Taxing Entities  
 PTAF Property Tax Administration Fees (R&T 95.3 - SB 2557)  
 SA Successor Agency of former RDA

**Uniform Guidelines for the Implementation  
Of Assembly Bill No. 26 of the First Extraordinary Session  
(ABX1 26) in Connection with the State of California Budget for  
Fiscal Year 2011-2012**

**Redevelopment Dissolution**

**Prepared By:**

**The Accountings Standards Committee of the  
California State Association of County Auditors**

**Draft Published 01/24/2012**

*A final [non draft] version  
is not yet posted*

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**I - Introduction**

**A) Background**

The California Community Redevelopment Law (CRL), which was first enacted in 1945 and expanded in 1951, allowed cities and counties to establish redevelopment agencies (RDAs) to address blight. In 1952, voters approved a constitutional amendment to allow tax increment to fund redevelopment projects and to be pledged for repayment of bonds. Although redevelopment may help revive localized blight and equalize economic activity, post Proposition 13 this essentially diverts resources from schools, counties, special districts and core city services such as law enforcement, fire protection, road maintenance, parks, libraries and other local services. With the difficult economic times in California, the State had been re-evaluating the use of tax increment financing for redevelopment activities.

Shortly after taking office in January 2011 newly elected Governor Brown, as part of budget development, targeted the dissolution of RDAs as a way to provide more resources to local governments in the long term as well as to help with the state budget in the short term. This resulted in draft bill language circulating in February which included these key provisions: 1) The cessation of all RDAs with Successor Agencies being established to wind down RDA affairs; 2) Oversight Committees to oversee the Successor Agencies; 3) Requires repayment of all recognized obligations of the RDA including the continuation of pass-through payments to Affected Taxing Entities; 4) Requires county auditors to audit RDAs; 5) Requires county auditors to perform the calculations and administration of the redistribution of the tax increment due the former RDAs to all affected taxing entities except enterprise districts and, in the first year only, to the State as a grant to help fund public health and safety (courts).

As the budget process continued through the spring, mirror bills AB101/SB77 were introduced in each house that contained substantially the same language of the February draft except that enterprise districts were no longer excluded from sharing in the remaining tax increment. During this time RDA supporters introduced counterproposals for "reform" as SB 286 /AB 1250.

As the current legislative session ended neither AB101/SB77 were passed by either house. During the first extended session the legislature passed one day before the State Budget deadline ABX1 26 & ABX1 27, a two bill package affecting RDAs. As the original budget bill submitted by legislature June 14, 2011 was vetoed by the Governor the two bill package along with other trailer bills was not submitted. When the new budget bill was passed ABX1 26 & ABX1 27 were submitted to the Governor who signed them on June 28 and became chaptered on June 29.

## **ABX1 26 Redevelopment Dissolution Bill**

ABX1 26 (the Dissolution Act) the first of the two-bill budget package which carries forward much of the same language and key concepts of AB101/SB77 except that the "Public Health and Safety grant" to the State was eliminated. In essence this bill phases out the current tax increment funding mechanism for redevelopment agencies and returns property tax revenues to schools, special districts, cities and counties to help sustain their core functions.

The second bill, ABX1 27 (the Continuation Act), allows redevelopment agencies to avoid dissolution by opting into the Voluntary Alternative Redevelopment Program (VARP). To qualify for the VARP the sponsor community of an RDA must agree to pay its proportionate shares of \$1.7 billion in FY 2011-12 and \$400 million annually for subsequent years to the County Auditor for redistribution locally. K-12 schools receive the vast majority of the payment in the first year, which will help the State budget by reducing backfill requirements to schools. In subsequent years a portion of the payment is redistributed to special districts providing fire protection services and transit districts and the remainder goes to K-12 schools. Failure by the sponsor community to make the required payment will make their RDA subject to Dissolution under ABX1 26. The property tax administration functions of ABX1 27 are covered in a separate guideline document.

On July 18, 2011, the California Redevelopment Association ("CRA") and the League of California Cities ("League") filed a petition for writ of mandate with the California Supreme Court, requesting the Court to declare unconstitutional two bills that were passed as part of the 2011-2012 State Budget - AB1X 26 and ABX1 27. CRA and the League contend that these two bills are unconstitutional because they violate Proposition 22 which was passed by the voters in November 2010.

On August 11, 2011, the California Supreme Court issued an order in California Redevelopment Assn. v. Matosantos (S194861), directing the parties to show causes why the relief sought in the petition for a writ of mandate should not be granted. The court established an expedited briefing schedule designed to facilitate oral argument as early as possible in 2011, and a decision before January 15, 2012.

In the extended session, the legislature drafted a cleanup bill ABX1 /SBx 1 8 to address some technical issues with both the Discontinuation and VARP bills. SBX1 8 was passed by the legislature on the last day of the session and sent to engrossing and enrolling. The Governor vetoed this bill to allow the unadulterated bills to be adjudicated by the Supreme Court.

On December 29, 2011, the California Supreme Court issued their decision declaring that ABX1 27 was invalid and that ABX1 26 was valid with the exception of H&S §34172(a)(2). The Supreme Court also utilized their power of reformation to revise the effective dates or deadlines in part 1.85 of the law

## ABX1 26 Redevelopment Dissolution Bill

arising before May 1, 2012 by four months with the notable exception of actions to be taken by September 1, 2011 (e.g. §34173(d)(1)) were extended by 15 days, i.e., January 13, 2012 rather than January 1.

### B) Overview & Key Concepts of Bill

Under ABX1 26, Dissolution Act, the failure of the legislative body of the city/county (Community) to enact a continuation ordinance to enable its redevelopment agency (RDA) to continue normal operations on or before October 1, 2011, will lead to the dissolution of the RDA and/or community redevelopment commission as of October 1, 2011 (H&S §34170(a)).

Under ABX1 26, as of October 1, 2011 redevelopment agencies and community redevelopment commissions in their authority to act as an RDA will cease to exist unless opting into the VARP. Until that date, RDAs are prohibited from specific redevelopment actions (new redevelopment activity and incurrence of debt) other than payment of existing indebtedness and performance of existing contractual obligations. ABX1 26 creates and establishes the duties of Successor Agencies and Oversight Boards, and imposes requirements on county auditor-controllers. The county auditor-controller duties include auditing the obligations of RDAs entering dissolution and the administering of the Redevelopment Property Tax Trust Fund established for each RDA to redistribute its tax increment under specified formulas. The restrictions on RDA operations are intended to preserve the revenues and assets of RDAs so that those resources not needed to pay enforceable obligations may be available for use by local governments to fund core governmental services. ABX1 26 also allows a community development commission to retain its authority in its capacity as a housing authority or for any other community development non-redevelopment purpose. However, unused balances in the Low and Moderate Income Housing Fund would be transferred to the Successor Agency and disbursed to the local taxing entities.

The bill also requires the California Law Revision Commission to draft a Community Redevelopment Law cleanup bill for consideration by the Legislature by January 13, 2013.

### C) Guideline Objectives

As with previous guidelines developed to implement other provisions of law, the objective of these guidelines are to: (1) develop a reasonable document counties may rely upon as an accepted standard to follow in complying with the statutes, (2) promote uniformity in the implementation of the statutes and (3) eliminate unnecessary and costly time consuming and burdensome documentation and record keeping.

**D) Acknowledgements**

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Robert R. Campbell, Contra Costa Auditor-Controller

**Members of the Guidelines working group**

Carol Orth	Alameda County
Sally Zutter	El Dorado County
Arlene Barrera	Los Angeles County
Kristina Burns	Los Angeles County
Frank Davies	Orange County
Pamela Elias	Riverside County
Kim Le	Sacramento County
Meret Agib	San Bernardino County
Vanessa Doyle	San Bernardino County
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**II – Overview of Restrictions of RDA Activities, Effect of Dissolution of RDAs & Successor Agencies**

**A) Effect of RDA Dissolution and Restrictions**

Effective October 1, 2011, all redevelopment agencies and redevelopment agency components of community development agencies will be dissolved (*H&S §34172(a)(1)*) and no longer exist as a public body, corporate or politic. Authority to transact business or exercise powers previously granted under the Community Redevelopment Law (Part 1, commencing with *H&S §33000*) is withdrawn from former RDAs (*H&S §31472(b)*). Examples of authority withdrawn from community redevelopment agencies includes, incurring new indebtedness or expanding existing monetary or legal obligations, amending agreements, entering into contracts (for complete restrictions see *H&S §34161* through *34165*).

**Any actions taken by the RDA that conflict with the referenced section above are considered void.**

No legislative body or local government shall have the statutory authority to create or otherwise establish a new redevelopment agency or community development commission (*H&S §34166*). The Supreme Court invalidated the bill's provision allowing a community in which an agency has been dissolved may create a new agency once the successor entity has paid off all the former agency's enforceable obligations (*H&S §34172. (a) (2)*).

