

AMENDED IN SENATE MARCH 29, 2011

**SENATE BILL**

**No. 450**

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**Introduced by Senator Lowenthal**  
**(Principal coauthor: Senator DeSaulnier)**  
(Principal coauthor: Assembly Member Torres)  
(Coauthors: Assembly Members Atkins and Norby)

February 16, 2011

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An act to amend Sections 33080.1, 33080.2, 33080.8, 33334.2, 33334.3, 33334.4, 33334.12, 33334.16, 33413, ~~and 33413.5~~ 33413.5, 33487, and 33490 of, to add Sections 33080.9, 33080.10, 33080.11, 33080.12, 33506, and 50464.5 to, and to add Article 13 (commencing with Section 33460) to Chapter 4 of Part 1 of Division 24 of, the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

SB 450, as amended, Lowenthal. Redevelopment.

(1) The Community Redevelopment Law requires that each redevelopment agency submit the final report of any audit undertaken by any other local, state, or federal government entity to its legislative body and to additionally present an annual report to the legislative body containing specified information.

This bill would require the agency to include additional information relating to any major audit violations, as defined, any corrections to those violations, and planning and general administrative expenses of the Low and Moderate Income Housing Fund. The bill would authorize the Controller to conduct quality control reviews of independent financial audit reports and require the Controller to the results of his or her reviews. The Controller would be required to comply with certain

notification and referral provisions in the event that the audit was conducted in a manner that may constitute unprofessional conduct.

The bill would require the Department of Housing and Community Development to conduct audits of redevelopment agencies to ensure compliance with the housing provisions of the Community Redevelopment Law. The bill would require each agency to annually deposit 0.05% of any tax increment deposited into the Low and Moderate Income Housing Fund into the Redevelopment Agency Accountability Fund, which the bill would create, to fund the department audits.

(2) Existing law requires that funds used for purposes of increasing, improving, and preserving a community's supply of low- and moderate-income housing be held in a separate Low and Moderate Income Housing Fund until used. Existing law limits the planning and general administrative costs which may be paid with moneys from the Low and Moderate Income Housing Fund.

The bill would revise the costs and expenses which may be considered planning and general administrative costs for the purposes of being paid from the Low and Moderate Income Housing Fund. Except as provided, the bill would prohibit an agency from expending more than 15% of the tax increment deposited in the fund for planning and general administrative costs. The bill would impose other reporting and accountability measures on agencies with respect to the use of moneys in the fund for planning and administrative purposes. *The bill would impose a statute of limitations for an action to compel agency compliance with specified provisions.*

(3) Existing law requires, except as specified, each agency to expend over each 10-year period of the implementation plan, the moneys in the Low and Moderate Income Fund to assist housing for persons of moderate, low, and very low income according to specified calculations.

The bill would instead require that at least 70% of the agency's expenditures from the fund directly assist the new construction, acquisition, and substantial rehabilitation or preservation of rental housing for persons of extremely low, very low, low, or moderate income, 20% of which is required to be directed towards rental housing for persons of extremely low-income.

(4) Existing law requires an agency that has failed to expend or encumber excess surplus in the Low and Moderate Income Housing Fund within one year to disburse the surplus voluntarily to the

appropriate county housing authority or another public agency or to expend or encumber the surplus within two additional years.

The bill would delete these provisions. The bill would modify the definition of the term “excess surplus.”

(5) Whenever low- or moderate-income housing dwelling units are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment that is subject to a written agreement with the agency, or where financial assistance has been provided by the agency, the agency is required to provide replacement housing within 4 years of the destruction or removal.

The bill would modify the agency’s obligation to provide replacement housing to low- or moderate-income persons and families and would impose new requirements on the agency with respect to the replacement housing plan and housing specifications. If a court has found that an agency has failed to comply with these provisions, the bill would require the court, at a minimum, to issue an order temporarily prohibiting the agency from issuing any debt for any project area, except as specified.

