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LAW ALERT

AB 2: THE RISING COMMUNITY REVITALIZATION PHOENIX

Simply put, AB 2 reintroduces tax increment financing to the economic development toolkit of California's communities, by a different name. This law alert provides a brief summary of AB 2 and the opportunities it may bring. Goldfarb & Lipman will be producing a more detailed explanation of AB 2 with additional information on how a community would go about adopting and implementing the requirements of AB 2.

What is the purpose of AB 2? AB 2 authorizes the use of tax increment revenue to improve infrastructure, assist business, and support affordable housing in disadvantaged communities. Specifically, AB 2 authorizes local governments, that satisfy specific conditions, to create "community revitalization and investment authorities" and sets out the procedures for adoption of "community revitalization and investment plans" for the purpose of carrying out specified community economic development activities in designated "community revitalization and investment areas."

What are Revitalization Authorities and what entities can participate in them? AB 2 authorizes the creation of two different types of revitalization authorities, both of which are considered a separate public bodies from their sponsoring community or participating taxing entities. The first type of revitalization authority is a separate single member authority consisting only of the city, county or city and county that created the authority. Alternatively, one or more local governments can join forces with one or more special districts to create a joint powers authority. No school entities or redevelopment successor agencies are allowed to participate in revitalization authorities.

A city, county, or city and county that created a former redevelopment agency will be prohibited from a revitalization authority unless the former redevelopment agency's successor agency has received a finding of completion and the successor agency or designated local authority makes specified findings.

Each constituent taxing entity of a community revitalization and investment authority is allowed to adopt a resolution directing the county auditor-controller to allocate some or all of that entities share of tax increment funds within the designated area to the revitalization authority but only after those entities approve a memorandum of understanding with the authority's governing board. The pledge of tax increment by the taxing entities could be revoked upon 60-days written notice to the county auditor controller.

Where will community revitalization and investment authorities operate? Community revitalization and investment authorities created under AB 2 will be authorized to carry out revitalization activities only within the boundaries of designated "community revitalization and investment areas."

AB 2 requires that not less than 80% of the property (calculated on the census tract or block group level) located within the revitalization area must have an annual median household income less than 80% of the statewide annual median income AND exhibit three of four of the following conditions: (1) non-seasonal unemployment rate 3% higher than the statewide median unemployment rate; (2) crime rates that are 5% higher than the statewide median crime rate; (3) deteriorated or inadequate infrastructure (e.g. streets, sidewalks, water supply, sewer treatment and

processing, and parks); or (4) deteriorated commercial or residential structures.

Alternatively, a community revitalization and investment area may be established within a former military base that is principally characterized by deteriorated or inadequate infrastructure and structures.

A revitalization area can include property in a former redevelopment project area, so long as the adopted plan for the revitalization area acknowledges that the tax increment payable to the revitalization authority are subject and subordinate to the preexisting enforceable obligations of the redevelopment successor agency.

What activities can a community revitalization and investment authority fund? Generally, community revitalization and investment authorities are authorized to adopt a community revitalization and investment plan, provide funding for infrastructure, low and moderate income housing, brownfield cleanup, seismic retrofits of existing buildings, acquire and transfer real property, issue bonds, borrow and accept funds or assistance from the state or federal government, fund owner or tenant improvement loans, fund the construction of specified structures for provision of air rights, and to provide direct assistance to businesses for industrial and manufacturing uses, subject to specific exceptions.

Prohibited activities include: (1) assistance to automobile dealerships on previously undeveloped land; (2) development of five acres or more which were not previously developed for urban use that will generate sales taxes except if the principal permitted use is office, hotel, manufacturing, or industrial; (3) gaming or gambling uses.

Prior to conducting any activities, each community revitalization and investment authority will be required to adopt a community revitalization and investment plan, which among other things, must include elements describing the principal goals and objectives of the plan, a description of how the deteriorated or inadequate infrastructure in the revitalization area, a

housing program, estimated housing revenues and expenditures, a program to remedy or remove hazardous materials, and a program to provide funding or to facilitate economic revitalization.

Additionally, the revitalization plan must include specified statutory limits, including a 30 year time limit on establishing debt, a 45 year time limit for plan effectiveness and a 45 year time limit on repayment of debt.

AB 2 provides specific processes and procedures that an authority must consider in adopting the plan, including three public hearings, a protest process, and in specified instances, voter approval. Furthermore, AB 2 requires annual reviews of the revitalization plan and provides a process for the revitalization authority to make necessary and appropriate amendments.

Does AB 2 provide funding for affordable housing? Yes, under AB 2, not less than 25% of tax increment allocated to a revitalization authority must be deposited into a "Low and Moderate Income Housing Fund" and used for the purposes of increasing, improving, and preserving the community's supply of affordable housing.

In addition to providing funding, AB 2 offers other protections for low income residents of the designated revitalization areas. AB 2 prevents the reduction or removal of housing units occupied by extremely-low, very-low and low income households and imposes a one for one replacement housing obligation within in two years of the destruction or removal of a low and moderate income households w/in CRIA area.

A more detailed analysis of AB 2 will be available at www.goldfarbblipman.com under "Current Issues" tab. For more information, please call Karen Tiedemann, Thomas Webber, Lynn Hutchins, William DiCamillo, or Rafael Yaquian or any Goldfarb & Lipman attorney at 510-836-6336.



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