POTENTIAL LEGISLATIVE AMENDMENTS
TO REDEVELOPMENT DISSOLUTION LAWS – AB 26 AND AB 1484
(updated as of February 6, 2013)

General notes:

*All section references below are to the California Health and Safety Code.

*Defined terms:

DOF = California Department of Finance
RDA = Redevelopment Agency
ROPS = Recognized Obligation Payment Schedule
RPTTF = Redevelopment Property Tax Trust Fund

Index of proposed legislative amendments by category:

I. SUFFICIENT FUNDS FOR ADMINISTRATIVE COSTS

Pertinent Section(s)	Description of Issue or Problem	Potential Legislative Amendment
34171(a), (b)	Commencing July 1, 2012, the administrative cost allowance is equal to only 3% of the RPTTF distribution to each successor agency's Redevelopment Obligation Retirement Fund for payment of enforceable obligations. This cost allowance is not a sufficient source of funds to cover all of a successor agency's reasonable administrative costs to ensure the orderly winding down of the former RDA's operations. This situation is in stark contrast to the provisions of the RDA dissolution laws that guarantee 100% reimbursement of the costs incurred by the DOF, the State Controller, and the county auditor-controllers related to the wind-down process. To the extent that a city is expected to expend its own funds to pay for administrative costs of its counterpart successor agency, the State Legislature has imposed an illegal, unfunded State mandate in violation of Article XIIIB, Section 6 of the California Constitution.	• Clarify that the administrative budget is not limited to the administrative cost allowance, given that Section 34171(b) allows administrative costs to be paid from bond proceeds and from other sources aside from property tax • Confirm that the administrative cost allowance shall exclude costs incurred by the successor agency pursuant to any agreement or contract that qualifies as an enforceable obligation under Section 34171(d)(1)(E), and that such costs may be paid using RPTTF distributions shown in the ROPS • Provide for a greater administrative cost allowance than 3%, if non-RPTTF sources of funding are insufficient to cover the costs shown in the administrative budget; as an example, a more reasonable administrative cost allowance would be 5% of <u>all</u> payments to be made by the successor agency for enforceable obligations during the applicable ROPS period, regardless of whether those payments will be made using RPTTF or non-RPTTF
34171(b)	The administrative cost allowance is calculated as 3% of the RPTTF distribution to the successor agency for payment of enforceable obligations. The amount of this RPTTF distribution may vary greatly from one 6-month period to the next 6-month period because payments on bond obligations are typically much larger in one 6-month period compared to the other 6-month period. When the bond payments are	• As stated above, provide for a greater administrative cost allowance than 3%, if non-RPTTF sources of funding are insufficient to cover the costs shown in the administrative budget • In addition, allow the successor agency to collect a higher RPTTF distribution in one 6-month period to hold as a reserve for payment of administrative costs

	relatively lower, the RPTTF distribution for that 6-month period is likewise lower, and the administrative cost allowance is thus lower. Each successor agency will experience a relatively greater deficiency in funding for administrative costs during the 6-month period in which the administrative cost allowance is lower.	anticipated in the next 6-month period, and to retain any leftover administrative costs from one 6-month period and expend them during the next 6-month period
34171(b)	The current provision clarifies that the administrative cost allowance excludes litigation expenses, but does not address other costs of legal representation for the successor agency. The costs of legal representation are inherently not "administrative" costs, regardless of whether such costs pertain to litigation.	Clarify that the administrative cost allowance shall exclude all legal costs of the successor agency and that such costs may be paid using RPTTF distributions shown in the ROPS
34171(b), 34179(c), (n)	Section 34179(c) enables the oversight board to direct successor agency staff to perform work in furtherance of the oversight board's duties and responsibilities. Section 34179(n) enables the oversight board to direct a successor agency to provide additional legal or financial advice for the oversight board's benefit. Section 34171(b) clarifies that the administrative cost allowance excludes litigation expenses, but does not address the costs of legal representation for the oversight board. The costs of legal representation are inherently not administrative costs. Also, any independent legal or financial advice provided to the oversight board will benefit all of the constituent local taxing entities who have appointees on the oversight board, such that the local taxing entities should share in those costs on a pro rata basis.	• Clarify that the administrative cost allowance shall exclude costs incurred by either the successor agency or the oversight board related to the oversight board's activities, and that such costs may be paid using RPTTF distributions shown in the ROPS • Clarify that the administrative cost allowance shall exclude the costs of legal and financial advice provided to the oversight board at its direction, and that such costs may be paid using RPTTF distributions shown in the ROPS
34171(a), (b), 34176(c)	No administrative cost allowance is clearly allocated for the benefit of the successor housing entity. To the extent that the successor housing entity or a counterpart city is expected to expend its own funds to pay for administrative costs of the	• Clarify that the administrative budget shall include the administrative costs of the successor housing entity created pursuant to Section 34176 • Clarify that the administrative costs of the successor

