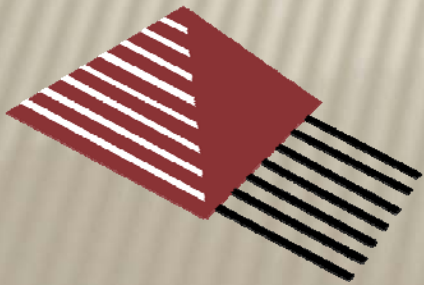

ABX1 26 Update

*Prepared for FCMAT Training
August 27, 2012*

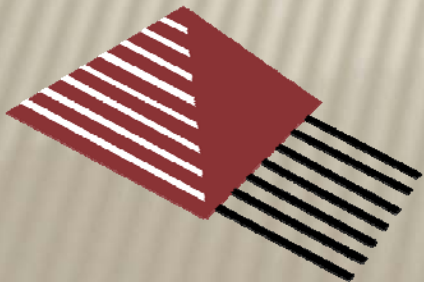


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Overview

- ◆ ABX1 26: What's at Stake for LEAs
- ◆ ABX1 26: Where We've Been
- ◆ ABX1 26: Where We're Going (AB 1484)

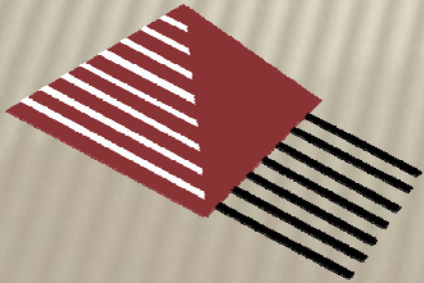


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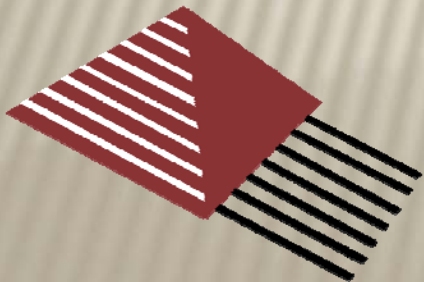
What's at Stake for LEAs

- ◆ Pass-through payments from pre-1994 negotiated agreements, 2 percent payments, and AB 1290 payments
 - LEAs need to know their pass-through entitlements by former RDA, Project area, and pass-through type, in order to make sure they're correctly paid by the County Auditor-Controller (A-C_ and accounted for and reported by the LEA
 - Underpaid pass-throughs for FY 2011-12 will be subject to January 2013 True-Up
 - Underpaid pass-throughs for prior years should be placed on Recognized Obligation Payment Schedule (ROPS) for future payment by County A-C or Successor Agency
 - Oversight Board appointees need to know:
 - When their pass-throughs are scheduled to end *under prior law*, so as NOT to accelerate payment of ROPS obligations in a way that may prematurely terminate pass-throughs
 - When there are underpaid pass-throughs for prior years, so they can be placed on ROPS



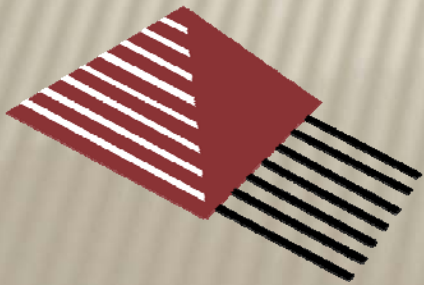
What's at Stake for LEAs

- ◆ Excess Revenues (aka Residual Distributions) and Other Revenues from liquidation of RDA assets
 - Basic aid LEAs have **direct stake** in maximizing these additional revenues, which they get to keep without revenue limit offset
 - Revenue limit LEAs have **no direct stake** in maximizing these additional revenues, which they must report for offset against State Aid
 - Revenue limit LEAs have **indirect stake** in maximizing these additional revenues in the form of additional State Aid in the future that may result from additional revenue limit offsets now
 - Revenue limit LEAs have direct stake ONLY if State withholds from State Aid their share of these additional revenues in anticipation of receipt from the County A-C, which is then delayed (or not forthcoming at all) due to the litigation