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

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

1 SECTION 1. Section 33080.1 of the Health and Safety Code  
2 is amended to read:

3 33080.1. Every redevelopment agency shall submit the final  
4 report of any audit undertaken by any other local, state, or federal  
5 government entity to its legislative body within 30 days of receipt  
6 of that audit report. In addition, every redevelopment agency shall  
7 present an annual report to its legislative body within six months  
8 of the end of the agency’s fiscal year. The annual report shall  
9 contain all of the following:

10 (a) (1) An independent financial audit report for the previous  
11 fiscal year. “Audit report” means an examination of, and opinion  
12 on, the financial statements of the agency which present the results  
13 of the operations and financial position of the agency, including  
14 all financial activities with moneys required to be held in a separate  
15 Low and Moderate Income Housing Fund pursuant to Section  
16 33334.3. This audit shall be conducted by a certified public  
17 accountant or public accountant, licensed by the State of California,  
18 in accordance with Government Auditing Standards adopted by

1 the Comptroller General of the United States. The audit report  
2 shall meet, at a minimum, the audit guidelines prescribed by the  
3 Controller's office pursuant to Section 33080.3 and also include  
4 a report on the agency's compliance with laws, regulations, and  
5 administrative requirements governing activities of the agency,  
6 and a calculation of the excess surplus in the Low and Moderate  
7 Income Housing Fund as defined in subdivision (g) of Section  
8 33334.12. The audit report shall include a statement from the  
9 auditor as to whether or not the agency has any major audit  
10 violations, as defined in subdivision (j) of Section 33080.8.

11 (2) A statement describing ~~any activities~~ *each corrective*  
12 *measure* taken in that fiscal year to correct major audit violations  
13 identified during or prior to that fiscal year by the agency, its  
14 auditor, or the Department of Housing and Community  
15 Development.

16 (3) However, the legislative body may elect to omit from  
17 inclusion in the audit report any distinct activity of the agency that  
18 is funded exclusively by the federal government and that is subject  
19 to audit by the federal government.

20 (b) A fiscal statement for the previous fiscal year that contains  
21 the information required pursuant to Section 33080.5.

22 (c) A description of the agency's activities in the previous fiscal  
23 year affecting housing and displacement that contains the  
24 information required by Sections 33080.4 and 33080.7.

25 (d) A description of the agency's progress, including specific  
26 actions and expenditures, in alleviating blight in the previous fiscal  
27 year.

28 (e) A list of, and status report on, all loans made by the  
29 redevelopment agency that are fifty thousand dollars (\$50,000) or  
30 more, that in the previous fiscal year were in default, or not in  
31 compliance with the terms of the loan approved by the  
32 redevelopment agency.

33 (f) A description of the total number and nature of the properties  
34 that the agency owns and those properties the agency has acquired  
35 in the previous fiscal year.

36 (g) A list of the fiscal years that the agency expects each of the  
37 following time limits to expire:

38 (1) The time limit for the commencement for eminent domain  
39 proceedings to acquire property within the project area.

1 (2) The time limit for the establishment of loans, advances, and  
2 indebtedness to finance the redevelopment project.

3 (3) The time limit for the effectiveness of the redevelopment  
4 plan.

5 (4) The time limit to repay indebtedness with the proceeds of  
6 property taxes.

7 ~~(h) Consistent with paragraph (1) of subdivision (d) of Section~~  
8 ~~33334.3, a~~

9 (h) A statement of the amount and percentage of tax increment  
10 expended from the Low and Moderate Income Housing Fund for  
11 planning and general administration in each of the preceding five  
12 fiscal years *that begin after December 31, 2011, broken down by*  
13 *the categories described in paragraph (1) of subdivision (d) of*  
14 *Section 33334.3.*

15 (i) A list of all real properties owned by the agency, the date of  
16 acquisition for each property, the agency's intended purpose for  
17 each property, ~~and~~ a statement of the amount, if any, of moneys  
18 from the Low and Moderate Income Housing Fund used to acquire  
19 the property, *and a statement of the amount, if any, of moneys from*  
20 *the Low and Moderate Income Housing Fund used to maintain*  
21 *the property.*

22 (j) *A list of the redevelopment projects that have caused a*  
23 *replacement obligation pursuant to subdivision (a) of Section*  
24 *33413, and of the development projects that have caused a*  
25 *production obligation pursuant to subdivision (b) of Section 33413,*  
26 *the respective number of units the agency is obligated to replace*  
27 *or produce as a result of each project, and the location and status*  
28 *of the replacement and production units. This list shall cover each*  
29 *fiscal year from the agency's last adopted implementation plan*  
30 *and also include any projects for which covenants required by*  
31 *paragraph (5) of subdivision (c) of Section 33413 have not been*  
32 *recorded for the identified replacement or production obligation.*

33 ~~(j)~~

34 (k) Any other information that the agency believes useful to  
35 explain its programs, including, but not limited to, the number of  
36 jobs created and lost in the previous fiscal year as a result of its  
37 activities.