	successor housing entity, the State Legislature has imposed an illegal, unfunded State mandate in violation of Article XIIIB, Section 6 of the California Constitution.	housing entity may be paid for by RPTTF distributions if included in the applicable ROPS
34171(a), (b), (d)(1)(A), 34177(n)	Section 34177(n) requires the successor agency to cause the preparation of an annual postaudit of the financial transactions and records of the successor agency by a certified public accountant. In addition, the covenants governing many outstanding bond issuances, which are enforceable obligations under Section 34171(d)(1)(A), require the successor agency to prepare regular audits or financial statements or disclosures.	• Clarify that the administrative cost allowance shall exclude all costs incurred by the successor agency to cause preparation of the annual postaudit, as well as any audits or financial statements or disclosures required by existing bond covenants • Confirm that all such costs may be paid using RPTTF distributions shown in the ROPS [note that the DOF has given this confirmation in the context of ROPS 3, but there are no explicit statutory provisions on this point]

II. SUFFICIENT CASH FLOW FOR ENFORCEABLE OBLIGATIONS

Pertinent Section(s)	**Description of Issue or Problem**	**Potential Legislative Amendment**
34177(a)	Under the current provision, the successor agency is required to make payments due for enforceable obligations, and the payments must be listed in the approved ROPS governing the applicable 6-month period. This provision does not address the common scenario in which payments cannot necessarily be predicted to occur within a specific 6-month period. For instance, the date of closing of a loan transaction, or the date of phased loan disbursements, under an existing contract cannot always be predicted with certainty. Also, the timing and amount of invoices for professional services cannot generally be predicted with certainty. If the circumstances prevent the successor agency from making the full amount of an estimated payment during a particular 6-month period, the statutory provisions are ambiguous	Clarify that the successor agency is permitted to retain unexpended funds from an approved ROPS and carry forward those funds to make the full amount of any estimated payments beyond the applicable 6-month ROPS period, rather than having to wait to include any planned expenditure of funds on a future ROPS

	regarding whether the successor agency can continue making the payments in the next 6-month period. The successor agency cannot operate in an orderly fashion and may be subject to late fees and accrued interest, for example, if it is unable to make the full amount of an estimated payment during the ROPS 2 period and then needs to wait until the ROPS 4 period in order to pay the remaining balance.	
34177(a), (m), 34177.5(i), 34179.5	For purposes of determining the amount of uncommitted cash balances payable to the county auditor-controller as a result of the two-part due diligence review, the DOF has generally considered cash balances to be "restricted" only to the extent that they are being held for payments shown in an approved ROPS. The DOF generally has not permitted cash balances to be shown as restricted beyond the approved ROPS period even if the cash balances are being held to pay for a valid contract (i.e., an enforceable obligation). In some instances, an existing, pre-AB 26 loan agreement requires the successor agency to show evidence of the availability all loan funds in a segregated disbursement account at the time of closing, and the developer and other lenders have refused to proceed with the closing in the absence of such evidence.	• Confirm that the successor agency is allowed to retain cash balances for payment of the entirety of the financial obligation that has been approved as an enforceable obligation in a ROPS, and that such cash balances are restricted and cannot be "swept" to the county auditor-controller • Alternatively, confirm that, if the DOF has issued a final and conclusive determination under Section 34177.5(i) for a particular enforceable obligation, or if the DOF has reversed its initial rejection of an enforceable obligation in a ROPS, the successor agency is allowed to retain cash balances for payment of the entirety of the financial obligation

III. SCOPE AND FULFILLMENT OF ENFORCEABLE OBLIGATIONS

Pertinent Section(s)	**Description of Issue or Problem**	**Potential Legislative Amendment**
34163(b), (c), 34177(a), (c)	Subdivisions (b) and (c) in Section 34163 state generally that the successor agency cannot enter into new, or amend existing, agreements, obligations, or commitments for any purpose.	• Clarify that the successor agency (and the successor housing entity, where applicable) is authorized to enter into new agreements, and

