



**AB 1484:**

***HOW IT WILL IMPACT CITIES  
AND WHAT YOU NEED TO  
KNOW***

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2012




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**OVERVIEW**

- ◆ On June 27, 2012, the Governor signed Assembly Bill 1484.
- ◆ As with all trailer bills, AB 1484 went into effect immediately.
- ◆ AB 1484 makes substantive amendments to ABx1 26, the bill enacted on June 28, 2011 that directed the dissolution of all California's redevelopment agencies.




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**MAJOR PROVISIONS**

- ◆ Successor agency must make 3 payments:
  - July 12: Taxing entities' share of December 2011 property tax distribution to redevelopment agency/successor agency. (Excess reserve payment).
  - November 9+/-: Low-Moderate Income Housing Fund.
  - April 10 +/-: Unobligated funds in other accounts.
- In addition, if successor agency did not make complete 2011-12 pass-through payments, amount of payment not made will be deducted from property tax distribution from auditor-controller.




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◆ **New Audit by October 1: Successor agency must retain licensed accountant to audit books:**

- Audit of LMIHF.
- Audit of cash assets.
- Audit of cash transfers to public agencies and private parties.
  - Successor agency must attempt to recover cash transferred to public agency without an enforceable obligation.
- Agreed-upon procedures audit completed by ACO can substitute for the licensed accountant audit if it includes all statutory requirements.




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◆ **New Penalties:**

- Failure to make July 12 payment: successor agency subject to civil penalty of 10% of the amount owed plus 1.5% of the amount owed for each month that payment is not made unless the DOF finds that payment of penalty will jeopardize payment of enforceable obligations. Until payment is made, successor agency may only pay bond debt.
  - City subject to same civil penalty. City will not receive July 18 sales tax payment (up to amount owed). (Section 34183.5(b)(2)).
- Failure to transfer LMIHF funds: Offset of city sales tax or property tax of the amount required to be transferred. (Section 34179.6(h)).
- Failure to recover cash transferred to local agency without enforceable obligation: Offset of sales tax or property tax of the local agency to which the cash was transferred. (Section 34179(h); 34179.8).
- Failure to submit ROPS by September 1, 2012 and subsequent deadlines: City to pay civil penalty of \$10,000 per day for each day beyond deadline.




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◆ **Safe Harbor: Finding of Completion (FOC). (Section 34191.1).**

- DOF will issue a finding of completion to a successor agency that pays the following amounts:
  - The amount (if any) owing to taxing entities from the December 2011 property tax payment. (Section 34183.5).
  - The amount determined in the audit of the LMIHF (Section 34179.6).
  - The amount determined in the audit of all other funds (Section 34179.6)
- Upon issuance of a FOC:
  - Loan agreements entered into between the RDA and the city are deemed to be enforceable obligations if oversight board makes a finding that loan was for legitimate redevelopment purposes. As enforceable obligations, payments are listed on ROPS.
    - DOF continues to retain final authority to approve items listed on ROPS.




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- Repayments of loans may not begin prior to 2013-14 FY at maximum repayment amount described in statute. Twenty percent of any loan repayment shall be deducted from the loan repayment amount and shall be transferred to the LMIHAF after all outstanding loans from the LMIHF for the purposes of the SERAF have been paid. (Section 34191.4(b)).
- Bond proceeds derived from bonds issued on or before 12/31/10 shall be used for purposes for which bonds were sold. Proceeds which cannot be spent consistent with bond covenants shall be used to defease the bonds or to purchase those same outstanding bonds on the open market for cancellation. (Section 34191.4(c)).

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- Real property assets: In lieu of AB 26 provisions requiring disposal of real property assets at the direction of oversight board, successor agency prepares long-range property management plan and submits to oversight board and DOF for approval. If plan directs use or liquidation of property for a project identified in an approved redevelopment plan, property shall transfer to city.
  - No transfers until plan approved by oversight board and DOF. (Section 34191.5)
  - Plan must be submitted to the OB and DOF within 6 months following issuance of FOC.
- Statute of Limitations: The longer statutes of limitations (2 years) to challenge actions of the former redevelopment agencies do not apply. (Section 33500, 33501).

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- ♦ New Power of State Controller (Section 34178.8).
  - AB 1484 directs the Controller to review the activities of successor agency to determine whether an asset transfer occurred after 1/31/2012, between the successor agency and the city or county that created the redevelopment agency, or any other public agency that was not pursuant to an enforceable obligation on an approved ROPS.
  - The Controller is directed to order the assets returned to the successor agency.

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◆ Increase in Authority for Department of Finance.