38 SEC. 2. Section 33080.2 of the Health and Safety Code is  
39 amended to read:

1 33080.2. (a) When the agency presents the annual report to  
2 the legislative body pursuant to Section 33080.1, the agency shall  
3 inform the legislative body of any major audit violations of this  
4 part based on the independent financial audit report or an audit  
5 investigation conducted by the department. The agency shall inform  
6 the legislative body that the failure to correct a major audit  
7 violation of this part may result in the filing of an action by the  
8 Attorney General pursuant to Section 33080.8 in a form that  
9 indicates whether a referral to the Attorney General has been made.

10 (b) The legislative body shall review any report submitted  
11 pursuant to Section 33080.1 and take any action it deems  
12 appropriate on that report no later than the first meeting of the  
13 legislative body occurring more than 21 days from the receipt of  
14 the report.

15 SEC. 3. Section 33080.8 of the Health and Safety Code is  
16 amended to read:

17 33080.8. (a) On or before April 1 of each year, the Controller  
18 shall compile a list of agencies that appear to have major audit  
19 violations as defined in this section, based on the independent  
20 financial audit reports filed with the Controller pursuant to Section  
21 33080.

22 (b) On or before June 1 of each year, for each major audit  
23 violation of each agency identified pursuant to subdivision (a), the  
24 Controller shall determine if the agency has corrected the major  
25 audit violation. Before making this determination, the Controller  
26 shall consult with each affected agency. In making this  
27 determination, the Controller may request and shall receive the  
28 prompt assistance of public officials and public agencies, including,  
29 but not limited to, the affected agencies, counties, and cities. If the  
30 Controller determines that an agency has not corrected the major  
31 audit violation, the Controller shall send a list of those agencies,  
32 their major violations, all relevant documents, and the affidavits  
33 required pursuant to subdivision (d) to the Attorney General for  
34 action pursuant to this section.

35 (c) For each agency that the Controller refers to the Attorney  
36 General pursuant to subdivision (b), the Controller shall notify the  
37 agency and the legislative body that the agency was on the list sent  
38 to the Attorney General. The Controller's notice shall inform the  
39 agency and the legislative body of the duties imposed by Section  
40 33080.2.

1 (d) Within 45 days of receiving the referral from the Controller  
2 pursuant to subdivision (b), the Attorney General shall determine  
3 whether to file an action to compel the agency's compliance with  
4 this part. Any action filed pursuant to this section shall be  
5 commenced in the County of Sacramento. The time limit for the  
6 Attorney General to make this determination is directory and not  
7 mandatory. Any action shall be accompanied by an affidavit or  
8 affidavits, to be provided by the Controller with the referral, setting  
9 forth facts that demonstrate a likelihood of success on the merits  
10 of the claim that the agency has a major audit violation. The  
11 affidavit shall also certify that the agency and the legislative body  
12 were informed not less than 10 days prior to the date on which the  
13 action was filed. The agency shall file a response to any action  
14 filed by the Attorney General pursuant to this section within 15  
15 days of service.

16 (e) (1) On the earliest day that the business of the court will  
17 permit, but not later than 45 days after the filing of an action  
18 pursuant to this section, the court shall conduct a hearing to  
19 determine if good cause exists for believing that the agency has a  
20 major audit violation and has not corrected that violation.

21 (2) If the court determines that no good cause exists or that the  
22 agency had a major audit violation but corrected the major audit  
23 violation, the court shall dismiss the action.

24 (3) If the court determines that there is good cause for believing  
25 that the agency has a major audit violation and has not corrected  
26 that major audit violation, the court shall immediately issue an  
27 order that prohibits the agency from doing any of the following:

28 (A) Encumbering any funds or expending any money derived  
29 from any source except to pay the obligations designated in  
30 subparagraphs (A) to (G), inclusive, of paragraph (1) of subdivision  
31 (e) of Section 33334.12.

32 (B) Adopting a redevelopment plan.

33 (C) Amending a redevelopment plan except to correct the major  
34 audit violation that is the subject of the action.