	Subdivisions (a) and (c) in Section 34177 require the successor agency to continue to make payments due for enforceable obligations and to perform obligations required pursuant any enforceable obligation. It is difficult to reconcile the above statutory provisions in a factual context where the successor agency must enter into a new agreement, or an amendment to a pre-AB 26 contract, in order to fulfill the language or intent of the pre-AB 26 contract or to avoid breaching the implied covenant of good faith and fair dealing under that contract. By way of example only, in many pre-AB 26 contracts, the successor agency is prevented from unreasonably withholding, conditioning, or delaying the approval of assignments, time extensions, subordination agreements, and the like. Former RDAs typically addressed these scenarios by entering into a routine amendment to the existing contract.	amendments to pre-AB 26 contracts, in order to fulfill the language or intent of a pre-AB 26 contract, provided that the pre-AB 26 contract has been included as an enforceable obligation in a prior approved ROPS • Confirm that any such new agreements or amendments do not require the approval of the Oversight Board or the DOF unless they involve any proposed increase or acceleration of the use of redevelopment funds to pay the underlying enforceable obligation
34171(d)(1)(A)	Under the current provision, a successor agency may hold a reserve when required by a bond indenture or when the RPTTF distribution for the next 6-month period will be insufficient to pay all obligations due under the provisions of the bond. This provision does not address a situation in which the next RPTTF distribution will be insufficient to pay all enforceable obligations, regardless of whether they are obligations under existing bond covenants.	Clarify that bond debt service reserves are permitted when the next RPTTF distribution will be insufficient to pay all enforceable obligations in the approved ROPS, including those obligations under existing bond covenants
34171(d)(1)(C)	Under the current provision, certain costs related to employees who performed work on behalf of the former RDA shall be considered enforceable obligations payable from property tax funds. This provision is not specific regarding PERS liabilities.	Clarify that costs related to PERS liabilities for city or other public employees who performed work on behalf of the former RDA are enforceable obligations
34171(b), 34171(d)(1)(F)	Under the current provisions, an enforceable obligation includes the cost of maintaining assets prior to disposition, as well as litigation expenses related to assets or obligations. However, the amount of such costs and expenses is inherently difficult to predict on a forward-looking basis under the ROPS system. For instance, a	Confirm that the successor agency is entitled to include contingency line items in the ROPS, and to collect RPTTF distributions where necessary, to pay for property maintenance expenses, litigation expenses, and third party claims during the

	property may experience adverse, unforeseen situations, such as trespassing, vandalism, and graffiti, which need to be addressed promptly by the successor agency. Also, the successor agency may need to pursue litigation, or may be named as a defendant in litigation, or may need to pay unforeseen claims, after the ROPS has been prepared and approved. Moreover, expenses in known litigation may escalate beyond what the successor agency anticipated at the outset, through no fault of the successor agency. The DOF has rejected efforts by many successor agencies to create a contingency reserve to address these types of unforeseen events. The DOF also has refused to accept a revised ROPS after the semi-annual distribution of RPTTF monies has occurred. In the past, a former RDA could address unforeseen expenses by using cash reserves. In light of the true-up payment under Section 34183.5 and the two due diligence review payments under Section 34179.6, however, the successor agency will have little to no cash reserves.	upcoming 6-month period that are not reasonably foreseeable at the time of preparation of the ROPS; the amount of the contingency line items could be limited, such as 2% of <u>all</u> payments to be made by the successor agency for enforceable obligations during the applicable ROPS period

IV. <u>TIME PERIOD FOR REVIEW OF DECISIONS</u>

Pertinent Section(s)	**Description of Issue or Problem**	**Potential Legislative Amendment**
34177(m)	The current provision requires the successor agency to submit each ROPS to the DOF in the manner provided for by the DOF. With respect to ROPS 3 and 4, the DOF has supplied the successor agencies with substantially altered templates for the ROPS only several weeks before the deadline for submittal of an Oversight Board-approved ROPS to the DOF. The DOF's delayed release of updated templates, without advance notice, has substantially increased the successor agency's workload in converting data from the old format and complying with the new format, and has placed	• Require the DOF to supply each successor agency with any altered ROPS templates at least 60 days before the deadline for submittal of the Oversight Board-approved ROPS to the DOF • Provide that, if the DOF supplies any altered ROPS template in a tardy fashion, then the successor agency shall use best faith efforts to comply with the new template, but the agency and its counterpart city shall not be subject to any

