# SENATE BILL No. 593

**Introduced by Senator Wiener**
(Coauthor: Assembly Member Haney)

February 15, 2023

An act to amend Section 34177.7 of the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 593, as introduced, Wiener. Redevelopment: successor agency debt: City and County of San Francisco.

Existing law dissolved redevelopment agencies and community development agencies as of February 1, 2012, and provides for the designation of successor agencies to, among other things, wind down the affairs of the dissolved redevelopment agencies and make payments due for enforceable obligations. Existing law, among other powers granted to successor agencies generally, additionally vests the successor agency to the former Redevelopment Agency of the City and County of San Francisco with the authority, rights, and powers of that former redevelopment agency solely for the purpose of issuing bonds or incurring other indebtedness, subject to the approval of the oversight board of the successor agency, to finance the construction of affordable housing and infrastructure required by specified development agreements. Under existing law, these bonds and indebtedness are considered indebtedness incurred by the dissolved redevelopment agency secured by moneys deposited in the Redevelopment Property Tax Trust Fund established for that agency.

This bill would expand this authority to include bonds issued and other indebtedness incurred to finance the replacement of certain demolished affordable housing units, subject to specified conditions, including that the assisted units remain affordable to, and occupied by, persons and families of low- and moderate-income and extremely low and very low income households for at least 55 years for rental units and 45 years for owner-occupied units.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) Under the authority granted by the Legislature in Senate Bill No. 2113 (Chapter 661 of the Statutes of 2000) and Senate Bill No. 701 (Section 3 of Chapter 782 of the Statutes of 2002), the former Redevelopment Agency of the City and County of San Francisco (hereafter "former redevelopment agency") sought, prior to its dissolution, to redress the demolition of a substantial number of residential dwelling units affordable to very low, low-, and moderate-income households during the agency's earlier urban renewal efforts.

(b) In 2003, the Department of Housing and Community Development determined that the former redevelopment agency had an unmet affordable housing replacement need resulting from its demolition of 14,207 units and replacement of only 7,498 units in pre-1976 project areas. The department certified "a net loss of 6,709 units the Agency must replace."

(c) In authorizing the former redevelopment agency's replacement of units, the Legislature found that San Francisco's early redevelopment activities, including the removal of previously existing dwelling units serving a lower income population, compounded the effects of the private market that have led to the city's housing crisis (Section 1 of Chapter 661 of the Statutes of 2000).

(d) Prior to its dissolution, the former redevelopment agency exceeded the housing production goals of the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code) and developed over 12,000 units of affordable housing. Nonetheless, it was only able to approve and develop 867 replacement units out of the total 6,709 units that the Department of Housing and Community Development had certified. When the Legislature dissolved redevelopment agencies by enactment of Chapter 5 of the First Extraordinary Session of the Statutes of 2011, the former redevelopment agency had an outstanding balance of 5,842 affordable units that needed to be replaced.

(e) After dissolution of the former redevelopment agency, the Oversight Board for the City and County of San Francisco confirmed, by Resolution No. 5-2012 (April 10, 2012), the unfulfilled replacement housing obligations of the former redevelopment agency and approved the successor agency's expenditures of funds to fulfill those obligations, but the Department of Finance disapproved those expenditures on the grounds they were inconsistent with the wind down of redevelopment agencies.

(f) In 2015, the Legislature authorized the successor agency to the former redevelopment agency to issue bonds and incur other indebtedness secured by the property tax revenues available in the Redevelopment Property Tax Trust Fund to finance certain enforceable obligations that the Department of Finance had approved, but this legislation did not include authorization for funding of the replacement housing obligation (Sections 9 and 27 of Chapter 325 of the Statutes of 2015).

(g) San Francisco faces a continuing shortage of affordable housing for low- and moderate-income households. The San Francisco Planning Department reports that "San Francisco and the Bay Area are currently in the midst of a housing affordability crisis unprecedented in their history. Increases in housing prices and displacement pressures have been a long-term trend, driven by policy decisions first established decades ago and amplified by regional and national economic trends. Over the last 5 years, the crisis has intensified as the region's high-wage employment base has grown while regional housing production has not kept pace" (San Francisco Housing Needs and Trends Report (July 2018)).

(h) The San Francisco residential real estate market is one of the most expensive in the United States. In September 2022, RealtyHop reported that the median-priced home in San Francisco was $1,388,500. A household earning the city's median household income of $126,117 would have to spend almost 67% of its yearly income to afford the median priced home. While the national home ownership rate is approximately 64 percent, only approximately 36 percent of San Franciscans own their own home. The majority of market-rate homes for sale in San Francisco are priced out of the reach of low- and moderate-income households. In 2022, the average rent was $3,340, which is affordable to households earning over $133,600. The Black population of San Francisco, with a median household income of less than $35,000 has little chance of being able to purchase or rent a home in the city. These factors contribute to a heavy demand for affordable housing in the city that the private market cannot meet.