Despite this dissolution, community development commissions retain their authority to act in its capacity as a housing authority. Community development commissions derive their authority solely from federal or local laws, or from state laws other than the Community Redevelopment Law (*H&S §34172 (a)*).

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. Upon such election, all rights, powers, duties, and obligations, excluding any amounts on deposit in the Low and Moderate Income Housing Fund, shall be transferred to the city, county, or city and county (*H&S §34176(a)*).

If no one elects to retain the responsibility for performing housing functions, all rights, powers, assets, liabilities, duties, and obligations associated with the housing activities of the agency, (excluding any amounts in the Low and Moderate Income Housing Fund), shall be transferred as follows:

- Where there is one local housing authority in the territorial jurisdiction of the former redevelopment agency, to that local housing authority.

## ABX1 26 Redevelopment Dissolution Bill

- Where there is no local housing authority in the territorial jurisdiction of the former redevelopment agency, to the Department of Housing and Community Development.
- Where 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.

### B) RDA Responsibilities

Until a Successor Agency is authorized, RDAs are required to make all scheduled payments for enforceable obligations (*defined in H&S §34167(d)*) and perform all required activities related to enforceable obligations, such as continuing disclosures and preservation of tax-exempt status of interest payable on outstanding bonds. For complete responsibilities, see *H&S §34169 (a) through (h)*.

The revenue and assets of RDAs that are not needed to pay for enforceable obligations of the RDA are to be preserved for use by local governments to fund core government services such as police, fire and schools (*H&S §34167(a)*).

RDAs must adopt an **Enforceable Obligation Payment Schedule** at a public meeting by **August 29, 2011** (within 60 days of effective date) *H&S §34169(g)(1)*, and are required to post the schedule on the agency or its sponsoring community's website. The schedule may be amended at any public meeting of the agency and amendments must be posted on the agency's website at least three (3) days prior to making a payment pursuant to such amendments. The RDA is to transmit the **Enforceable Obligation Payment Schedule** to the County Auditor-Controller, the State Controller, and the Department of Finance by mail or electronically. Alternatively, a notification indicating the location on the internet website of the schedule and schedule amendments is sufficient to meet this requirement.

The **Enforceable Obligation Payment Schedule** must include the following information for each obligation:

- The project name associated with the obligation.
- The payee.
- Short description of the nature of the work, product, service, facility, or other thing of value for which payment is to be made.
- The amount of payments to be made, by month, through December 2011.

RDAs are required to prepare a preliminary draft of the initial **Recognized Obligation Payment Schedule** and provide it to their Successor Agency by **September 30, 2011**.

**C) Successor Agencies**

The Successor Agency will be the Sponsoring Community of the Redevelopment Agency (RDA) unless it elects not to serve in that capacity. In that case, pursuant to *H&S §34173* the Successor Agency will be the first taxing entity submitting to the County Auditor-Controller a duly adopted resolution electing to become the Successor Agency. For special rules applied to successor agencies for RDAs in the form of a Joint Powers Authority (JPA) see *H&S §34173*.

Successor Agencies to the former redevelopment agencies are granted all authority, rights, powers, duties and obligations previously vested with the former redevelopment agencies, under the Community Redevelopment Law that remains in existence (*H&S §34173 (a and b)*).

All assets, properties, contracts, leases, books and records, buildings, and equipment of the former redevelopment agency are transferred on October 1, 2011, to the control of the Successor Agency. (*H&S §34175(b)*). Successor Agency's liability is limited to the extent of the total sum of property tax revenues it receives and the value of assets transferred to it (*H&S §34173(e)*).

Pledges of revenues associated with enforceable obligations of the former redevelopment agencies are to be honored. 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. (*H&S §34175 (a)*).

The actions of the Successor Agency will be directed, monitored, and in some cases approved, by a seven member Oversight Board.

**For a complete list of Successor Agency responsibilities see *H&S §34177*;  
Examples of Successor Agency responsibilities include:**

- Continue to make payments due for enforceable obligations of the former RDA.
- Enforce all former redevelopment agency rights for the benefit of the taxing entities.
- Expeditiously dispose of assets and properties of the former redevelopment agency as directed by the Oversight Board and transfer these funds to the county auditor-controller for distribution as property tax proceeds.
- Effectuate the transfer of assets to the appropriate entity designated pursuant to *H&S §34176*.

## ABX1 26 Redevelopment Dissolution Bill

- 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. In making the distribution, the **county auditor-controller** shall utilize the same methodology for allocation and distribution of property tax revenues provided in *H&S §34188*.
- Prepare a Recognized Obligation Payment Schedule for each six month period of each fiscal year, including identifying one or more sources of payment (*H&S §34177(l)(1)*) for all Enforceable Obligations of the former RDA.
- Prepare administrative budgets for Oversight Board approval and pay administrative costs (See "Administrative Cost Allowance" in definition of Terms).
- 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 (*H&S §34177(l)(1)*).
  3. Proposals for arrangements for administrative and operations services provided by a city, county, city and county, or other entity.
- Provide administrative cost estimates, to the county auditor-controller for each six-month fiscal period. The cost estimates are based on the approved administrative budget and are paid from property tax revenues deposited in the Redevelopment Property Tax Trust Fund.

### **Recognized Obligation Payment Schedule:**

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

- By **November 1, 2011**, a draft **Recognized Obligation Payment Schedule** is prepared by the Successor Agency for the enforceable obligations of the former redevelopment agency.
- From **October 1, 2011, to July 1, 2012**, the initial draft of that 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 such a redevelopment agency not been dissolved, and shall be reviewed and certified, as to its accuracy by an **external auditor** designated pursuant to *H&S §34182*.

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- The certified Recognized Obligation Payment Schedule is submitted to and duly approved by the Oversight Board.
- A copy of the approved Recognized Obligation Payment Schedule is submitted to the **county auditor-controller** and to both the State Controller's Office (SCO) and the Department of Finance (DOF) and is posted on the Successor Agency's internet web site.

The recognized 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.

The Department of Finance and the State Controller shall each have the authority to require any documents associated with the recognized obligations to be provided to them in a manner of their choosing. Any taxing entity, the Department, and the State 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.

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 *H&S §34179*, from making payments for enforceable obligations from sources other than those listed in the Recognized Obligation Payment Schedule.

### **Agreements, contracts, other arrangements:**

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.

### **However, any of the following agreements are not invalid and may bind the Successor Agency:**

- 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.
- 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.

- 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.

For purposes of this chapter with regard to a redevelopment agency that becomes subject to this part pursuant to Section 34195, only references to "October 1, 2011," and to the "operative date of this part" shall be modified in the manner described in Section 34191. All other dates shall be modified only as necessary to reflect the appropriate fiscal year or portion of a fiscal year.

**D) Oversight Boards (H&S §34179, 34180, 34181)**

Each Successor Agency will have an Oversight Board consisting of seven (7) appointed members (H&S §34179(a)(1) through (10)). An Oversight Board directs the Successor Agencies in winding down redevelopment activities pursuant to H&S §34181 and must approve certain actions taken by the Successor Agencies as defined in H&S §34180.

The names of Oversight Board members, along with their elected chairperson, shall be reported to the Department of Finance (DOF) by **May 1, 2012**. Positions not filled by **May 15, 2012** or any position that remains vacant for more than 60 days, may result in Governor appointment to fill any vacancies. (H&S §34179 (b)). Any individual may simultaneously be appointed to up to 5 Oversight Boards and may hold an office in a city, county, city and county, special district, school district, or community college district unless the offices are incompatible (see GC §1099).

Oversight Boards have fiduciary responsibilities to holders of enforceable obligations and taxing entities that benefit from distributions of property tax and other revenues pursuant to H&S §34188. They have the authority to appeal any judgment or to set aside any settlement or arbitration decision (H&S §34171(d)(1)(D)) and also, approve the administrative cost allowance (H&S §34171(b)).

Because the DOF may review any action of the Oversight Board, all actions shall not be effective for three business days (pending a request for review by the department). If the DOF makes a request to review an action, the DOF will have 10 days from the date of the request to approve the action or return it to the board for reconsideration. If this happens the action cannot be effective until the DOF approves. This means the Oversight Board will have to resubmit to the DOF until approved. Each Oversight Board shall designate an official to whom the DOF may make a request. In doing so the Oversight Board is responsible to provide the DOF with the telephone number and e-mail contact information.

**On or after July 1, 2016 Counties that have more than one Oversight Board shall only have one Oversight Board (H&S §34179(j)).**

If the Oversight Board has vacancies not filled by July 15, 2016 or any position that remains vacant for more than 60 days, the Governor may appoint individuals to fill any Oversight Board member position (H&S §34179(k)).