	the agency and its counterpart city in jeopardy of incurring the severe monetary penalties (such as the $10,000 per day fine on the city) for a tardy submittal of the Oversight Board-approved ROPS.	of the civil penalties for a tardy submittal of the ROPS to the DOF
34177(m), 34177.5(i)	Even where the DOF has approved line items for enforceable obligations in one ROPS, the DOF has consistently reserved the right to object to the same line items in a future ROPS. This approach has caused lingering uncertainty as to the future enforceability of numerous obligations, to the detriment of the successor agency and the third parties who have relied to their detriment on pre-AB 26 contractual obligations. The DOF has stated that a successor agency may petition for a final and conclusive determination under Section 34177.5(i), but there is no timeline for the DOF's response to this petition, and the DOF has indicated that the petition will be given relatively lower priority compared to the review of ROPS documents and the two-part due diligence review.	• Confirm that, if the DOF has approved a line item for an enforceable obligation in ROPS 4 or any subsequent ROPS, the DOF cannot later object to that same line item in a future ROPS • Confirm that, if the DOF has reversed its initial rejection of an enforceable obligation in a ROPS due to the meet-and-confer process, the DOF cannot later object to that same line item in a future ROPS • Impose a reasonable time limit (such as 15 days) on the DOF's response to a petition for a final and conclusive determination, and cause the petition to be deemed approved if the DOF fails to provide a timely response with an explanation for any denial
34179(h), 34181(f)	Section 34179(h) states that the DOF may review any action of the oversight board for a period of 40 days so long as the DOF communicates its intent to review the action within five business days after receipt of the oversight board's action. Section 34181(f) states that the DOF may extend this review period by up to 60 days and that the absence of any objection within 60 days after the oversight board's action means that the action will be considered final. The duration of the DOF's extended review period is ambiguous, and the DOF should not be entitled to an extended review period of 100 days (i.e., 40 plus 60).	Clarify that the DOF's authority to extend the review period means that the DOF may extend the 40-day period under Section 34179(h) for an additional 20 days, for a total review period not to exceed 60 days
34181(a), (f)	Section 34181(f) states that all actions taken by the oversight board under subdivisions (a) and (c) must be approved at a public meeting	Clarify that the public notice of at least 10 days applies only to the disposition of real property

	after at least 10 days' notice to the public. Section 34181(a) involves the oversight board's direction to the successor agency to dispose of all assets and properties of the former RDA, or to transfer ownership of certain governmental purpose assets to the appropriate public jurisdiction.	assets, not other assets of the former RDA
34182.5, 34186(a)	Section 34182.5 states that, at least 60 days before the date for allocation of RPTTF, the county auditor-controller may object to the inclusion of items in any ROPS that are not demonstrated to be enforceable obligations and may object to the funding source proposed for any items. Section 34186(a) states that the county auditor-controller may adjust the amount of RPTTF to be distributed to the successor agency based on a review of the reconciliations for the prior ROPS period shown in the current ROPS.	Clarify that any adjustments or objections by the county auditor-controller in response to the reconciliations for the prior ROPS period shown in the current ROPS must be provided in accordance with the timing and procedures described in Section 34182.5.

V. ROLE OF OVERSIGHT BOARD

Pertinent Section(s)	**Description of Issue or Problem**	**Potential Legislative Amendment**
34179(e)	The oversight board is a local entity for purposes of the Ralph M. Brown Act. However, it is uncertain whether the oversight board has any legal basis to convene in closed session to discuss sensitive matters, such as litigation and real property negotiations, affecting the successor agency. The discussion of sensitive matters in open session, if no authority for closed session exists, could undermine the interests of the successor agency and the local taxing entities in certain situations.	• Clarify that the oversight board is authorized to meet in closed session in accordance with the Brown Act, and shall be treated as the same entity as the successor agency for the sole purpose of determining whether a closed session exception to the Brown Act applies in a given situation • Confirm that the successor agency's legal counsel and staff are authorized to meet with the oversight board in closed session, at the oversight board's request, as may be necessary to facilitate decisions involving litigation

		and real property negotiations
34179(e)	The oversight board is identified as a local entity for purposes of certain statutes. Otherwise, the legal status of the oversight board is ill-defined.	Confirm whether the oversight board can sue and be sued as a public entity in its own name
34181(d), (e)	The current provisions allow the Oversight Board to cause early termination or renegotiation of existing agreements if deemed to be in the best interests of the local taxing entities. These provisions do not provide any mechanism for the Oversight Board to add projects that may have been under negotiation or the subject of a funding resolution at the time of the enactment of AB 26, but did not reach the level of an executed contract before the enactment of AB 26.	Provide that, if certain projects were under negotiation or the subject of an approved funding resolution at the time of enactment of AB 26, the Oversight Board may add those projects as enforceable obligations to a future ROPS, without the need for the DOF's approval, so long as the Oversight Board makes a finding that the overall community benefits of the project outweigh any financial impacts to the local taxing entities.