(i) Some of the 7,498 affordable units constructed to replace the units removed as a result of urban renewal are no longer available at affordable housing cost to low- and moderate- income households because the income restrictions have expired. In addition, some of these units are in need of substantial rehabilitation or replacement if they are to continue to provide decent and safe affordable housing and address the housing needs of those displaced by urban renewal. For example, Freedom West Homes is a 382 unit housing cooperative constructed in 1974 to replace a portion of the housing units removed from the Western Addition Redevelopment Project Area. It suffers from deterioration and its affordability restrictions have expired.

(j) The removal of units as a result of urban renewal contributed to the significant decline in the Black population in San Francisco from a high of 13% of the population prior to the urban renewal project to the current 5.3%. The continued lack of affordable housing in the city further exacerbates this decline.

(k) San Francisco's housing situation is unique, in that median rents and sales prices are among the highest in the United States even though it has committed a significant amount of local funds to assist affordable housing development. A special law is necessary and a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances relating to the replacement of affordable housing demolished by the former redevelopment agency.

(*l*) It is the intent of the Legislature to authorize, subject to compliance with redevelopment dissolution law (Part 1.8 (commencing with Section 34161) and Part 1.85 (commencing with Section 34170) of Division 24 of the Health and Safety Code), the successor agency to the former redevelopment agency to issue bonds or incur other indebtedness for the purpose of financing the construction of replacement affordable housing units demolished and not replaced by the former redevelopment agency and the replacement of the obsolete replacement units that were constructed previously. The procedures and standards in the redevelopment dissolution law, as amended, will govern the issuance of bonds or incurrence of other indebtedness by the successor agency and will supersede those provisions in Chapter 661 of the Statutes of 2000 requiring approval of the Department of Housing and Community Development. These bonds or other indebtedness may be secured by property tax revenues available in the successor agency's Redevelopment Property Tax Trust Fund from those project areas that generated tax increments for the former redevelopment agency upon its dissolution, if the revenues are not otherwise obligated.

(m) It is further the intent of the Legislature that the successor agency to the former redevelopment agency, to the greatest extent feasible, replace the amount of lost units, as previously certified by the Department of Housing and Community Development, according to the formulas in Section 33413 of the Health and Safety Code.

SEC. 2. Section 34177.7 of the Health and Safety Code is amended to read:

34177.7. (a) (1) In addition to the powers granted to each successor agency, and notwithstanding anything in the act adding this part, including, but not limited to, Sections 34162 and 34189, the successor agency to the Redevelopment Agency of the City and County of San Francisco shall have the authority, rights, and powers of the Redevelopment Agency to which it succeeded solely for the purpose of issuing bonds or incurring other indebtedness to finance:

(A) The affordable housing required by the Mission Bay North Owner Participation Agreement, the Mission Bay South Owner Participation Agreement, the Disposition and Development Agreement for Hunters Point Shipyard Phase 1, the Candlestick Point-Hunters Point Shipyard Phase 2 Disposition and Development Agreement, and the Transbay Implementation Agreement.

(B) The infrastructure required by the Transbay Implementation Agreement.

*(C) The replacement of the remaining 5,842 units of demolished affordable housing that were initially included in the total replacement housing obligation described in Chapter 661 of the Statutes of 2000 and subsequently certified by the Department of Housing and Community Development. To satisfy this replacement housing obligation and reduce the outstanding balance of units to be replaced, the successor agency may assist housing projects previously assisted by the Redevelopment Agency of the City and County of San Francisco but with expired, or threatened expiration of, affordability restrictions, provided that any successor agency assistance shall be conditioned on the requirement that the assisted units remain affordable to, and occupied by, persons and families of low- and moderate-income and extremely low and very low income households for the longest feasible time, but not less than 55 years for rental units and 45 years for owner-occupied units.*

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*(2) (A) For purposes of financing the obligations described in subparagraphs (A) and (B) of paragraph (1),the* successor agency to the Redevelopment Agency of the City and County of San Francisco may pledge to the bonds or other indebtedness the property tax revenues available in the successor agency's Redevelopment Property Tax Trust Fund that are not otherwise obligated.

*(B) For purposes of financing the replacement housing obligation described in subparagraph (C) of paragraph (1), the successor agency to the Redevelopment Agency of the City and County of San Francisco may pledge to the bonds or other indebtedness the property tax revenues that remain available for distribution to the City and County of San Francisco, as a taxing entity, from the Redevelopment Property Tax Trust Fund, after all preexisting legal commitments and statutory obligations funded from that revenue, excluding the replacement housing obligation described in this section, are made pursuant to Part 1.85 (commencing with Section 34170) of Division 24. Property tax revenues allocated to the successor agency pursuant to this subparagraph for the replacement housing obligation shall not include any moneys that, notwithstanding the replacement housing obligation described in this section, are payable to local agencies other than the City and County of San Francisco, school districts that maintain kindergarten and grades 1 to 12, inclusive,*

*community college districts, or the Educational Revenue Augmentation Fund, pursuant to paragraph (4) of subdivision (a) of Section 34183.*

(b) Bonds issued pursuant to this section may be sold pursuant to either a negotiated or a competitive sale. The bonds issued or other indebtedness obligations incurred pursuant to this section may be issued or incurred on a parity basis with outstanding bonds or other indebtedness obligations of the successor agency to the Redevelopment Agency of the City and County of San Francisco and may pledge the revenues pledged to those outstanding bonds or other indebtedness obligations to the issuance of bonds or other obligations pursuant to this section. The pledge, when made in connection with the issuance of bonds or other indebtedness obligations under this section, shall have the same lien priority as the pledge of outstanding bonds or other indebtedness obligations, and shall be valid, binding, and enforceable in accordance with its terms.