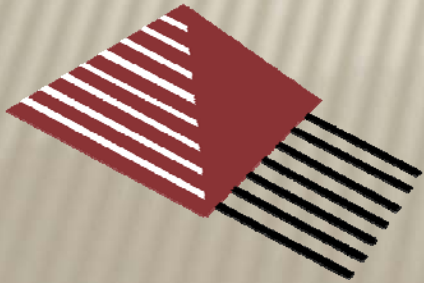
What's at Stake for LEAs

- ◆ Successor Agencies (SAs) want Oversight Boards:
 - To approve ROPS which:
 - Maximize enforceable obligations, especially those payable from Redevelopment Property Tax Trust Fund (RPTTF)
 - Avoid showing underpaid pass-throughs for prior years
 - NOT have independent legal counsel, but rather accept legal advice from SA's legal counsel
 - Preserve RDA assets
- This will result in reduced pass-throughs, Residual Distributions, and Other Revenues from liquidation of RDA assets
- This may put LEA appointees to Oversight Board in conflict with SA and City (and possibly other) appointees



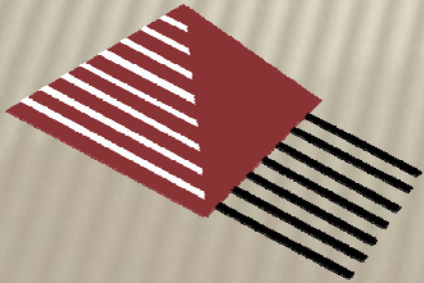
Where We've Been

- ◆ Added Part 1.8 to Community Redevelopment Law in Health and Safety Code (HSC), which applied to RDAs until they were dissolved on Feb. 1, 2012, including freeze provisions, Enforceable Obligation Payment Schedule (EOPS), etc.
- ◆ Added Part 1.85 to Community Redevelopment Law, which dissolved RDAs and provided for “wind-down” of their activities by Successor Agencies (SAs) and Oversight Boards, including ROPS 1 and ROPS 2
- ◆ Amended HSC 33607.5 and 33607.7 to *broaden usage restrictions* on facilities portion of AB 1290 pass-throughs **received** by LEAs between July 1, 2011 and June 30, 2016 to include “maintenance” (doesn't apply to agreements and 2 percent payments)



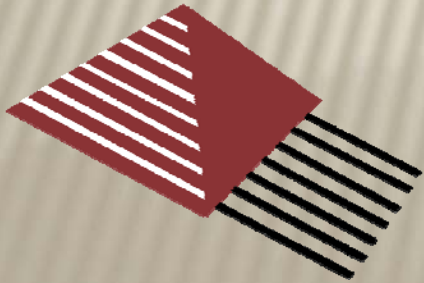
Where We've Been

- ◆ County A-C pays former RDA tax increment into RPTTF
- ◆ County A-C makes payments (distributions) out of RPTTF to:
 - County A-C for administrative costs
 - Affected taxing entities for pass-through payments
 - SAs for former RDA bond debt service and other enforceable obligations paid from RPTTF per ROPS
 - Successor Agencies for capped administrative costs based on ROPS
 - State Controller's Office for costs (if any) "of audit and oversight"
 - Affected taxing entities for Residual Distributions
- ◆ County A-C also makes distributions of Other Revenues from liquidation of former RDA assets



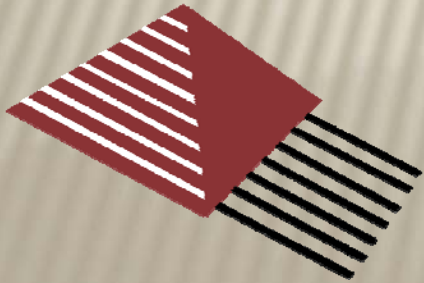
Where We've Been

- ◆ DOF had many issues with ROPS prepared by SAs and approved by Oversight Boards regarding “enforceable obligations” particularly obligations paid from RPTTF, including:
 - Previous agreements between City and RDAs showing City as payee
 - Allowable SA administrative costs
 - Treatment of current and former RDA employees
 - Alleged encumbrances against low-and-moderate-income (LMI) housing funds
 - Agreements with third parties adopted on June 28-29, 2012
- ◆ Even after drastic cuts to ROPS by DOF, many SAs were still “upside down”