VI. EXPENDITURE OF BOND PROCEEDS

Pertinent Section(s)	**Description of Issue or Problem**	**Potential Legislative Amendment**
34176(g), 34191.4(c)	The DOF has taken the position in some instances that a finding of completion is required before the successor agency may expend any excess pre-2011 housing bond proceeds at the successor housing entity's direction. However, Section 34176(g) does not indicate that a finding of completion is a prerequisite to the expenditure of housing bond proceeds. By contrast, Section 34191.4(c) confirms that a finding of completion is a prerequisite to the expenditure of non-housing bond proceeds.	Clarify in Section 34176(g) that a finding of completion is not a prerequisite to the expenditure of pre-2011 excess housing bond proceeds
34176(g), 34177(i),	As noted above, the current statutory provisions allow the expenditure of (i) excess pre-2011 housing bond proceeds before	Clarify that, upon the DOF's issuance of a finding of completion, bond proceeds issued between

34191.4(c)	the DOF's issuance of the finding of completion and (ii) excess pre-2011 non-housing bond proceeds upon the DOF's issuance of the finding of completion. These statutory provisions do not expressly allow the expenditure of bond proceeds issued between January 1 and June 28, 2011 (i.e., the date of enactment of AB 26). If these bond proceeds are not expended for their intended purpose, then the successor agency may be in violation of any pertinent bond covenants, may jeopardize the tax-exempt status of bonds, and may be forced to defease the bond obligation rather than using the bond proceeds for beneficial purposes in the local community, such as the elimination of blight or the production of affordable housing.	January 1 and June 28, 2011 shall be used for the purposes for which the bonds were sold if the bonds are either (i) obligations on which interest is excludable from gross income for federal tax purposes (i.e., tax exempt bonds); or (ii) obligations issued to finance programs, projects and activities which increase, improve and preserve a city's supply of low- and moderate- income housing available at affordable housing cost to persons and families of low or moderate income
34191.4(c)	The current provision is silent regarding the process for the successor agency to enter into new contracts for the expenditure of non-housing bond proceeds after the DOF's issuance of the finding of completion.	Clarify that the successor agency is authorized to enter into new contracts for the expenditure of non-housing bond proceeds, without having to obtain the approval of such contracts from the Oversight Board and the DOF, so long as the expenditure of the bond proceeds is shown in an approved ROPS

VII. CONTINUED APPLICABILITY OF HISTORICAL, UNMET AFFORDABLE HOUSING OBLIGATIONS

Pertinent Section(s)	**Description of Issue or Problem**	**Potential Legislative Amendment**
34163(c)(4), 34176, 34179.6, 33334.2 - .4 33334.16, 33413(b)(2)(A)(i)	In most instances, the city or the local housing authority has elected to serve as the successor housing entity under Section 34176(a) for purposes of performing the housing functions previously performed by the former RDA. The Community Redevelopment Law contains various obligations pertaining to the production of affordable housing under Sections 33334.2 through 33334.4, 33334.16, and 33413(b)(2)(A)(i), using 20% set-aside	• Confirm that historical, unmet statutory obligations for the production of affordable housing continue to apply despite the dissolution of former RDAs, and modify Section 34163(c)(4) to allow the successor agency to collect RPTTF

	low and moderate income housing funds. AB 26 and AB 1484 are silent as to the continued applicability of these historical statutory obligations to the extent that the obligations remained unsatisfied at the time of the former RDA's dissolution on February 1, 2012. AB 26 and AB 1484 do not expressly repeal any such obligations. However, AB 26 and AB 1484 effectively deprive the successor agency (or the successor housing entity, if applicable) of any funding source or revenue stream to satisfy any historical, unmet obligations for production of affordable housing that may continue to apply in the post-redevelopment era. For instance, Section 34163(c)(4) prohibits the former RDA and the successor agency from making any future deposits to the low and moderate income housing fund. Also, Section 34179.6 extracts any uncommitted housing cash (other than excess housing bond proceeds) from the successor agency for pro rata distribution to the local taxing entities. If any historical affordable housing obligations continue to exist but no designated funding source is made available to satisfy those obligations, then the State Legislature has effectively imposed an unfunded State mandate, in violation of Article XIIIB, Section 6 of the California Constitution. The State and affordable housing proponents have a fundamental disagreement regarding the continued applicability of historical statutory obligations for the production of affordable housing, and this agreement is being litigated in a complex defendants' class action brought by the Affordable Housing Coalition of San Diego County, designated as Case No. 34-2012-80001158 in Sacramento County Superior Court. This litigation is expected to be protracted and expensive, but could be resolved promptly through a simple legislative fix to the RDA dissolution laws.	distributions as may be necessary for the successor agency (or the successor housing entity, if applicable) to fulfill those unmet obligations, so long as the collection of RPTTF distributions for this purpose does not cause a funding shortfall impairing the successor agency's ability to pay all enforceable obligations identified in each approved ROPS • Alternatively, if the State Legislature is unwilling to provide an adequate funding source for fulfillment of the historical affordable housing obligations, then expressly repeal all such obligations and relieve the successor agency and the successor housing entity from ongoing compliance with those obligations, in order to avoid the imposition of an illegal, unfunded State mandate
34176(g), 33433	As noted above, Section 34176(g) confirms that the successor agency may expend any excess pre-2011 housing bond proceeds at the successor housing entity's direction before the DOF's issuance of a finding of completion. The successor housing entity may wish to enter into a disposition and development agreement in which a housing real estate asset acquired with tax increment funds is conveyed to a nonprofit	Clarify whether Section 33433 applies to the successor housing entity's disposition of a housing real estate asset for an affordable housing project at less than fair market value

	developer for an affordable housing project. In this scenario, it is unclear whether the successor housing entity must comply with Section 33433 pertaining to the disposition of assets pursuant to the redevelopment plan at fair reuse value, which is typically less than fair market value.	