**Oversight Boards will cease to exist when all of the indebtedness of the dissolved redevelopment agency has been repaid (H&S §34179(m)).**

**E) Stabilization of Labor and Employment Relations**

H&S §34190 attempts to stabilize the labor and employment relations of redevelopment agencies and successor agencies. This act is not intended to relieve any redevelopment agency of its obligations, prior to the dissolution, a redevelopment agency shall retain the authority to meet and confer over matters within the scope of representation (H&S §34190(b)). The Successor Agency shall:

- Become the employer of all employees of the redevelopment agency as of the date of the RDAs dissolution (H&S §34190(e)).
- Retain the authority to bargain over matters within the scope of representation.
- Assume the obligations under any memorandum of understanding between the redevelopment agency and the employee organization as of the date of the redevelopment agency's dissolution.

Costs incurred by the local agency employer representatives in performing those duties and responsibilities are not reimbursable as state-mandated costs (H&S §34190(f)).

Transferred memorandums of understanding and the right of any employee organization representing such employees to provide representation shall continue as long as the memorandum of understanding would have been in force, pursuant to its own terms.

- After the expiration of the transferred memorandum of understanding, the Successor Agency shall continue to be subject to the provisions of the Meyers-Milias-Brown Act
  - Note: The purpose of the Meyers-Milias-Brown Act is to promote full communication between public employers and their employees by providing a reasonable method of resolving disputes regarding wages, hours, other terms and conditions of employment between public employers and public employee organizations.
- Individuals that are formerly employed by redevelopment agencies that are subsequently employed by successor agencies shall, for a minimum of

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two years, transfer their status and classification in the civil service system of the redevelopment agency to the Successor Agency.

**III – Auditor-Controller Responsibilities**

**A) Overview and Key Concepts**

Under this bill revenues that would have been distributed to redevelopment agencies prior to their dissolution will instead be deposited by County Auditors into ***Redevelopment Property Tax Trust Funds*** (RPTTF) created in the County Treasury for each dissolved RDA. The County Auditor administers the RPTTF and disburses twice annually from this fund pass-through payments to affected taxing entities, an amount equal to the total of obligation payments that are required to be paid from tax increment as denoted on the ***Recognized Obligation Payment Schedule to Recognized Obligation Retirement Funds*** (RORF) established in the treasury of the Successor Agencies, and various allowed administrative fees and allowances. Any remaining balance is then distributed by the County Auditor back to affected taxing entities under a prescribed method that accounts for pass-through payments. The County Auditor is also responsible for distributing other moneys received from the Successor Agency (from sale of assets etc.) to the affected taxing entities.

Successor agencies in turn will use the amounts deposited into their respective RORF for making payments on the principal of and interest on loans, and moneys advanced to or indebtedness incurred by the dissolved redevelopment agencies (H&S §34172(d)).

While some RDAs are anticipated to immediately go into Dissolution on Oct 1 of 2011 at the onset of this bill, other RDAs that originally opted into the Voluntary Alternative Redevelopment Program under ABx1 27 may also enter Dissolution at some point in the future.

Under this legislation the Auditor-Controller is not expected to make substantial changes to current property tax distribution cycles and other basic property tax processes. To that end Auditor-Controllers are expected to follow other published guidance for the calculations of tax increment calculations and pass-through payments. However, under some circumstances this legislation may require the Auditor-Controller to reduce the amount of pass-through payments to certain Affected Taxing Entities.

This legislation grants the State Controller's Office oversight over Auditor-Controller actions required under the bill and further provides a three day delay in effectiveness for all such actions to allow the SCO the opportunity to request a review.

Broadly speaking under this legislation the county Auditor-Controller is responsible for the following activities and functions which can be classified as one-time and ongoing.

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### One-time:

- Causing or performing an “agreed upon procedures” audit of each RDA being dissolved within the county. As this is an “audit” activity rather than a property tax administration function it will not be covered in these guidelines. The *State Association of County Auditors* may issue separate guidelines to cover these activities.
- Establishing new **Redevelopment Property Tax Trust Fund (RPTTF)** for each RDA that enters dissolution
- Reporting

### Ongoing:

- Calculating the amount of Property Tax Revenues that would have been due the former RDA as Tax Increment
- Administering the RPTTF, including deposits, distributions and reporting of related activities
- Distributing other moneys received from the Successor Agency (proceeds for asset sales and unencumbered funds) and related reporting.

All actions taken by the Auditor-Controller related to this legislation are not effective for three business days subject to review by the State Controller.

### B) One Time Activities – when RDA Enters Dissolution

1. **Cause Audit of RDA – addressed in other guidelines**
2. **Creation of Redevelopment Property Tax Trust Funds**
  - a. For each RDA entering dissolution the county auditor-controller shall create a Redevelopment Property Tax Trust Fund (RPTTF) in the county treasury. [H&S §34170.5(b) & H&S §34185]
  - b. The RPTTF should be set up as interest bearing with the earned interest being deposited into the fund.
  - c. The county auditor-controller shall administer the RPTTF for the benefit of the holders of enforceable obligations and taxing entities that receive pass-through payments under this part [H&S §34182(c)(2.)]
  - d. Accounting should be done at the Project Area level and County Auditor-Controllers may wish to consider establishing separate

accounts within the RPTTF (or separate RPTTFs) for RDAs with separate project areas to facilitate accounting and reporting.

**3. Results of First Year Reporting**

a. By October 1, 2012 report to the DOF and SCO the following specialized reporting for first year ending June 30, 2012. [H&S §34182(c)] Copies of these reports should also be provided to Successor Agencies so that they may meet their reporting requirements to Affected Taxing Entities and as a courtesy as well.

- i. Property Tax Revenues deposited to the RPTTF.
- ii. Pass-through payments made to Affected Taxing Entities.
- iii. Recognized Obligation Payment Schedule (ROPS) payments remitted to Successor Agencies.
- iv. Administrative Cost Allowances paid to Successor Agencies.
- v. Residual amounts distributed to Affected Taxing Entities.
- vi. Any reductions to distributions due to insufficient moneys available to satisfy enforceable obligations per H&S §34183(b) – see III C 2 b vii page 24

b. This reporting should be summarized by each RDA and detailed by project area if appropriate. Pass-through payments and residual distributions should also be reported at the affected taxing entity level.

c. Counties should consider providing these reports to the public via web access.

d. Standardized reporting to be developed with DOF/SCO

**C) Ongoing Activities**

**1. Calculation of Property Tax Revenues**

The Property Tax Revenues (the tax increment that would have gone to the RDA as if it still existed see Chapter E-3 of the *Property Tax Managers Reference Manual*) are to be deposited following the

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county's regular distribution cycles into each RDA's Property Tax Trust Funds (RPTTF) as follows:

- a. Calculate the Secured (including State Assessed) & Unsecured Tax Increment using the August 20th equalized roll [§34182(c)] due the former RDA.
- b. Deposit into the RPTTF the amounts of tax increment calculated above for:
  - Secured
  - Unsecured
- c. Supplemental & unitary revenues due the former RDA are to be deposited into the trust fund as normally apportioned.
- d. If necessary the amount of tax revenues calculated to be due the Successor Agency should be reduced for both any annual tax increment caps in the former RDA's plan and the "Wind Down" reduction amount per H&S §34187. The "Wind Down" reduction amount is required when obligations on the prior ROPs have been paid-off, matured or otherwise been satisfied. Note that the "wind down" reduction amount may need to be reduced under certain situations – (See C2bviii page 25).
- e. For FY 2011-12 forward do not give the former RDA's Successor Agency any tax increment for pre-1989 bonds.   


Note: For FY 2011-12 the RDA Increment will most likely be included in the tax rate calculations for pre-1989 bonds. The reason for this is that at the time of the tax rate calculation which if any RDAs will be entering the voluntary continuation program (H&S §34183(a)(1)) may not be known. However, since all RDAs are entering dissolution due to the Supreme Court decision, upon dissolution effective date do not distribute the bond tax to the RDA; rather distribute it back to the taxing entity that issued the bond and is levying the tax.

Note: That some RDAs may have pledged or may otherwise be dependent on the Tax Increment related to pre-1989 bonds to have sufficient funds for debt service. In this situation, contact the Department of Finance and State Controller for guidance.

**2. Administration of the RDA's Property Tax Trust Fund (RPTTF)**

The RPTTF for each former RDA being dissolved under this legislation is administered by the county auditor-controller for the benefit of holders of former RDAs' enforceable obligations and the taxing entities that receive pass-through payments pursuant to Part 1.85 starting with H&S §34170. Administration of the RPTTF consists of three basic functions: deposits, distributions and reporting. The legislation defines that most distributions are to be performed twice each year on the following cycles:

Distribution Date	Covers ROPS to be paid	All Other Distributions
Jan 16 <sup>th</sup>	Jan 1 through June 30 <sup>th</sup>	May 1 <sup>st</sup> through Dec 31 <sup>st</sup>
June 1 <sup>st</sup>	July 1 <sup>st</sup> through Dec 31 <sup>st</sup>	Jan 1 <sup>st</sup> through April 30 <sup>th</sup>

The amounts distributed for ROPS are forward looking to the next six month period while all other distributions are actuals for the period indicated. This will create possible conflicts with ROPS requiring payment between Jan 1 & Jan 16 which should be resolved by the Successor Agency including estimates of these payments on the prior period ROPS to ensure enough money will be available for "dry" period payments.