35 (D) Issuing, selling, offering for sale, or delivering any bonds  
36 or any other evidence of indebtedness.

37 (E) Incurring any indebtedness.

38 (f) In a case that is subject to paragraph (3) of subdivision (e),  
39 the court shall also set a hearing on the matter within 60 days.

1 (g) If, on the basis of that subsequent hearing, the court  
2 determines that the agency has a major audit violation and has not  
3 corrected that violation, the court shall order the agency to comply  
4 with this part within 30 days, and order the agency to forfeit to the  
5 state no more than:

6 (1) Two thousand dollars (\$2,000) in the case of a community  
7 redevelopment agency with a total revenue, in the prior year, of  
8 less than one hundred thousand dollars (\$100,000) as reported in  
9 the Controller's annual financial reports.

10 (2) Five thousand dollars (\$5,000) in the case of a community  
11 redevelopment agency with a total revenue, in the prior year, of  
12 at least one hundred thousand dollars (\$100,000) but less than two  
13 hundred fifty thousand dollars (\$250,000) as reported in the  
14 Controller's annual financial reports.

15 (3) Ten thousand dollars (\$10,000) in the case of a community  
16 redevelopment agency with a total revenue, in the prior year, of  
17 at least two hundred fifty thousand dollars (\$250,000) as reported  
18 in the Controller's annual financial reports.

19 (h) The order issued by the court pursuant to paragraph (3) of  
20 subdivision (e) shall continue in effect until the court determines  
21 that the agency has corrected the major audit violation. If the court  
22 determines that the agency has corrected the major audit violation,  
23 the court may dissolve its order issued pursuant to paragraph (3)  
24 of subdivision (e) at any time.

25 (i) An action filed pursuant to this section to compel an agency  
26 to comply with this part is in addition to any other remedy, and is  
27 not an exclusive means to compel compliance.

28 (j) As used in this section, "major audit violation" means that,  
29 for the fiscal year in question, an agency did not:

30 (1) File an independent financial audit report that substantially  
31 conforms with the requirements of subdivision (a) of Section  
32 33080.1.

33 (2) File a fiscal statement that includes substantially all of the  
34 information required by Section 33080.5.

35 (3) Establish time limits, as required by Section 33333.6.

36 (4) Deposit all required tax increment revenues directly into the  
37 Low and Moderate Income Housing Fund upon receipt, as required  
38 by Section 33334.3, 33334.6, 33487, or 33492.16.

39 (5) Establish a Low and Moderate Income Housing Fund, as  
40 required by subdivision (a) of Section 33334.3.



1 (6) Accrue interest earned by the Low and Moderate Income  
2 Housing Fund to that fund, as required by subdivision (b) of  
3 Section 33334.3.

4 (7) Comply with subdivisions (d) and (e) of Section 33334.3,  
5 governing eligible expenditures for planning and general  
6 administration from the Low and Moderate Income Housing Fund.

7 (8) Initiate development of housing on real property acquired  
8 using moneys from the Low and Moderate Income Housing Fund  
9 or sell the property, as required by Section 33334.16.

10 (9) Adopt an implementation plan, as required by Section 33490.

11 SEC. 4. Section 33080.9 is added to the Health and Safety  
12 Code, to read:

13 33080.9. (a) (1) The department shall forward to the Attorney  
14 General and the Controller a copy of any audit or investigation of  
15 a redevelopment agency conducted pursuant to Section 50464.5.

16 (2) On or before April 1 of each year, the department shall  
17 determine for all audits and investigations conducted the previous  
18 year, including those audits and investigations conducted pursuant  
19 to Section 50464.5, whether an audit or investigation contains  
20 major audit violations, as defined in subdivision (j) of Section  
21 33080.8.

22 (b) On or before June 1 of each year, the department shall  
23 determine for each major audit violation identified pursuant to  
24 subdivision (a) if the agency has corrected the major audit  
25 violation. Before making this determination, the department shall  
26 consult with each affected agency. In making this determination,  
27 the department may request and shall receive the prompt assistance  
28 of public officials and public agencies, including, but not limited  
29 to, the affected agencies, counties, and cities. If the department  
30 determines an agency has not corrected the major audit violation,  
31 the department shall send a list of those agencies, their major audit  
32 violations, all relevant documentation, and the affidavits required  
33 pursuant to subdivision (e) to the Attorney General for any action  
34 pursuant to this section.