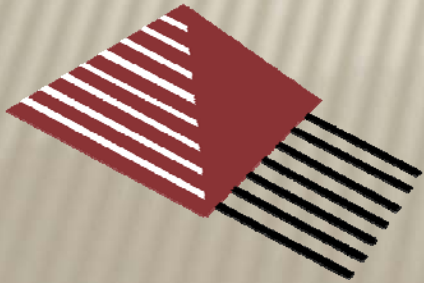
Where We've Been

- ◆ In FY 2011-12, County A-C was supposed to make distributions into and out of RPTTF as follows:
 - First 50% on May 16, 2012
 - Second 50% on June 1, 2012
- ◆ However, since County A-C already paid more than 50% of tax increment for FY 2011-12 to RDAs by February 1, 2012, and since most County A-Cs had not finalized tax increment for May and June 2012:
 - First distribution into and out of RPTTF on May 16, 2012 was zero
 - Second distribution on June 1 was less than 50%



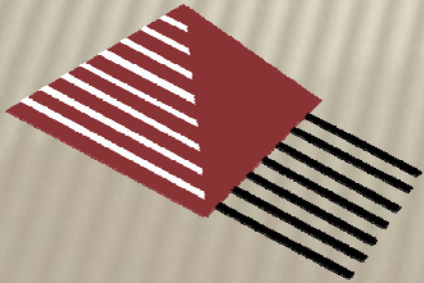
Where We've Been: Impacts on LEAs

- ◆ LEAs and other affected taxing entities previously received only one type of identified revenue from RDAs—pass-throughs, in most counties, generally via warrant from RDAs
- ◆ Under ABX1 26, LEAs and non-LEAs now receive THREE types of identified revenues from (former) RDAs:
 - Pass-throughs
 - Additional property taxes from Residual Distributions
 - Additional distributions of Other RevenuesTypically by electronic funds transfer from the County A-C
- ◆ All distributions are supposed to be based on post-ERAF percentage shares of property taxes within each RDA Project



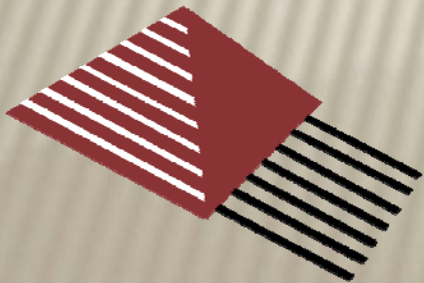
Where We've Been: Impacts on LEAs

- ◆ Under ABX1 26, County A-C, not RDAs, is responsible for making all pass-throughs starting with payments for FY 2011-12
- ◆ Some County A-Cs made 100% of pass-throughs for FY 2011-12 on June 1, 2012
- ◆ However, since RDAs already received over 50% of tax increment prior to Feb. 1, 2012:
 - **Many County A-Cs only made “second 50%” (actually less than 50%)** of pass-throughs for FY 2011-12 on June 1, whether or not RDA/SA actually made “first 50%”
 - **Many RDA/SAs did NOT make “first 50%” (should have been more than 50%) of pass-throughs** for FY 2011-12 before June 1 (compared to 100% of pass-throughs for FY 2010-11, which also should've been paid *in* FY 2011-12)



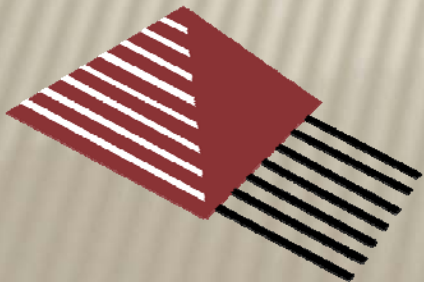
Where We've Been: Impacts on LEAs

- ◆ DOF previously estimated LEA share of Residual Distributions and Other Revenues for FY 2011-12 at \$1.037 B statewide, including:
 - \$887 M for K-12 Districts
 - \$ 3 M for COEs
 - \$147 M for CCDs