VIII. INTERIM USE OF PROPERTIES OWNED BY SUCCESSOR AGENCY

Pertinent Section(s)	Description of Issue or Problem	Potential Legislative Amendment
34163(b), (c)	The current provisions generally prohibit the successor agency from entering into new contracts or commitments for any purpose. The DOF has indicated that these provisions prohibit the successor agency from granting temporary access for special events on properties of the former RDA. Historically, many RDA properties have been used on occasion, and on a temporary basis, for special events beneficial to the local community, such as multi-cultural fairs or public concerts or performances sponsored by nonprofit organizations.	Provide that the successor agency is authorized to grant temporary access to properties owned by the successor agency for special events benefiting or serving the local community, so long as the successor agency enters into a standard access agreement with protections in the successor agency's favor, such as insurance and indemnification
34163(b), (c), 34191.5	The current provisions do not provide express authority for the successor agency to lease property for the generation of revenue pending the final disposition of the property. If the successor agency's authority to lease its properties is not confirmed, many properties may be left idle and will not generate revenue for the benefit of the successor agency and the local taxing entities.	Confirm that the successor agency is authorized to enter into a lease of property owned by the successor agency pending final disposition of the property in accordance with the long-range property management plan, provided that the successor agency obtains fair market rent

IX. LONG-RANGE PROPERTY MANAGEMENT PLAN

Pertinent Section(s)	Description of Issue or Problem	Potential Legislative Amendment
34191.5(c)(2)(A)	The current provision requires the successor agency to transfer a property to its counterpart city or county if the long-range property management plan identifies the property for future development and "directs the use or liquidation of the property for a project identified in an approved redevelopment plan." It is unclear what is meant by the phrase "identified in an approved redevelopment plan." Normally a redevelopment plan would contain general goals and objectives for future redevelopment activities within the applicable redevelopment project area, but would not provide details about future projects on specific sites. Nothing in the Community Redevelopment Law has required site-specific details about redevelopment projects to be included in a redevelopment plan. If the above phrase is interpreted narrowly, then relatively few projects would qualify as having been identified in an approved redevelopment plan, and local agencies thus could be deprived of one of the purported significant benefits of obtaining the finding of completion.	Replace the phrase "identified in an approved redevelopment plan" with broader language, such as "consistent with the categories of uses or any projects identified in either an approved redevelopment plan or an approved five-year implementation plan"
34191.5(c)(2)(A)	Section 34191.5(c)(2)(A) does not explicitly state whether the city or county must pay any monetary compensation to the successor agency in exchange for the successor agency's transfer of property to be used for a redevelopment project. The statutory language and context seems to imply that no compensation is owed. For instance, the local retention of certain redevelopment properties has been described as one of the significant benefits of obtaining the finding of completion. If the city or county is required to pay monetary compensation, however, then this benefit would be eliminated or substantially reduced. In addition, Section 34191.5(c)(2)(B) appears to describe a distinguishable situation in which the proceeds of sale are distributed to the local taxing entities if a property is liquidated for any purpose other than to fulfill an enforceable obligation	Clarify under Section 34191.5(c)(2)(A) that the city or county is not required to pay any monetary compensation to the successor agency in exchange for the successor agency's transfer of property to be used for a redevelopment project

	or other than specified in Section 34191.5(c)(2)(A).	
34191.5(c)(2)(A), 33433	Upon the successor agency's transfer of a qualifying property, the city or county may wish to enter into a disposition and development agreement in which a non-housing real estate asset acquired with tax increment funds is conveyed to a developer for a redevelopment project. In this scenario, it is unclear whether the city or county must comply with Section 33433 pertaining to the disposition of assets pursuant to the redevelopment plan at fair reuse value, which is typically less than fair market value.	Clarify whether Section 33433 applies to the disposition of a non-housing real estate asset by the city or county for a redevelopment project at less than fair market value
34191.5(c)(2)(B), 34177.3(a), (b)	Section 34191.5(c)(2)(B) states that, if a property is liquidated or leased for any purpose other than to fulfill an enforceable obligation or other than specified in Section 34191.5(c)(2)(A), the proceeds from the sale or lease shall be distributed as general property tax to the local taxing entities. This language does not provide any funding source for the successor agency to negotiate the liquidation or lease of properties. The successor agency should be allowed to enter into enforceable obligations, payable from RPTTF distributions, in order to pay for costs associated with the liquidation or lease of properties for the financial benefit of all local taxing entities. Otherwise, the successor agency would be required to absorb all of the transaction costs, without any defined funding source, and the benefited local taxing entities would not pay their fair share toward the transaction costs.	• Provide that the successor agency is authorized to enter into enforceable obligations, payable through RPTTF distributions or other available funds shown in an approved ROPS, to pay for costs associated with the liquidation or lease of properties pursuant to Section 34191.5(c)(2)(B), including, but not limited to, costs for services or work related to appraisal, broker, legal, title, escrow, and pre-closing environmental remediation • Confirm that the net proceeds (after payment of all applicable transaction costs) of the sale or lease of properties pursuant to Section 34191.5(c)(2)(B) shall be distributed as property tax to the local taxing entities