**a. Deposits**

The Auditor is to deposit property tax revenues that would have been distributed to the former RDA as tax increment had this bill not been enacted into the respective Successor Agency's RPTTF. See Section III C1 (page 17) Calculation of Property Tax Revenues on the details how to calculate this amount.

- i. **Interest Earnings:** Interest earned by the RPTTF is to be deposited in the RPTTF and as a part of fund balance is available to fund any required distribution.
- ii. **Do Not Deposit Other Moneys Received from Successor Agencies into the RPTTF.** See Section III C3 (page 26) Distributions of Other Moneys Received from Successor Agencies.

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### **b. Distributions from the RPTTF**

Distributions of the property tax revenues deposited into each former RDA's Property Tax Trust Fund (RPTTF) are to be made in this priority:

- Administration fees to Auditor for administering this bill & to the County Property Tax Administration fees (SB 2557 etc.)
- Pass-through Payments
- Obligation Payments on the ROPS that are required to be paid from Property Taxes
- Successor Agency Administrative Cost Allowance
- Invoices from the SCO for Audit & Oversight
- Residual Balance

Before any amounts other than property tax administrative fees due the Auditor-Controller/County are to be distributed out of the RPTTF, a series of calculations must be performed to determine whether the amounts to be distributed as pass-through payments exceed the cap put in place by this legislation.

In essence, if there is any residual amount to be distributed, the legislation limits an ATE's distribution to no more than the ATE's share of the residual distribution calculated as if no pass-through payment was made. Should an ATE's pass-through payment exceed this calculated amount it must be reduced. If, however, the pass-through payment is less than this limit, then the ATE is to receive an additional payment from the residual balance so that when added to the pass-through payment equals the calculated cap.

This cap scheme is to avoid situations where an ATE may become unjustly enriched at the expense of other ATEs. This **most** likely would affect those ATEs with very high negotiated pass-through agreements **(e.g. 100%)** and basic aid pass-through payments.

Perform the following calculations prior to making any distributions from the RPTTF: [See Distribution Model Exhibit C]:

- i. Administrative Fees: Before making any distributions, the auditor is first to deduct the following administrative fees (H&S §34183):
  1. A-C direct fees – The amount of costs incurred by the auditor to administer this part, including the costs to audit and the administration of the RPTTF.

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2. SB2557 – The amount of property tax administrative fees that is to be charged against the property tax revenues deposited into the RPTTF. Although not specified, administration fees for supplemental taxes (R&T §75.60) are not to be affected by this legislation.

### ii. Pass-through Payments

1. The Auditor is now to calculate and pay all pass-through payments due the affected taxing entities of the dissolved RDA including Negotiated, Statutory (AB 1290) and Inflation. While prior to dissolution the responsibility to calculate and pay Negotiated and Statutory pass-through payments rested with the former RDA, post dissolution this responsibility is transferred to the auditor rather than the former RDA's Successor Agency. (H&S 34183(a)(1))
2. Do not distribute the pass-through payments at this time as they may require further adjustments. See vi – **Residual Balance** for possible adjustment
3. Pass-through payments may or may not be reported on ROPS/EOPS.
4. ATE property tax shares for purpose of calculating the pass-through payments and possible adjustment required under H&S §34188(a) are:
  - a. To be determined on the current property tax allocation laws at the time of the calculation (H&S §34188(b))
  - b. To exclude the Sales and Use Tax Triple Flip (R&T §97.68) and the VLF Swap (R&T §97.70). (H&S 34188(b))
  - c. For school entities, including ERAF as defined as R&T §95(f)

### iii. Recognized Obligation Payments

1. Distribute amounts to Successor Agency's *Recognized Obligation Retirement Fund* (RORF). This distribution is limited to the sum of the obligation payments noted on the Oversight Board approved *Recognized Obligation Payment Schedule* (ROPS) that are required to be paid from property taxes. (H&S) 34183(a)(2)

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2. The ROPS covers six month periods beginning Jan 1 2012 through June 30, 2012 and are to be filed with the Auditor so that January 16 distribution funds the January-June period and the June 1st distribution funds the July-Dec period.
  3. Items on the ROPS are to be funded in this priority:
    - a. Debt service on tax allocation bonds.
    - b. Payment on revenue bonds where revenues pledged are insufficient and agency's tax increment revenue is pledged.
    - c. Payments on other debt listed on ROPS that are required to be paid by TI.
  4. Differences between actual payments made and the estimated obligations on the ROPS must be reported on the subsequent ROPS. The Auditor-Controller shall adjust the amount to be transferred to the Successor Agency for deposit into its RORF for payments listed on its ROPS. The amounts and accounts shall be subject to audit by auditor-controllers and the SCO. (H&S §34186)
- iv. Successor Agency's Administrative Cost Allowance  
H&S §34171
1. Based on authorization by the Oversight Board, pay the Successor Agency administrative cost allowance per H&S §34171(b).
    - a. For Fiscal Year 2011-12 only the administrative cost allowance is limited to 5% of the amounts of revenues allocated to the Successor Agency.
    - b. For Fiscal Year 2012-13 and following, the administrative cost allowance is limited to 3% of the amounts of revenues allocated to the Successor Agency's RORF, with a minimum of \$250,000, or lesser amount if agreed to by the Successor Agency.
    - c. The allowance must exclude administrative costs that can be paid out of bond proceeds or sources other than property taxes.

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- v. SCO Billings *H&S §34183(d)* – Before distributing the Residual Balance (See vi. below) pay any invoices presented by the SCO for their costs of audit and oversight.
- vi. Residual Balance: Twice a year on a January 16<sup>th</sup> and June 1<sup>st</sup> cycle distribute the residual balance of the RPTTF to local agencies and school entities per *H&S §34188.(a)* School entities include K-14 districts, ERAF, and county departments of education.

The calculation of the Residual Balance requires a test to determine if the pass-through payments calculated under Section ii above need to be adjusted.

The balance of the RPTTF after distributions required above in sections 1.i. through 1.iv, is calculated as follows:

- a. Step 1 Determine the amount of RPTTF to be distributed. This is the actual amount of cash available for distribution after distributions for items i. through v. above.
- b. Step 2 Determine the amount available to be distributed after deducting the ROPS payments and Successor Agency's Administrative Cost Allowance (as if the pass-through payments were not yet paid).
  - i. Take the balance of the RPTTF after paying administration fees to Auditor, County and SCO.
  - ii. Subtract the amount of the ROPs payment.
  - iii. Subtract the amount of the Successor Agency's Administrative Cost Allowance.
  - iv. Subtract amounts of invoices presented by the SCO for Audit and Oversight. (*H&S 34183(d)*)
  - v. This amount is allocated to the Affected Taxing Entities by the ATE's proportionate share of property tax revenue in the TRA for that fiscal year. (*H&S 34188*)
- c. Step 3 Sum by Affected Taxing Entity (ATE) the amount of pass-through payments distributed from the RPTTF (under II.A.2 above).

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- i. If the total amount of pass-through payment for an ATE exceeds the amount determined for that ATE under 5b4 Step 2 above, then reduce the pass-through amount by the difference.

It is recommended that any adjustment to pass-through payments be posted as separate entries: one for the entire pass-through payment and second offsetting adjustment as required by this paragraph.

- ii. If the total amount of pass-through payment for an ATE is less than the amount determined for that ATE under 5b4 Step 2 above, then allocate the difference to the ATE as an additional payment.
  - iii. For those ATEs with no pass-through payments allocate additional payments equal to the amounts determined under 5b4 Step 2 above.
  - iv. Distribute the pass-through overages calculated under (1a) as reductions to those affected agencies and distribute the additional payment calculated under (2b) & (3c).
- d. While legislation is written as if the RDA is comprised of only a single TRA and is comprised of only one project area, for purposes of these guidelines it is recommended that:
    - i. Auditors may use weighted average TRA factors for project areas with more than one TRA.
    - ii. For RDAs with multiple project areas, the auditor should consider performing these calculations at the individual project area. In some circumstances (for example, when debt is issued over multiple projects areas) a combined approach may be appropriate.