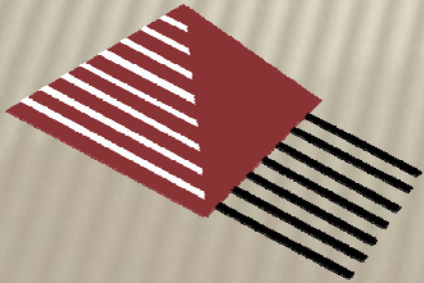
Where We've Been: Impacts on LEAs

- ◆ Actual LEA shares of Residual Distributions and Other Revenues in FY 2011-12 were much lower than DOF estimates, due in part to following:
 - First distribution from RPTTF on May 16, 2012 was zero since over 50% of tax increment was already allocated to RDAs before they were dissolved on Feb. 1, 2012
 - Former RDA debt service and enforceable obligations were much greater than DOF expected
 - Other Revenues were smaller than DOF expected, and will require additional time to be liquidated and distributed



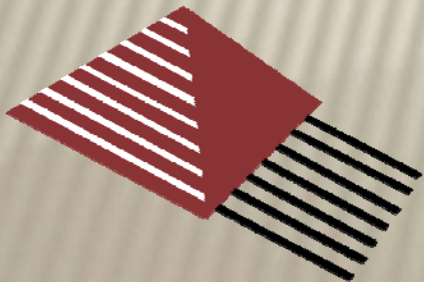
Where We've Been: Impacts on LEAs

- ◆ CDE anticipated that ABX1 27 would be upheld, and developed new revenue code/description for increased property taxes from former RDAs as “ERAF: RDA Remittances [HSC 34194]” (object 8045)
- ◆ Under ABX1 26, even though Residual Distributions are NOT ERAF nor pass-throughs, CDE wanted Residual Distributions for FY 2011-12 reported as ERAF: RDA Remittances (e.g., data field A-13 on Taxes Report) using object 8047 (same object used for revenue limit offset portion of AB 1290 pass-throughs)
- ◆ For FY 2012-13, CDE is creating new revenue codes, descriptions, and object codes to be used for Residual Distributions and Other Revenues



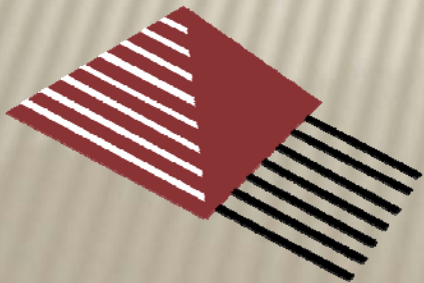
Where We've Been: Impacts on LEAs

- ◆ HSC 34183(b) allows for *potential* reduction of pass-through payments, but only:
 - If former RDA is “upside down,” e.g., has annual obligations from the RORF that exceed the amount of tax increment in the RPTTF
 - If and to the extent that pass-through payments were previously *subordinated* to RDA debt service, and even then, based on *the terms of the subordination* (e.g., subordination to Bond A but not Bond B, subordinated payments must be repaid with interest)
- ◆ While many former RDAs were “upside down, there were few if any pass-through reductions for subordination, presumably because subordination of pass-throughs hadn't been fully documented



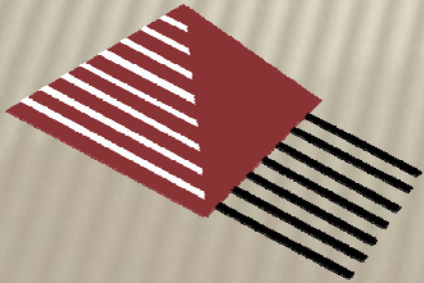
Where We've Been: Impacts on LEAs

- ◆ There was much discussion among County A-Cs, and disagreement between the LAO and DOF, regarding potential reductions (i.e., “haircuts”) in *non-subordinated* pass-throughs pursuant to HSC 34188:
 - Even if former RDA is NOT upside down
 - If and to the extent that pass-through payments per negotiated *agreements* are “overly generous” (e.g., more than 50 percent of District share, though even less generous payments could be reduced)
- ◆ However, there appeared to be few “haircuts” applied, particularly to pass-throughs to LEAs