X. REINSTATEMENT OF INVALIDATED CITY/RDA LOAN AGREEMENTS

Pertinent Section(s)	Description of Issue or Problem	Potential Legislative Amendment
34191.4(b)(1)	The current provision allows the reinstatement of invalidated loan agreements between the city or county and its counterpart former RDA, upon the DOF's issuance of a finding of completion, subject to several onerous conditions and restrictions. It is unclear what is included within the scope of a "loan agreement" in this context. Many historical interagency debt agreements may have been structured as cooperation agreements or debt reimbursement agreements, rather than loan agreements. If the scope of a loan agreement is narrowly interpreted, then local agencies would be deprived of one of the purported significant benefits of obtaining a finding of completion.	Replace the reference to "loan agreements" with broader language, such as "any agreements, including, but not limited to, loan agreements, cooperation agreements, and debt reimbursement agreements, entered into on or prior to June 28, 2011, evidencing indebtedness owed by the redevelopment agency to the city, county, or city and county that created the redevelopment agency"
34191.4(b)(2)	One of the onerous restrictions imposed on reinstatement of invalidated loan agreements is the recalculation of accrued interest at the rate earned by funds deposited into the Local Agency Investment Fund (LAIF). The prevailing LAIF interest rates are similar to rates for money market accounts and have historically been far below the normal rates applicable to the borrowing of funds and the repayment of long-term debt. For instance, in 2011 and 2012, the LAIF interest rates have been routinely below one-half of one percent. When these low LAIF interest rates are applied retroactively to debt agreements that have existed for many years, the result is an inordinately substantial reduction in the outstanding amount of debt owed.	• Replace the reference to the LAIF interest rate with a rate that is more reflective of prevailing interest rates owed on any reinstated debt, such as a rate used by institutional banks for long-term loans • Alternatively, apply a reasonable flat interest rate, such as 6%, to any reinstated debt, which would greatly simplify the retroactive recalculation of accrued interest
34191.4(b)(2)(A)	Another onerous restriction imposed on reinstatement of invalidated loan agreements is the maximum annual repayment amount for all reinstated loans in the aggregate. The maximum annual repayment amount is calculated based on a formula that allows reinstated loan payments only up to 50% of the increase between (i) the residual balance distributions from	• Expressly exclude from the base year calculation any residual balance distributions to local taxing entities that occurred during the base year as a result of the true-up payment under Section

	the RPTTF to local taxing entities during a given fiscal year, starting with fiscal year 2013-14, and (ii) the residual balance distributions from the RPTTF to local taxing entities during a "base year" of fiscal year 2012-13. This formula is based on the premise that the successor agency will need to pay a diminishing amount of enforceable obligations over the course of time and that, therefore, RPTTF distributions to the successor agency will gradually decrease, and residual balance distributions to the local taxing entities will gradually increase, in future fiscal years, relative to the first fiscal year after the former RDA's dissolution. This premise is mistaken in many instances for at least two reasons. First, a literal interpretation of the statute might require the inclusion of any residual balance distributions made during the base year in the formula if those distributions occurred as a result of the "true-up" payment under Section 34183.5 (due by July 12, 2012) and the two payments of excess cash determined during the two-part due diligence review process under Section 34179.6 (scheduled to be paid in late 2012 and mid-2013, respectively). Second, in many instances, the successor agency held a significant amount of cash reserves that needed to be spent or "burned down" in the first several ROPS periods before the successor agency could request any RPTTF distributions, consistent with Section 34177(l)(1)(E). Both of these factors could substantially increase the amount of residual balance distributions during the base year with respect to former RDAs that retained a relatively larger amount of cash reserves at the time of their dissolution on February 1, 2012. In these instances, the residual balance distributions in fiscal year 2013-14 or later fiscal years will not exceed the residual balance distributions in the base year by at least 50% for a potentially long period of time, if ever. Consequently, the statutory formula unfairly and arbitrarily disadvantages any successor agency that has succeeded a relatively "cash-rich" former RDA, and deprives local agencies of one of the major purported benefits of obtaining a finding of completion.	34183.5 or either of the due diligence review payments under Section 34179.6 • Replace the existing statutory formula for maximum annual repayments on reinstated debt with a more equitable formula; one option is to allow an alternative option, at the successor agency's discretion, for reinstatement of debt in fiscal year 2014-15 or beyond, using fiscal year 2013-14 (rather than fiscal year 2012-13) as the "base year"