### vii. Insufficient funds

1. If the Successor Agency reports to the auditor-controller that there is not enough money in the RORF (*H&S §34183(b)*), from other funds transferred from the RDA, or from asset sales and all redevelopment operations to make the distributions required in sections 1.i. through

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1.iv. in each six month fiscal year period according to the ROPS, the auditor-controller shall:

- a. Notify the SCO and DOF within 10 days of notification from the Successor Agency,
- b. Verify that there are insufficient funds and report the findings to the SCO.

2. The Successor Agency must report to the auditor-controller that there are insufficient funds no later than December 1, 2011, and May 1, 2012, and each December 1 and May 1 thereafter.

3. If the SCO concurs that there is insufficient funds, the amount of deficiency shall be deducted as is available from the following sources in the following order:

- a. From the amount to be distributed related to any residual balance determined in section 1.v. above,
- b. From the amount to be distributed for the Successor Agency administrative cost allowance as determined in section 1.iv. above
- c. From the amount to be distributed for pass-through payments as determined in section 1.ii. above, if the RDA made the pass-through payment obligations subordinate to debt service payments required for enforceable obligations, and only for servicing bond debt.

viii. **"Wind Down" Reduction Amount - H&S Section 34187**

As currently written, the legislation contains a wind down provision that requires the amount of Tax Revenues (former TI) going to the Successor Agency to be methodically reduced as obligations on the ROPS are satisfied.

This section requires that as an obligation listed on the ROPS is paid off or retired, the property tax revenue that would have been used for the payment of that obligation is to be distributed to taxing entities in the same manner that property tax would be apportioned per R&T. This would be cumulative in effect, meaning as more obligations are satisfied, the less Tax Revenues would be distributed to the RPTTF.

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In practical terms this is to be implemented as a Tax Increment Cap.

This could create problems with having sufficient tax revenues remaining in the RPTTF to satisfy the payments for obligations on the ROPS in situations where the payment requirements for the remaining debt increase upon the payoff of other debt. The clean-up legislation SBx1 8 (approved by the legislature but vetoed by the Governor) attempted to address this issue by adding a provision that this wind down was limited to the extent it doesn't impair the ability to make required ROPS payments.

Accordingly, if and until future legislation declares otherwise, it is interpreted that this provision is to be implemented to the extent that it does not impair the ability to make the required ROPS payment. This means auditors may have to do multiple and iterative calculations of initial amounts of Tax Revenue, the reductions for satisfied obligations, net Tax Revenue to be deposited into RPTTF and the subsequent distributions to determine if sufficient balances remain to satisfy the ROPS distribution requirement. This process may have to be repeated multiple times before any distributions are actually made to ensure any adjustments to "wind down" reduction of tax revenue under H&S §34187 is necessary.

- ix. Differences in estimated and actual payments on the ROPS are to be reported by Successor Agencies on subsequent ROPS and shall adjust ("true-up") the amounts to be transferred to the RORF. H&S Section 34186. Both the Auditor-Controller and SCO have authority to audit the estimates and actual amounts H&S Section 34186.

### c. Reporting

- i. Estimated amounts to be distributed from the RPTTF §34182(c)(3) are due each Nov 1 and May.
- ii. Actual amounts distributed are not currently required, but recommend that the same information required for the first year under H&S §34182(d) be continued to be reported annually by Oct 1.

**3. Distributions of Other Moneys Received from Successor Agencies**

- a. The auditor is required to distribute other moneys received from the Successor Agency as it wraps up the affairs of the former RDA. These moneys could be the Proceeds from Asset Sales (H&S §34177(e)) and Unencumbered Fund Balances (H&S §34177(d)) submitted by the Successor Agency

These other moneys are not to be deposited into the RPTTF as the legislation also does not specifically allow it. Furthermore, it has been interpreted that the RPTTF is restricted for only the administration of Property Tax Revenues (Tax Increment that would have gone to former RDA). Accordingly, other moneys if not distributed as of the date of receipt by the auditor will need to be deposited into another trust/clearing fund administered by the auditor

- b. These moneys are to be distributed under the methodology set forth under H&S §34188 which requires the distribution to be based upon each ATE's proportional share of property tax revenues in the tax rate area(s) in that fiscal year.

1. ATE property tax shares for purpose of calculating the pass-through payments and possible adjustment required under H&S §34188(a) are:

a. To be determined on the current property tax apportionment laws at the time of the calculation (H&S §34188(b))

b. To exclude the Sales and Use Tax Triple Flip (R&T §97.68) and the VLF Swap (R&T §97.70). (H&S §34188(b))

2. Calculate Factors based on Property Taxes that would have gone to ATE had it not been for the RDA. Do not use the TRA allocation factors as these only reflect the proportionate share of future taxes to be allocated.

- c. The legislation does not specify the timing of these other distributions. However, it is suggested that they be performed by the auditor as of the same day the other revenues are received. Otherwise, the other moneys will need to be deposited into another trust/clearing fund.

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**4. Relationship with SCO & Their right of review H&S §34182(f) - TBD**

**5. Effects on other Property Tax Administration functions**

- a. Starting January 1, 2012, the ROPS supersedes the Statement of Indebtedness (SOI), which no longer needs to be prepared (H&S §34177(a)(3) for those RDAs under the Dissolution Act.
- b. No specific changes are required to county's current property tax distribution cycles by this legislation. However, if current processes would not allow sufficient amounts of property tax revenues (TI) to be deposited timely enough to make the required distribution dates a county may need to modify its processes. Any county that does not apportion Tax Increment in approximately even amounts during the fiscal year may be affected.

**6. Reporting Requirements**

The following reporting is required of the Auditor-Controller:

To Be Reported	Deadline	Report To
Estimates of amounts to be allocated and distributed out of the property tax revenues deposited into the RPTTF H&S §34182(c)(3)	November 1 and May 1 of each year	ATEs receiving distributions DOF
Property Tax Revenues or Sums Remitted or Paid: -To the RPTTF related to each former RDA -To each agency receiving pass-through payments -To each Successor Agency for payments on the ROPS -To each Successor Agency for the administrative cost allowance -To each ATE for any residual balance -Any amounts deducted from other distributions due to insufficient funds H&S §34182(d)(1-6)	October 1, 2012  One Time Only per RDA entering Dissolution  Recommend this be continued annually after first year	SCO DOF  And as a courtesy: Successor Agency & ATEs
Notification by Successor Agency of insufficient funds for ROPS payments H&S §34183(b)	Within 10 days of Notification by Successor Agency	SCO DOF
Verification by A-C of insufficient funds for ROPS payments H&S §34183(b)	After verification of insufficient funds	SCO

**IV- Key dates**

On and after **October 1, 2011**, 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.

From **October 1, 2011, 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.

By **December 15, 2011**, for the period of **January 1, 2012, to June 30, 2012** inclusive submit the first Recognized Obligation Payment Schedule to the Controller's office and the Department of Finance.

Commencing on **January 1, 2012**, 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.

Commencing **January 1, 2012**, 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.

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.

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### IV- Key dates

On and after **October 1, 2011**, 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.

From **October 1, 2011, 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.