Where We're Going: AB 1484

- ◆ Because ABX1 26 is new and complex legislation, there have been many issues of interpretation and implementation
- ◆ AB 1484 was DOF's response to these issues
- ◆ Among other things, AB 1484 made numerous changes to ABX1 26, particularly Part 1.85 of Community Redevelopment Law involving chapters regarding:
 - Effect of RDA Dissolution
 - Successor Agencies
 - Oversight Boards
 - County A-Cs



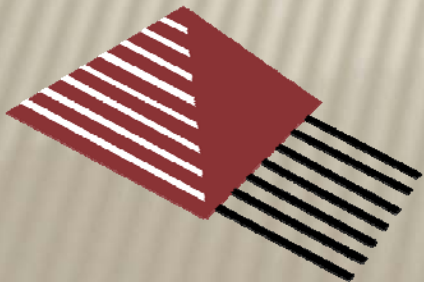
Where We're Going: AB 1484

- ◆ AB 1484 tries to clarify “enforceable obligations”:
 - Administrative cost allowance excludes costs of litigation, maintaining assets prior to disposition, and employee costs associated with specific projects, including “construction inspection, project management, or actual construction” (all of which are also enforceable obligations)
 - Minimum administrative cost allowance of \$250,000 per year (\$125,000 per ROPS period) may be reduced by Oversight Board
 - Enforceable obligations include “costs incurred to fulfill collective bargaining agreements for layoffs or termination of city employees who performed work directly on behalf of the former [RDA]”
 - Enforceable obligations include amounts previously borrowed from, or owed to, LMI housing fund, provided that repayment schedule is approved by Oversight Board, and payments become an LMI Housing Asset
 - ABX1 26 is deemed effective on June 27 2012 (NOT June 29), which invalidates third party agreements adopted on June 28, 2012



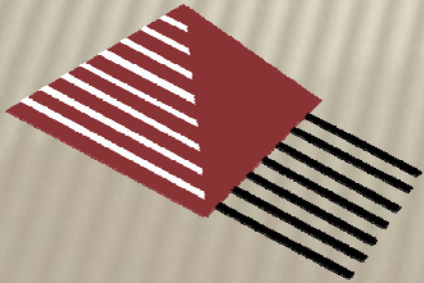
Where We're Going: AB 1484

- ◆ AB 1484 imposes multiple new deadlines (milestones), including:
 - Four deadlines between July 9 and July 18
 - Two deadlines between August 1 and August 10
 - Two deadlines of September 1 (e.g., to submit ROPS 3 for January 1, 2013 through June 30, 2013)
 - Seven deadlines between October 1 and October 15
 - Additional deadlines in November, December, January, March, April, May and June
- ◆ See AB 1484 Milestone Summary



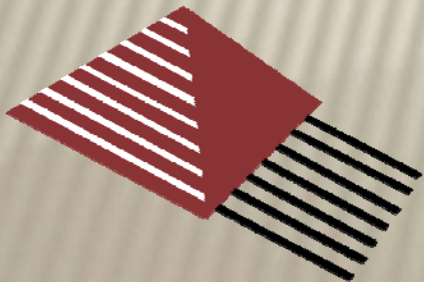
Where We're Going: AB 1484

- ◆ AB 1484 includes new code sections providing for:
 - “January 2013 True-Up” of pass-throughs by County A-C per HSC 34183.5(a) for:
 - “First 50%” (should be more than 50%) of pass-throughs for FY 2011-12 NOT paid by former RDA/SAs
 - “Second 50%” (or even 100%) of pass-throughs for FY 2011-12 NOT correctly paid by County A-Cs on June 1
 - “July 2012 True-Up” of Residual Distributions by County A-C per HSC 34183.5(b)



