

National Federation of Municipal Analysts
A COMMENT ON THE NEED TO CLARIFY UNCERTAINTIES
IN BOND SECURITY RESULTING FROM THE
CALIFORNIA REDEVELOPMENT AGENCY DISSOLUTION ACT



The National Federation of Municipal Analysts (NFMA), chartered in 1983, is a not-for-profit association formed with the goals of promoting professionalism in municipal credit analysis and providing an informed perspective in the formulation of legal and regulatory matters relating to the municipal finance industry. NFMA membership currently totals over 1,200 individuals, primarily research analysts, who evaluate credit and other associated risks in the municipal market. Our members represent mutual funds, insurance companies, broker/dealers, bond insurers, rating agencies, and financial advisory firms.

The NFMA is issuing this comment in response to the recent ruling by the California State Supreme Court that upheld Assembly Bill x1 26 (ABx1 26). As of February 1, 2012, every redevelopment agency (RDA) within the State of California was dissolved and replaced with a “Successor Agency”. Each Successor Agency is responsible for winding down the affairs of the former RDA and making payments due on the RDA’s obligations, including debt service on outstanding tax allocation bonds (TABs). Collectively, outstanding TABs total approximately \$23 billion and increase to over \$29 billion when accounting for other tax increment supported debt across the State. On behalf of its members, the NFMA is concerned about the lack of clarity in ABx1 26 related to its implementation. The concerns are compounded by the very short time frame allowed for the transition of an RDA to its Successor Agency. The NFMA’s goal is not to debate the merits of ABx1 26, but to highlight the potential unintended adverse consequences for the Successor Agencies, bondholders, and other market participants.

Primary among the NFMA’s concerns is that implementation uncertainties could lead to bond covenant violations and/or debt service payment disruptions. The law and public statements from the State of California Department of Finance provides clear intent that the repayment of bonds and other obligations will be honored, but implementation of the law is still unclear. We believe that uniform guidance and possible clean-up legislation is needed, as expeditiously as possible, to ensure that the intentions are not undermined by unintended consequences.

Specifically, the transition of complex administrative responsibilities from the RDAs to Successor Agencies raises the potential for errors in administration, inconsistency of approach and unintentional violation of bond covenants and security provisions. Variation among Successor Agencies in the interpretation of the bond documents may impair holders of RDA debt. If not executed properly, the near-term implementation of ABx1 26 could pose adverse credit implications. Credit impacts such as missed debt service payments could have widespread consequences across the State.

Other concerns related to the implementation of ABx1 26 include the cash flow mechanics of tax increment revenues and the potential conflicts created between existing bond indentures that govern the legal security of outstanding TABs and the disbursement requirements required in the new law. We note the need for explicit guidance from the State in this regard, including the “implied pooling” of RDA-wide tax revenues, the use of excess tax increment revenues for other Successor Agency obligations, and the limited ability for the refunding of existing debt obligations.

Lastly, municipal market participants would welcome and benefit from formal communications by the appropriate State department(s) on the implementation of ABx1 26.