(c) (1) Prior to issuing any bonds or incurring other indebtedness pursuant to this section, the successor agency to the Redevelopment Agency of the City and County of San Francisco may subordinate to the bonds or other indebtedness the amount required to be paid to an affected taxing entity pursuant to paragraph (1) of subdivision (a) of Section 34183, provided that the affected taxing entity has approved the subordinations pursuant to this subdivision.

(2) At the time the agency requests an affected taxing entity to subordinate the amount to be paid to it, the agency shall provide the affected taxing entity with substantial evidence that sufficient funds will be available to pay both the debt service on the bonds or other indebtedness and the payments required by paragraph (1) of subdivision (a) of Section 34183, when due.

(3) Within 45 days after receipt of the agency's request, the affected taxing entity shall approve or disapprove the request for subordination. An affected taxing entity may disapprove a request for subordination only if it finds, based upon substantial evidence, that the successor agency will not be able to pay the debt service payments and the amount required to be paid to the affected taxing entity. If the affected taxing entity does not act within 45 days after receipt of the agency's request, the request to subordinate shall be deemed approved and shall be final and conclusive.

(d) An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of bonds or other obligations authorized by this section, the pledge of revenues to those bonds or other obligations authorized by this section, the legality and validity of all proceedings theretofore taken and, as provided in the resolution of the legislative body of the successor agency to the Redevelopment Agency of the City and County of San Francisco authorizing the bonds or other indebtedness obligations authorized by this section, proposed to be taken for the authorization, execution, issuance, sale, and delivery of the bonds or other obligations authorized by this section, and for the payment of debt service on the bonds or the payment of amounts under other obligations authorized by this section. Subdivision (c) of Section 33501 shall not apply to any such action. The department shall be notified of the filing of any action as an affected party.

(e) Notwithstanding any other law, including, but not limited to, Section 33501, an action to challenge the issuance of bonds or the incurrence of indebtedness by the successor agency to the Redevelopment Agency of the City and County of San Francisco shall be brought within 30 days after the date on which the oversight board approves the resolution of the agency approving the issuance of bonds or the incurrence of indebtedness under this section.

(f) The actions authorized in this section shall be subject to the approval of the oversight board, as provided in Section 34180. Additionally, the oversight board may direct the successor agency to the Redevelopment Agency of the City and County of San Francisco to commence any of the transactions described in subdivision (a) so long as the agency is able to recover its related costs in connection with the transaction. After the agency, with approval of the oversight board, issues any bonds or incurs any indebtedness pursuant to subdivision (a), the oversight board shall not unilaterally approve any amendments to or early termination of the bonds or indebtedness. If, under the authority granted to it by subdivision (h) of Section 34179, the department either reviews and approves or fails to request review within five business days of an oversight board approval of an action authorized by this section, the scheduled payments on the bonds or other indebtedness shall be listed in the Recognized Obligation Payment Schedule and shall not be subject to further review and approval by the department or the Controller. The department may extend its review time to 60 days for actions authorized in this section and may seek the assistance of the Treasurer in evaluating proposed actions under this section.

(g) Any bonds or other indebtedness authorized by this section shall be considered indebtedness incurred by the dissolved redevelopment agency, with the same legal effect as if the bonds or other indebtedness had been issued, incurred, or entered into prior to June 28, 2011, in full conformity with the applicable provisions of the Community Redevelopment Law that existed prior to that date, shall be included in the successor agency to the Redevelopment Agency of the City and County of San Francisco's Recognized Obligation Payment Schedule, and shall be secured by a pledge of, and lien on, and shall be repaid from moneys deposited from time to time in the Redevelopment Property Tax Trust Fund established pursuant to subdivision (c) of Section 34172, as provided in paragraph (2) of subdivision (a) of Section 34183. Property tax revenues pledged to any bonds or other indebtedness obligations authorized by this section are taxes allocated to the successor agency pursuant to subdivision (b) of Section 33670 and Section 16 of Article XVI of the California Constitution.

(h) The successor agency to the Redevelopment Agency of the City and County of San Francisco shall make diligent efforts to ensure that the lowest long-term cost financing is obtained. The financing shall not provide for any bullets or spikes and shall not use variable rates. The agency shall make use of an independent financial advisor in developing financing proposals and shall make the work products of the financial advisor available to the department at its request.

SEC. 3. The Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances relating to the replacement of affordable housing demolished by the former Redevelopment Agency of the City and County of San Francisco, as described in Section 1 of this act.

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