- DOF may eliminate or modify any item on an oversight board-approved ROPS. The auditor-controller must distribute property tax in accordance with changes made to the ROPS by DOF. If successor agency disputes DOF action, disputed item may be carried on ROPS. If dispute resolved in favor of successor agency in the future, the past allocation of property tax to the successor agency is not changed nor is a "liability" created for any affected taxing entity. (Section 34179(h)).
- DOF may review and object to oversight board actions approving:
  - (1) establishment of new repayment terms for outstanding loans;
  - (2) setting aside amounts in reserves as required by bond indentures, and similar documents. (Section 34181(f)).

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◆ New Restrictions on Authority of Successor Agency.

- No new enforceable obligations except:
  - (1) as specifically authorized by the statute;
  - (2) in compliance with enforceable obligations that existed prior to June 28, 2011; or
  - (3) to hire staff, acquire professional services and procure insurance. (Section 34177.3).
- May not transfer revenues or powers to any other public or private party except pursuant to enforceable obligation on approved ROPS. Any such transfer of authority or revenues are "void" and successor agency required to reverse transfers. Controller may audit and order return of transfers of authority or revenues. (Section 34177.3(c)).

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- Actions taken by redevelopment agencies pursuant to VARP are "ultra vires" and do not create enforceable obligations. (Section 34177.3(d)).
- If successor agency exercised power to reenter into agreements with city (Section 34178) and agreement was approved by oversight board but rejected by DOF, successor agency and oversight board may not act to restore funding for the reentered agreement. (Section 34178(a)).
- No reestablishment of loan agreements between successor agency and city except pursuant to safe harbor provisions. (Section 34180(a)).

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◆ **Miscellaneous Provisions:**

- City loans to successor agency:
  - City may loan or grant funds for administrative costs, enforceable obligations or project-related expenses. Receipt and use of these funds shall be reflected on the ROPS or in administrative budget subject to oversight board approval.
  - Enforceable obligation is created for repayment of loans. (Section 34175(h)).
- Cost of professional administrative services and legal counsel necessary to winding down the RDA is not part of administrative cost allowance.
- New Oversight Board Provisions.
  - Auditor-controller may determine "largest special district". (Section 34179).
  - Section 1090 does not apply to employee representative on oversight board. (Section 34179).
  - Oversight board members are protected by immunities applicable to public entities and public employees. (Section 34179(d)).

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- Meetings at which oversight board will consider disposal of successor agency assets or allow set-aside of reserves required by bond indentures requires 10 days' public notice. (Section 34181(f)).
- Written notice and information about all oversight board actions must be provided to DOF by electronic means. DOF has 40 (instead of 10) days to approve, reject, or modify oversight board item if DOF requests a review within 5 business days of OB action. (Section 34179(h)).
- OB may direct successor agency to provide additional legal or financial advice. (Section 34179(m)).

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- Authorized to contract with the county or other public or private agencies for administrative support. (Section 34179(o)).
- All actions taken by the OB shall be adopted by resolution (Section 34179(e)).
- On matters within its purview, decisions made by oversight board "supersede those made by the successor agency or the staff of the successor agency. (Section 34179(p)).

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- New Authority for auditor-controller (Section 34182.5):
  - A county auditor-controller can object to an item on the ROPS or to the funding source listed for an item on the ROPS.
    - Objections are sent to DOF to resolve.
- Polanco Act protection for successor agency:
  - Cleanup plans and liability limits of redevelopment agency transferred to successor agency and to housing entity, upon entity's request. (Section 34173(f)).
- Limited authority for successor agency to refinance existing debt. (Section 34177.4).
- Successor agency is separate public entity. (Section 34173(g)).

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## IMPORTANT DATES

- ♦ **July 9:** County auditor-controller notifies successor agency of amount of funds owing taxing entities based upon December 2011 property tax payment. (Section 34183.5(b)(2)(A)).
- ♦ **July 12:** Successor agency must make payment to auditor-controller for deposit into Redevelopment Property Tax Trust Fund and distribution to taxing entities. (Section 34183.5(b)(2)(A)).
- ♦ **July 16:** Auditor-controller distributes money received from successor agencies to taxing entities. Monies received after July 12 date distributed within 5 days of receipt. (Section 34183.5(b)(2)(A)).

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- ♦ **July 18:** City sales tax payment suspended if successor agency doesn't make July 12 payment. (Section 34183.5(b)(2)(A)).
- ♦ **August 1:** Successor housing entity must submit to DOF a list of housing assets that contains explanation of how assets meet criteria set forth in the law. DOF will prescribe format for list. DOF may object to any of the assets within 30 days. If after meet and confer, DOF continues to object, asset must be returned to the successor agency. (Section 34176(a)(2)). Definition of "housing asset" found at section 34176(e)). Entity assuming the housing functions must create a separate Low and Moderate Income Housing Asset Fund (Section 34176(d)).