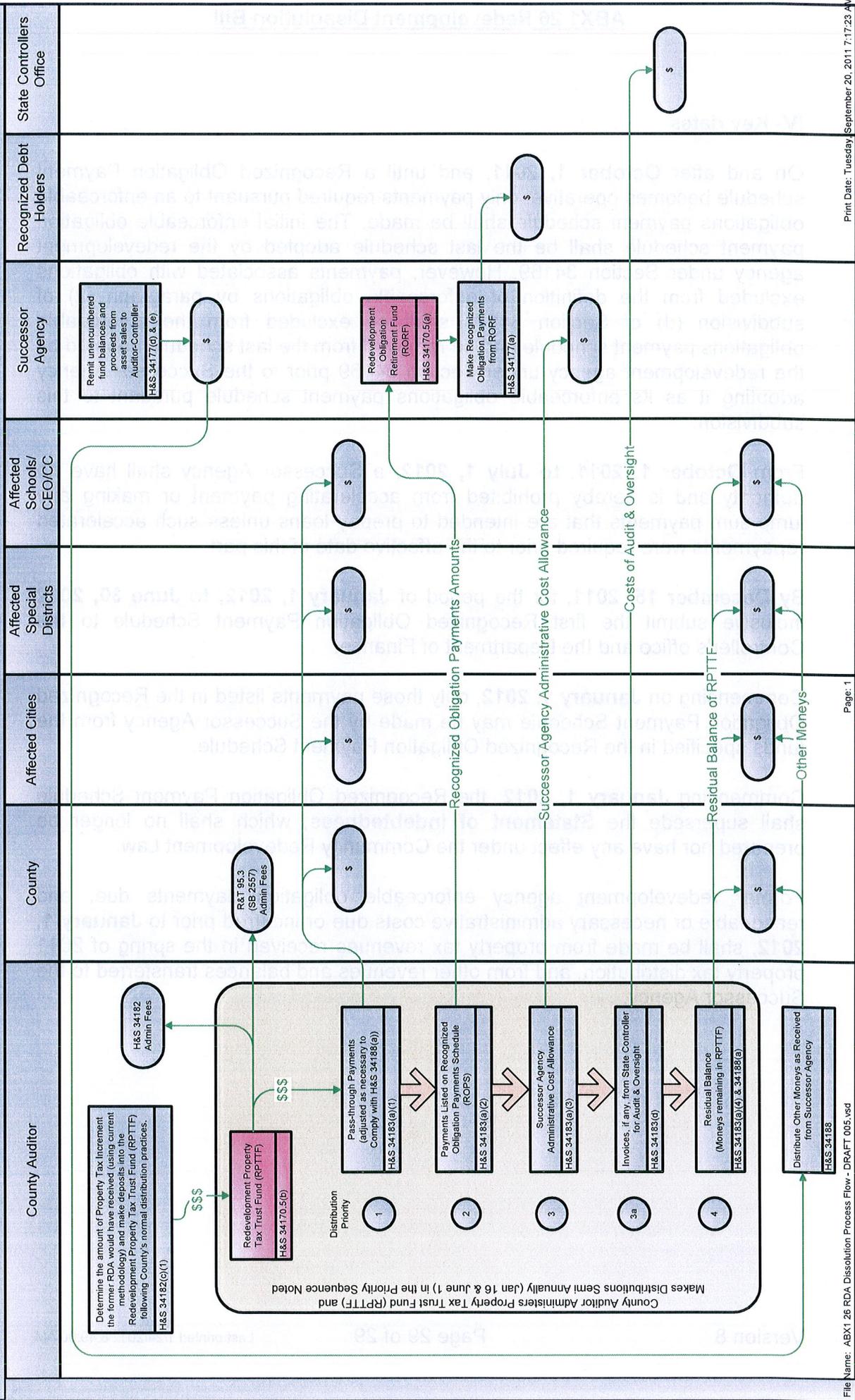
By **December 15, 2011**, for the period of **January 1, 2012, to June 30, 2012** inclusive submit the first Recognized Obligation Payment Schedule to the Controller's office and the Department of Finance.

Commencing on **January 1, 2012**, 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.

Commencing **January 1, 2012**, 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.

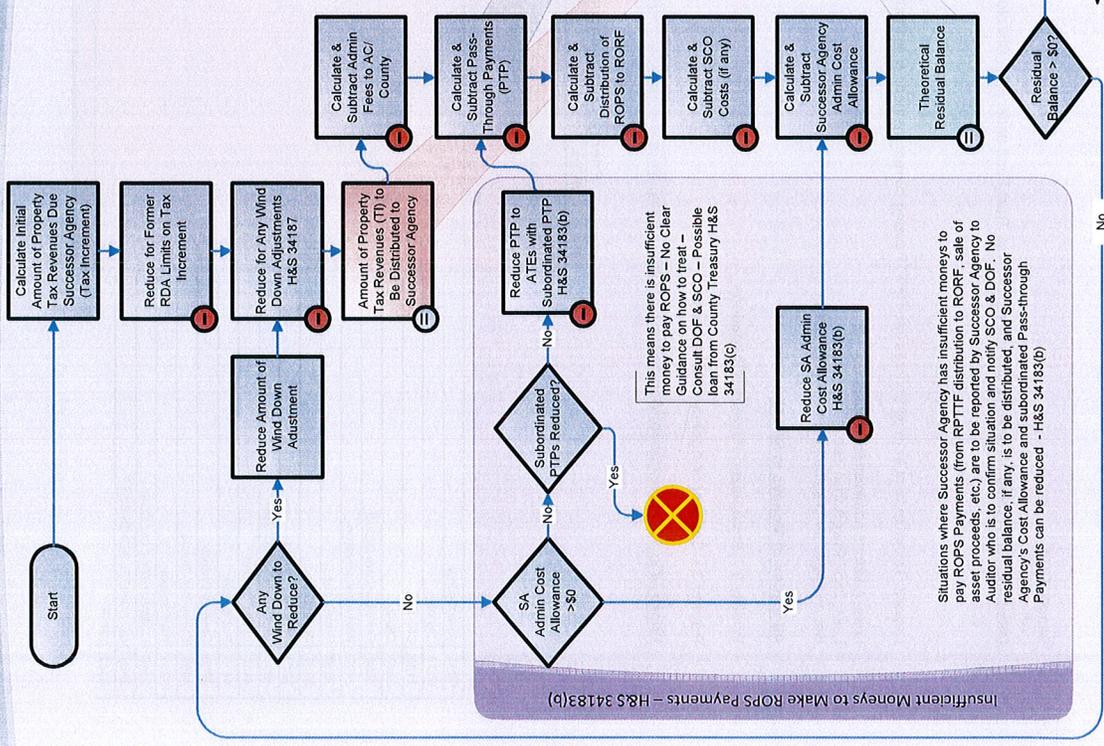
Former redevelopment agency enforceable obligation payments due, and reasonable or necessary administrative costs due or incurred prior to **January 1, 2012**, shall be made from property tax revenues received in the spring of 2011 property tax distribution, and from other revenues and balances transferred to the Successor Agency.

Exhibit A - ABX1 26 RDA Dissolution - Flow of Funds

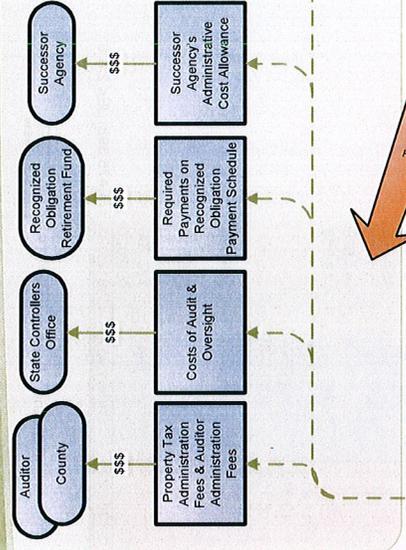


# Exhibit B – The Calculation Steps to Distribute the Moneys in the Redevelopment Property Tax Trust Fund (RPTTF) Under ABX1 26

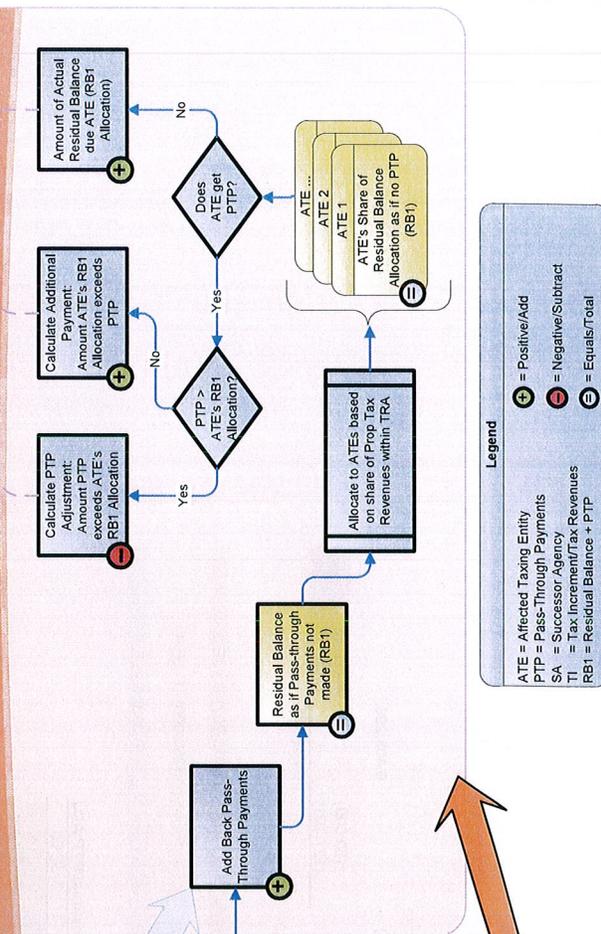
Step 1 – Calculate Residual Balance to Be Distributed & Amount of Property Tax Revenues (formerly TI) to Be Deposited into RPTTF



Step 3 – Make Actual Distributions from RPTTF



Step 2 – Calculate Pass-Through Payment Adjustments & Residual Balance Distributions – H&S 34188(a)(2)





Sample RDA

Distribution Model of Redevelopment Property Tax Trust Fund under RDA Dissolution Legislation ABX1.26

Deposit: Tax Increment from all Sources into RPTTF (using current methods & distribution cycles)  
 Less: Pass-through costs  
 2657 PTA Admin Fee  
 Net Available for Distribution under H&S 34183