35 (c) For each agency the department refers to the Attorney  
36 General pursuant to subdivision (b), the department shall notify  
37 the agency and its legislative body that the agency was on the list  
38 sent to the Attorney General. The notice shall inform the agency  
39 and its legislative body of the duties imposed pursuant to Section  
40 33080.2.

1 (d) The Attorney General shall determine whether to file an  
 2 action to compel the agency’s compliance with this article within  
 3 45 days of receiving notice from the department regarding major  
 4 audit violations. Any action filed pursuant to this section shall be  
 5 commenced in the superior court of any county where the Attorney  
 6 General has an office. The time limit for the Attorney General to  
 7 make this determination is directory and not mandatory.

8 (e) Any action shall be accompanied by the affidavit or affidavits  
 9 setting forth the facts that demonstrate a likelihood of success on  
 10 the merits of the claim that the agency has a major audit violation.  
 11 The affidavit shall also certify that the agency and its legislative  
 12 body were notified of the action no less than 10 days prior to the  
 13 date on which the action was filed. The agency shall file a response  
 14 to any action filed by the Attorney General pursuant to this section  
 15 within 15 days of service.

16 (f) Nothing in this section shall be construed to permit the  
 17 department to initiate or settle litigation, or to resolve any  
 18 departmental audit or investigation in a manner contrary to law.

19 SEC. 5. Section 33080.10 is added to the Health and Safety  
 20 Code, to read:

21 33080.10. In an action to compel an agency’s compliance with  
 22 this article pursuant to Section 33080.9, all of the following shall  
 23 apply:

24 (a) (1) On the earliest day that the business of the court will  
 25 permit, but no later than 45 days after the filing of an action, the  
 26 court shall conduct a hearing to determine if good cause exists for  
 27 believing the agency has a major audit violation, as defined in  
 28 subdivision (j) of Section 33080.8, and has not corrected the major  
 29 audit violation.

30 (2) If the court determines that no major audit violation exists  
 31 or that the agency had a major audit violation and has corrected  
 32 the major audit violation, the court shall dismiss the action.

33 (3) If the court determines there is good cause to believe the  
 34 agency had a major audit violation and has not corrected that major  
 35 audit violation, the court shall set a hearing on the matter within  
 36 60 days. The court also shall issue immediately an order that  
 37 prohibits the agency from doing any of the following:

38 (A) Encumbering any funds or expending any money derived  
 39 from any source, other than a Low and Moderate Income Housing  
 40 Fund, except to pay the obligations designated in subparagraphs

1 (A) to (G), inclusive, of paragraph (1) of subdivision (e) of Section  
2 33334.12.

3 (B) Adopting a redevelopment plan.

4 (C) Exercising the power of eminent domain.

5 (D) Amending a redevelopment plan, except to correct the major  
6 audit violation that is the subject of the action.

7 (E) Issuing, selling, offering for sale, or delivering any bonds  
8 or any other evidence of indebtedness, except to increase, improve,  
9 preserve, or assist in the construction or rehabilitation of, housing  
10 units that will be occupied by and affordable to persons or families  
11 of extremely low, very low, low, or moderate income, in  
12 accordance with this part.

13 (F) Incurring any indebtedness, except to increase, improve,  
14 preserve, or assist in the construction or rehabilitation of, housing  
15 units that will be occupied by and affordable to persons or families  
16 of extremely low, very low, low, or moderate income, in  
17 accordance with this part.

18 (b) If a court finds, on the basis of the subsequent hearing set  
19 pursuant to paragraph (3) of subdivision (a), that the agency has  
20 a major audit violation and has not corrected the major audit  
21 violation, the court shall order the agency to comply with this  
22 article within 30 days and order the agency to forfeit to the state  
23 a monetary sanction commensurate with the violation.

24 (c) The order issued by the court pursuant to paragraph (3) of  
25 subdivision (a) shall continue in effect until the court determines  
26 the agency has corrected the major audit violation. If the court  
27 determines that the agency has corrected the major audit violation,  
28 the court may dissolve its order at any time.

29 (d) An action filed pursuant to this section is in addition to any  
30 other remedy and is not an exclusive means to compel compliance.  
31 This section is not intended to preclude an action to compel  
32 compliance with this article by any other interested party or resident  
33 of the jurisdiction.