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- ♦ **August 15 +/-:** Oversight board meets to consider ROPS for January 1, 2013 through June 30, 2013 which must be submitted to DOF by September 1.
- ♦ **September 1:** ROPS for January 1 2013 through June 30, 2013 must be submitted electronically to DOF after oversight board approval. DOF makes determinations within 45 days. Within 5 days of determination, successor agency may request additional review and meet and confer. (Section 34177(m)).
  - Future ROPS must be submitted to DOF 90 days prior to property tax distribution. City subject to civil penalty of \$10,000 per day for successor agency's failure to timely submit ROPS (Section 34177(m)(2)).
- ♦ **As soon as possible:** SA to hire accountant and conduct due diligence review of unobligated balances in LMIHF and other funds and submit for approval to OB.

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- ♦ **October 1:** Auditor-controller may provide notice to successor agency of any objections to items on January – June 2013 ROPS. (Section 34182.5).
- ♦ **October 1:** Successor agency submits to oversight board, county auditor-controller, State Controller, and DOF results of the review of the LMIHF conducted by the licensed accountant retained by SA. Note: licensed accountant must be approved by the county auditor-controller. (Section 34179.6(a)).
  - The requirement to retain a licensed accountant is found in section 34179.5 The audit provided by the county auditor-controller can be substituted for an audit by a licensed accountant if it contains the information required by Section 34179.5.

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- ♦ **October 1:** County auditor-controller completes agreed-upon procedures audit of each redevelopment agency. (Section 34182(a)(1)). Auditor-controller provides estimate of property tax payments to successor agency for upcoming six-month period. (Section 34182(c)(3)).
- ♦ **October 15:** Oversight Board must review, approve, and transmit LMIHF audit to DOF, auditor-controller. Note that oversight board must hold a public session to consider audit at least five business days prior to the meeting of oversight board in which LMIHF audit is considered for approval. (Section 34179.6(b) and (c)).
- ♦ **November 9:** Last day for DOF to complete review of LMIHF audit and report findings, determinations, and decision to overturn oversight board decision to allow retention of successor agency assets to the OB and SA. (Section 34179.6(d)).

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- ◆ **Within 5 business days of receipt of DOF final audit determination:** Successor agency may request meet and confer to resolve disputes with DOF findings on LMIHF audit. (Section 34179.6(e)). DOF must confirm or modify its determination and decisions within 30 days.
- ◆ **Within 5 business days of receipt of DOF final audit determination:** Successor agency to transfer LMIHF funds to auditor-controller. (Section 34179.6(f)).
- ◆ **Penalties for non-payment:** DOF may order an offset of sales and use tax or property tax allocations.
- ◆ **December 1:** Successor agency may report to auditor-controller that total amount of available revenues will be insufficient to fund enforceable obligations. (Section 34183(b)).
- ◆ **December 15:** Successor agency submits to oversight board, county auditor-controller, State Controller and DOF results of the review of all other fund and account balances by licensed accountant. (Section 34179.6(a)).

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**2013**




- ◆ **January 2:** Auditor-controller makes distributions of property tax for January – June 2013 ROPS. (Section 34183(b)).
- ◆ **January 15:** Oversight board must review, approve, and transmit other funds audit to DOF, auditor-controller. (Section 34179.6(a)).
- ◆ **March 3:** Successor agency submits ROPS for July 1, 2013 through December 31, 2013 to DOF after oversight board approval. (Section 34177(m)).
- ◆ **April 1:** County auditor-controller provides estimate of property tax payments to successor agency for upcoming six-month period. (Section 34182(c)3)).
- ◆ **April 1:** DOF completes review of other funds audit and reports findings, determinations, and decision to overturn oversight board decision to allow retention of successor agency assets to OB and SA. (Section 34179.6(a)).

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- ◆ **April 6+/-:** No later than 5 days after receiving DOF determination on other funds audit, successor agency may request meet and confer to resolve disputes with DOF findings. DOF must confirm or modify its determination and decisions within 30 days.
- ◆ **April 10+/-:** Successor agency to transfer other "cash and assets" audit payment to auditor-controller if meet and confer process complete. (Section 34179.6(f)). City sales tax/property tax may be offset for unfunded amounts.
- ◆ **May 1:** Successor agency reports to auditor-controller if total amount of available revenues will be insufficient to fund enforceable obligations. (Section 34183(b)).

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## POST-AB 1484 ISSUES

- ◆ Post-Redevelopment Attorney Working Group.
- ◆ Status of current litigation challenging legality of the true-up payment as violating Prop 1A and Prop 22 as well as the methodology used to calculate the payment.
- ◆ DOF Letter of 7/12/12: DOF no longer accepting revised ROPS or requests to reconsider denied items nor making any revisions to existing requests. Requests to reconsider denied or disputed ROPS items will be addressed in DOF's January through June 2013 ROPS review.
- ◆ Current Unresolved Issues.

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## QUESTIONS



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