H&S Code Reference	Amount
34182(c)(1)	6,408,286
34182(f)	(127,151)
34183	6,231,135
<b>FY 2011-12 +</b>	
34183(a)(1)	B1
34183(a)(1)	(317,999)
34183(a)(1)	(1,836,732)
34183(a)(1)	B2
34183(a)(1)	B3
	(2,154,732)
	B
34183(a)(2)	
	(1,455,737)
	C
34183(a)(3)	(250,000)
	D
34184(d)	(50,000)
	E
34183(a)(4)	2,320,656
	F
	6,231,135
	A
	(250,000)
	D
	(50,000)
	E
	4,475,388
	G

- Allocation of Moneys in RPTTF**
  - 1. Pass-through Payments to all entities
    - 1290 Statutory Payments under R&T 33607, 33607.5 and 33607.7
    - Inflation Payments (aka 2% Pmts) under R&T 33976
    - Negotiated Payments under R&T 33401
    - Payments under 33494 (4) (applies only to City of Novato RDA/ County of Marin)
  - 2. Recognized Payment Obligations
    - Debt Service Payments on Tax Allocation Bonds
    - Payments on Revenue Bonds, only to extent pledged revenues are insufficient and where former RDA's T1 was pledged
    - Payments on Recognized Payment Schedule for other obligations required to be paid from former Tax Increment

- Successor Agency Admin Costs (min of 3% of alloc to RPTTF or \$250k)**

- SCO Invoiced for Audit and Oversight - If any**

- Residual to be allocated under H&S 34188**

Net Available for Distribution under H&S 34183  
 Less: 34183(a)(2) - Recognized Payment Obligations  
 Less: 34183(a)(3) - Successor Agency Admin Fees  
 Less: 34184(d) - SCO Invoiced  
 Amount To Be Allocated as if no Pass-through Payments - H&S 34188(a)(1)

Distributions from RDA Property Tax Trust Fund to all taxing entities per H&S 34188

Entity	Calculate TRA Allocation Ratio	Allocation Ratio H / Σ H	Allocation "as if no Pass-through Pmt" G * I	Pass-through Payments Allocations Per Pertinent Code 34183(a)(1)	Pass-through Payment Adjustment 34188(a)(2)	Adjusted Pass-through Payment M = K + L	Additional Payment 34188(a)(2) N = J - M	Total Allocation from RPTTF O = M + N	Add'l Payment (N) + Pass-Through Pmt Adjustment (L) = Residual Cash to be Allocated (F)	Proof L + N = P
0001 Wme County	1,057,790	16.6626204%	745,719	1290 Statutory	PTP Adj	-	745,719	745,719	745,719	745,719
0632 City of	71,198	1.1110046%	49,723	-	-	-	49,723	49,723	49,723	49,723
2130 CS&T	0,000	0.0000000%	0,000	-	-	-	0,000	0,000	0,000	0,000
2135 City of	30,641	0.4718188%	21,389	-	-	-	21,389	21,389	21,389	21,389
2200 Fire Protection District	649,896	10.1430489%	453,941	-	-	-	453,941	453,941	453,941	453,941
2600 Water Conservation	14,928	0.2329439%	10,425	-	-	-	10,425	10,425	10,425	10,425
2610 Flood Zone	63,814	0.9658001%	44,566	-	-	-	44,566	44,566	44,566	44,566
3050 Water District	19,056	0.2873592%	13,308	-	-	-	13,308	13,308	13,308	13,308
3270 Cemetery District	14,773	0.2305540%	10,317	-	-	-	10,317	10,317	10,317	10,317
4090 METRO TRANSIT DIST	13,516	0.2109131%	9,439	-	-	-	9,439	9,439	9,439	9,439
4100 Vector Control	10,190	0.1590193%	7,117	-	-	-	7,117	7,117	7,117	7,117
4210 Rec & Park	2,400	0.0374878%	1,680	-	-	-	1,680	1,680	1,680	1,680
5000 Sheriff District	1,705,978	26.8370024%	1,192,112	240,630	(72,360)	168,050	285,324	1,477,436	1,477,436	1,477,436
5030 Sheriff District	1,705,978	26.8370024%	1,192,112	141,650	(514,666)	1,192,112	285,324	1,477,436	1,477,436	1,477,436
8001 High School	285,338	4.5103774%	201,857	66,577	-	66,577	508,518	508,518	508,518	508,518
8010 COMMUNITY COLLEGE	285,038	4.5103774%	201,857	23,987	-	23,987	508,518	508,518	508,518	508,518
8901 CO SCHOOL ADMIN/CSRF	198,589	3.0989366%	138,680	23,987	-	23,987	508,518	508,518	508,518	508,518
8902 ERFAC	810,904	12.6539655%	566,315	67,295	-	67,295	633,610	633,610	633,610	633,610
		100%	4,475,388	581,357	-	581,357	4,475,388	4,475,388	4,475,388	4,475,388
			G	B1	B2	B3	B	G	F	F

Sample RDA

Preliminary Model of Proposed RDA Dissolution Legislation ABX1 26 - Apportionment of Other Moneys

**Allocation of Moneys Received from Successor Agency**

A) Amount Received from Successor Agency from Sale of Assets		H&S 34177(e)	
- Asset 1		200,000	
- Asset 2		50,000	
<b>Total Proceeds from Asset Sales</b>			<b>250,000 A</b>
B) Amounts Received from Successor Agency for Unencumbered fund balances		H&S 34177(d)	
- Pmt 1		125,000	
- Pmt 2		30,000	
<b>Total Funds Received for Unencumbered fund balances</b>			<b>155,000 B</b>
C) Other Amounts Received from Successor Agency for Distribution		H&S 34177(e)	
- Other Pmt 1		5,000	
- Other Pmt 2		2,500	
<b>Total Other Amounts Received for Distribution</b>			<b>7,500 C</b>
<b>Total Other Moneys to be Allocated under H&amp;S 34188</b>			<b>412,500 D</b>

	TRA Allocation Ratios 34188		Allocation of Total Amounts Received from Successor Agency for Distribution	
	E Property Tax Dollars from TRAs	F = E / Σ E Territory Ratio %	G = D * F	D * F
0001 Wine County	1,067,790	16.6626204%	68,733	
0632 City of	71,198	1.1110346%	4,583	
2120 CSA1	-	0.0000000%	-	
2220 CS&2	30,641	0.4781488%	1,972	
2280 Fire Protection District	649,966	10.1430408%	41,840	
2400 Water Conservation	14,528	0.2329439%	961	
2610 Flood Zone	63,814	0.9958001%	4,108	
3050 Water District	19,056	0.2873592%	1,227	
3270 Cemetery District	14,773	0.2306340%	951	
4090 METRO TRANSIT DIST	13,516	0.2109131%	870	
4160 Vector Control	10,190	0.1590193%	656	
4410 Rec & Park	240,630	3.7549787%	15,489	
4900 Sanitary District	379,916	5.9285084%	24,455	
6801 Elementary School	1,706,978	26.6370024%	109,876	
8201 High School	826,338	12.8948107%	53,191	
9610 COMMUNITY COLLEGE	289,038	4.5103774%	18,605	
9801 CO SCHOOL ADMIN CSSF	198,589	3.0989386%	12,783	
9802 ERAF	810,904	12.6539695%	52,198	
	<b>6,408,296</b>	<b>100%</b>	<b>412,500</b>	<b>D</b>