XI. REVERSAL OF ELECTION TO SERVE AS SUCCESSOR ENTITY

Pertinent Section(s)	Description of Issue or Problem	Potential Legislative Amendment
34173(d)(1), (4), 34176(a)(1)	Section 34173(d)(4) allows an eligible entity that initially elected not to serve as the successor agency to reverse its decision and agree to serve as the successor agency upon 60 days' notice. This language only affects eight successor agencies throughout the State. In the vast majority of situations, the city or county that created the former RDA has elected to serve as the successor agency. However, the draconian provisions of AB 1484, as well as the State's heavy-handed enforcement of those provisions and the lack of sufficient funding for the successor agency's operations, have caused some cities and other local agencies to reconsider whether they wish to continue serving as the successor agency or the successor housing entity, or both.	• Confirm that a city, county, etc. can later rescind its initial election to serve as the successor agency by submitting a duly authorized resolution to the county auditor-controller • Confirm that a city, county, local housing agency, etc. can later rescind its initial election to serve as the successor housing entity by submitting a duly authorized resolution to the county auditor-controller

XII. DISTRIBUTION OF RESIDUAL BALANCE OF RPTTF

Pertinent Section(s)	Description of Issue or Problem	Potential Legislative Amendment
34183, 34188	The semi-annual distribution of available RPTTF generally involves four tranches. In the first tranche, under Section 34183(a)(1), a taxing entity receives the amount of the contractual or statutory "pass-through" payments that it would have received had redevelopment continued. Some taxing entities (often counties) receive relatively larger pass-through payments, whereas other taxing entities (typically cities, and sometimes school districts) receive relatively little to no pass-through payments. In the second and third tranches, the successor agency receives the amount needed for payment of	• Clarify that the first and fourth tranches of RPTTF distributions under Section 34183 must be considered jointly, not in isolation, and that each local taxing entity must receive its target pro rata share of these two combined tranches in accordance with its AB 8 pro rata share of general

	enforceable obligations and the 3% administrative cost allowance. In the fourth tranche, under Section 34183(a)(4), the residual balance of the RPTTF is distributed among the local taxing entities. A reasonable interpretation of Section 34188 is that the first and fourth tranches under Section 34183 must be considered jointly, not in isolation, and that each local taxing entity must receive its target pro rata share of these two combined tranches in accordance with its AB 8 pro rata share of general property taxes, wherever possible. The only way to achieve the target pro rata share is to offset any relatively larger distribution of a pass-through payment to a particular taxing entity in the first tranche against the amount of that taxing entity's residual balance share in the fourth tranche. In this way, all local taxing entities will receive their rightful pro rata share of the aggregate sum of the first and fourth tranches. Nonetheless, county auditor-controllers, and apparently the DOF, have interpreted the statutory provisions differently and have not allowed any offset against the fourth tranche distribution with respect to taxing entities that received a relatively larger first tranche distribution. This approach is inequitable and has awarded a significant windfall to taxing entities that receive relatively larger pass-through payments in the first tranche. In an ironic twist in some situations, the local K-12 school system has been deprived of a substantial sum of money as a result of the county auditor-controller's calculation method, even though AB 26 was initially touted as a way to transfer local redevelopment funds for the express benefit of local educational institutions and to relieve the State's budget crisis in light of the State's minimum educational funding obligation under Proposition 98 (and not to provide a windfall to the county or other non-educational taxing entities).	property taxes • Clarify that, if the residual balance distribution is insufficient to allow each local taxing entity to receive its target pro rata share of the two combined tranches, then each taxing entity will receive the entire amount of its pass-through payment (if any) under the first tranche, and the distributions in the fourth tranche will be designed to allow each taxing entity to receive as close as possible to its target pro rata share of the two combined tranches

XIII. MISCELLANEOUS

Pertinent Section(s)	Description of Issue or Problem	Potential Legislative Amendment
34179.6(f)	The current provision contains a mistaken cross-reference.	Clarify that the cross-reference to subdivision (c) is intended to be a cross-reference to subdivision (d)
34180(i)	The current provision contains a mistaken cross-reference.	Clarify that the cross-reference to Section 34178(b) is intended to be a cross-reference to Section 34178(a)