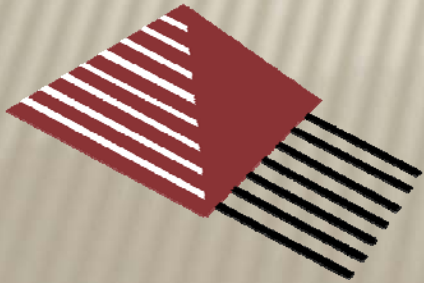
Where We're Going: AB 1484

- ◆ AB 1484 also includes uncodified Section 36 stating intent of Legislature that unsubordinated pass-throughs NOT be subject to “haircuts”
- ◆ However, AB 1484 also adds subdivision (b) to HSC 34187, which may result in premature termination of pass-throughs within one year of repayment of “all of the debt of a redevelopment agency”



Where We're Going: AB 1484

- ◆ HSC 34187(b) ignores fact that:
 - Pass-through agreements, and arguably AB 1290 pass-throughs, are also a debt of the former RDA
 - ABX1 26 requires the County A-C to:
 - Remit pass-throughs in the amount “which would have been received . . . had the [RDA] existed at that time (HSC 34183(a)(1)) and
 - “Determine the amount of [pass-throughs] that would have been allocated to each [RDA] had the [RDA] not been dissolved pursuant to the operation of [ABX1 26] (HSC 34183(c)(1))
- ◆ Senate Budget Committee reportedly acknowledged that HSC 34187(b) could create problems for districts with long term debt obligations, and made commitment to take action “later this session” to revise this language to address LEA concerns



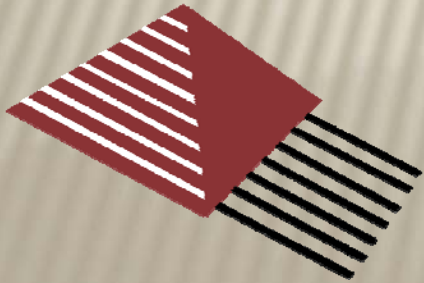
Where We're Going: AB 1484

- ◆ January 2013 True-Up of pass-throughs to take place at first distribution from RPTTF on January 2, 2013 (changed from January 16, 2013 under ABX1 26), with *estimates* of trued-up pass-throughs due from County A-C by Oct. 1, 2013
- ◆ LEA should work with County A-C before Oct. 1 to address underpayments of pass-throughs for FY 2011-12 and, if possible, prior years



Where We're Going: AB 1484

- ◆ July 2012 True-Up of Residual Distributions took place between July 9 and July 16, 2012, focused mainly on “clawback” of additional Residual Distributions from tax increment apportioned to former RDAs through January 30, 2012
- ◆ County A-Cs and Successor Agencies not complying with these deadlines faced draconian penalties, including loss of sales tax revenues for corresponding County and Cities

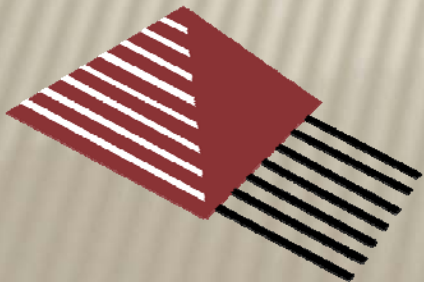


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Where We're Going: AB 1484

- ◆ Additional Residual Distributions from July True-Up were much, much *larger* than Residual Distributions on June 1, including (for example) in San Diego County:
 - \$155 M in July, including \$100 M for LEAs, compared to
 - Less than \$17 M in June, including less than \$9 million for LEAs
- See AB 1484 Overview: Part I (Pass-Throughs and Excess Revenues)



Where We're Going: AB 1484

- ◆ For additional information see [http://www.fcmat.org/stories/storyReader\\$18321](http://www.fcmat.org/stories/storyReader$18321) for:
 - AB 1484 Chaptered Bill and AB 1484 Law as Amended
 - Overview of AB 1484: Part 1 (PEI)
 - Summary of AB 1484 (Goldfarb & Lipman)
 - AB 1484 Milestones Chart
 - Successor Agency and Oversight Board Issues
 - New ROPS 3 Instructions
 - ROPS 3
 - Updated Q&A