MATRIX OF IMPORTANT DATE  
 BX1 26 - Redevelopment Dissolution Act

Date	Supreme Court Revised Dates	H & S Code Reference	Guideline Section Reference	Task	RDA	Sponsoring Community/ Successor Agency	DOF	County Auditor-Controller	COE	State Controller	Governor
9/1/2011	1/13/2012	\$34173(d)(1)		Sponsoring Community of dissolved RDA who does not want to serve as successor agency, must file resolution with A-C.		●					
8/30/2011 or by 8/30 of year agency becomes subject to this part		\$34169(g)(1) and \$34169.5 (2)	Section II B	Adopt an EOPS	●						
9/30/2011	1/30/2012	\$34169(b)(2)	Section II B	Prepare preliminary draft of initial Recognized Obligation Payment Schedule and provide to Successor Agency	●						
10/1/2011	2/1/2012	\$34171(e)(1)	Section II A	RDA's are Dissolved, Successor Agencies designated	●	●					
10/1/2011	2/1/2012	\$34175(b)	Section II C	All assets, properties, contracts, leases, books and records, buildings and equipment of the former RDA are transferred to the control of the Successor Agency		●					
10/1/2011	2/1/2012	\$ 34170.5(e)	Section III A	Create Redevelopment Obligation Retirement Fund		●		●			
10/1/2011	Commencing 2/1/2012	\$34167.5		State Controller to review the activities of asset transfers occurring after 01/01/2011 between RDA & city/county/public entity; if transfer is not contractually committed, the State Controller should order the available assets to be returned to the RDA or after 02/01/2012 to the successor agency.						●	
10/1/2011	2/1/2012	\$ 34170.5(b)	Section III A	Create Redevelopment Property Tax Trust Fund (RPTTF) for each dissolved RDA.				●			
11/1/2011	3/1/2012	\$34177 (1) (2)(A)(B)(C)	Section II C	(f) Initial draft of the Recognized Obligation Payment Schedule (ROPS) shall be reviewed and certified, as to its accuracy, by an external auditor. (h) The certified ROPS is submitted to and duly approved by the Oversight Board. (iii) A copy of approved ROPS is submitted to the County auditor-controller, State Controller's Office and the DOF and is posted on the Successor Agency web site.		●					
Annually 11/1 and May 1	3/1/2012 & 5/1/2012, each 11/1 & 5/1 thereafter	34182(c)	Section III C	Provide estimates of amounts to be allocated and distributed to entities receiving distributions and DOF.				●			
12/1/2011 and May 1, 2012 and each 12/1 and 5/1 thereafter	4/1/2012 & 5/1/2012, each 12/1 & 5/1 thereafter	\$34183(b)	Section III C 2	Reports to A-C that insufficient funds in RORF				●			
Beginning 12/1/2011 and May 1, 2012 and each 12/1 and 5/1 thereafter	Beginning 4/1/2012 & 5/1/2012, each 12/1 & 5/1 thereafter	\$34183(b)	Section III C 6	(i) Notify the SCO and DOF within 10 days of notification of insufficient funds from Successor Agency. (ii) Verify that there are insufficient funds and report findings to the SCO.				●			
12/15/2011	4/15/2012	34177(1)(3)	Section II C	Submit the first Recognized Obligation Payment Schedule (ROPS) to the Controller's Office and the DOF.		●					
1/1/2012	5/1/2012	34177(a)(3)	Section II C	Recognized Obligation Payment Schedule (ROPS) supersedes the Statement of Indebtedness, which no longer needs to be prepared for dissolved RDA's.		●					
1/1/2012	5/1/2012	\$34177(3)	Section II C	Payments listed on ROPS may be made by Successor Agency		●					

MATRIX OF IMPORTANT DATE  
 ABX1 26 - Redevelopment Dissolution Act

Date	Supreme Court Revised Dates	H & S Code Reference	Guideline Section Reference	Task	RDA	Sponsoring Community/Successor Agency	DOF	County Auditor-Controller	COE	State Controller	Governor
1/1/2012	5/1/2012	\$34179(a)	Section II E	Names of Oversight Board provided to DOF		●					
1/1/2012	5/1/2012	\$34187	Section III C	Distribute to Taxing Entities all property tax revenues associated with retired debt from the Recognized Obligation Payment Schedule.				●			
1/15/2012	5/15/2012	\$34179(b)	Section II E	Governor appoints vacant positions to Oversight Board							●
Annually on 1/16 and 6/1	5/16/2012 / 6/1/2012, each 1/16 & 6/1 thereafter	34183 (a)(1)(2)(3)(4)	Section III C2	Distribution from the RPTTF in the priority: (i) Administrative Fees & audit fee to County Auditor-Controller; (ii) Pass-through Payment to the affected taxing entities of former RDA; (iii) Recognized Obligation Payments to Successor Agency's Recognized Obligation Retirement Fund (RORF); (iv) Successor Agency's Administrative Cost Allowance under H&S 34171; (v) SCO Billings under H&S 34184(d); (vi) Residual Balance of the RPTTF to local agencies and school entities				●			
Annually on 1/16 and 6/1	5/16/2012 / 6/1/2012, each 1/16 & 6/1 thereafter	\$34185	Section III C2b	Transfer from the RPTTF to each successor agency's RORF				●			
Annually on 1/16 and 6/1	5/16/2012 / 6/1/2012, each 1/16 & 6/1 thereafter	\$34186	Section III C	Difference between actual payments and estimated obligations on ROPS must be reported in subsequent ROPS and adjust the amount to be transferred to the RORF				●			
3/1/2012	7/1/2012	\$34182(a)(1)	Section III B	Conduct an Agreed Upon Procedure Audit of each RDA being dissolved within the County, completed by 7/1/2012.				●			
3/15/2012	7/15/2012	\$34182(b)	Section III B	Provide SCO with copy of audit report conducted above				●			
Semi-Annually Before July 1st and January 1st		\$34177(1)(1)	Section II C	Prepare ROPS for each 6 month period of each Fiscal Year		●					
Annually		\$34177(1)	Section II C	Prepare and submit administrative budget to Oversight Board for Approval		●					
7/1/2016		\$34179(1)	Section II C	Reduce Oversight Boards to one for all RDAs within a county		●					
10/1/2012		\$34182(d)	Section III C6	Report for first year ending 6/30/2012 the following information to the State Controller's Office and DOF: (1) Property Tax Revenues deposited to the RDA Property Tax Trust Fund (RPTTF), (2) Pass-through payments made to Affected Taxing Entities, (3) Recognized Obligation Payment Schedule (ROPS) payments remitted to Successor Agencies, (4) Administrative Cost Allowances paid to Successor Agencies, (5) Residual amounts distributed to Affected Taxing Entities, (6) Any reductions to distributions due to insufficient moneys available to satisfy enforceable obligations.				●			

**Exhibit G**

**Definition of Terms**

**Administrative Budget** – budget for administrative costs of successor agencies provided in H&S §34177. The following are some of the activities for which successor agencies may be entitled for the payment of administrative costs: implementation/payment of enforceable obligations or those items in the Recognized Obligation Payment Schedule; prepare or provide documents to DOF and SCO as requested; maintain reserves required by indentures or agency bonds; dispose of assets as directed by Oversight Board, etc..(H&S 34171 (a))

**Administrative Cost Allowance** – administration fee approved by the Oversight Board paid from property tax revenues to Successor Agency. For FY 2011-12 this allowance is up to 5% of the property tax allocated to Successor Agency; for FY 2012-12 and thereafter, this amount is up to 3% of property tax allocated to Redevelopment Obligation Retirement Fund. Minimum payment is \$250,000 and excludes administrative cost paid out of bond proceeds or from sources other than property tax. (H&S §34171 (b))

**Affected Taxing Entities (ATE)** – cities, counties, a city and county, special districts, and **school entities** (includes ERAF see below) that are within in a RDA project area and consequently share property taxes derived from the project area with the RDA.

**Designated Local Authority** – is a public body formed with all the powers and duties of a Successor Agency when neither a sponsoring entity nor a local agency becomes a successor entity. (H&S §34173(d)(3))

**Enforceable Obligation** – refers to the following:

- Bond issued by the former RDA
- Loans borrowed by the RDA
- Payments required by federal, state, and agency's employees related commitments such as pensions, UI, and other CBA obligations
- Judgments and settlements entered by a court of law
- Any legally binding and enforceable agreement or contract not otherwise void as violating debt limit or public policy
- Contracts or agreements necessary for the administration or operation of the Successor Agency

**Enforceable Obligation Schedule (EOS)**- The schedule of Enforceable Obligations prepared and adopted by the RDA within 60 days of the effective date of the bill or within 60 days of entering dissolution.

## **ABX1 26 Redevelopment Dissolution Bill**

**Indebtedness Obligation** – bonds, notes, certificates of participation, or other evidence of indebtedness, issued or delivered by the RDA, or by a joint exercise of powers authority created by the RDA, to third party investors or bondholders to finance or refinance redevelopment projects undertaken by the RDA.

**Oversight Board** – an appointed body comprised of 7 members selected by the county's Board of Supervisors, city mayor, county superintendent office of education, Chancellor of California Community Colleges, special district, and from the recognized employee organization representing the former employees of the RDA. The Oversight Board provides direction to the Successor Agency's activities in winding down the affairs of the former RDA.

**Recognized Obligations** – obligation listed in the Recognized Obligation Payment Schedule

**Recognized Obligation Payment Schedule** – the document which sets the minimum payment amounts and due dates of payments required by enforceable obligations for each six-month fiscal period per H&S §34177. Please see the definition of Enforceable Obligation to identify some of the items which may be included in this payment schedule. Also, effective January 1, 2012, this schedule supersedes the Statement of indebtedness which shall no longer be prepared. H&S §34177(a)(3).

**Residual Balance** – The actual cash balance if any in the RPTTF remaining after all other required distributions under H&S 34183 have been made for the period.

**School Entity** – school districts, community college districts, the Educational Revenue Augmentation Fund, and the county superintendent of schools (R&T §95(f))

**Sponsor Community** – the city, the county or the city and county that created the RDA.

**Successor Agency** – the cities, counties, a city and county that authorized the creation of each redevelopment or another entity as provided in H&S §34173

**"Wind Down" Reduction Amount (33487)** – the amount that Tax Revenues due Successor Agencies are to be reduced for obligations on the ROPS that have been paid-off, retired or other satisfied.