34 SEC. 6. Section 33080.11 is added to the Health and Safety  
35 Code, to read:

36 33080.11. (a) The Controller may conduct quality control  
37 reviews of independent financial audit reports required by Section  
38 33080.1 to the extent it is feasible to do so within existing  
39 budgetary resources. The Controller shall communicate the results  
40 of his or her reviews to the independent auditor and the agency

1 for which the audit was conducted, and shall review his or her  
2 findings with the independent auditor.

3 (b) If the quality control review specified in subdivision (a)  
4 indicates the audit was conducted in a manner that may constitute  
5 unprofessional conduct, as defined in Section 5100 of the Business  
6 and Professions Code, including, but not limited to, gross  
7 negligence resulting in a material misstatement in the audit, the  
8 Controller shall refer the case to the California Board of  
9 Accountancy. If the board determines that the independent auditor  
10 conducted an audit in an unprofessional manner, the independent  
11 auditor is prohibited from performing any redevelopment agency  
12 audit for a period of three years, in addition to any other penalties  
13 the board may impose.

14 SEC. 7. Section 33080.12 is added to the Health and Safety  
15 Code, to read:

16 33080.12. (a) (1) Whenever the Controller determines through  
17 two consecutive quality control reviews, pursuant to Section  
18 33080.11, that audits performed by an independent auditor pursuant  
19 to Section 33080.1 were not performed in substantial conformity  
20 with provisions of the audit and report guidelines adopted pursuant  
21 to Section 33080.3, the Controller shall notify in writing the  
22 independent auditor and the California Board of Accountancy.

23 (2) If the independent auditor does not file an appeal in writing  
24 to the board within 30 calendar days after receipt of the Controller's  
25 notification, the Controller's determination under this section shall  
26 be final.

27 (3) If an appeal is filed with the California Board of  
28 Accountancy, the board shall complete an investigation of the  
29 appeal. On the basis of the investigation, the board may do either  
30 of the following:

31 (A) Find the Controller's determination should not be upheld  
32 and has no effect.

33 (B) Schedule the appeal for a hearing.

34 (b) If the Controller's determination pursuant to subdivision (a)  
35 becomes final, the independent auditor shall be ineligible to  
36 conduct audits pursuant to Section 33080.1 for a period of three  
37 years, or, in the event of an appeal, for any period and subject to  
38 conditions that may be ordered by the California Board of  
39 Accountancy. No later than March 1 following the date on which  
40 the Controller's determination becomes final, the Controller shall

1 notify each agency of those independent auditors determined to  
2 be ineligible under this section or Section 33080.11. Agencies  
3 shall not use the audit services of an independent auditor ineligible  
4 under this section.

5 (c) For the purposes of this section, “independent auditor” shall  
6 mean any person or firm entering into a contract to conduct an  
7 audit under Section 33080.1.

8 (d) This section shall not preclude the California Board of  
9 Accountancy from taking any disciplinary action it deems  
10 appropriate under any other provisions of law.

11 SEC. 8. Section 33334.2 of the Health and Safety Code is  
12 amended to read:

13 33334.2. (a) Except as provided in subdivision (k), not less  
14 than 20 percent of all taxes that are allocated to the agency pursuant  
15 to Section 33670 shall be used by the agency for the purposes of  
16 increasing, improving, and preserving the community’s supply of  
17 low- and moderate-income housing available at affordable housing  
18 cost, as defined by Section 50052.5, to persons and families of  
19 low or moderate income, as defined in Section 50093, lower  
20 income households, as defined by Section 50079.5, very low  
21 income households, as defined in Section 50105, and extremely  
22 low income households, as defined by Section 50106, that is  
23 occupied by these persons and families, unless one of the following  
24 findings is made annually by resolution:

25 (1) (A) That no need exists in the community to improve,  
26 increase, or preserve the supply of low- and moderate-income  
27 housing, including housing for very low income households in a  
28 manner that would benefit the project area and that this finding is  
29 consistent with the housing element of the community’s general  
30 plan required by Article 10.6 (commencing with Section 65580)  
31 of Chapter 3 of Division 1 of Title 7 of the Government Code,  
32 including its share of the regional housing needs of very low  
33 income households and persons and families of low or moderate  
34 income.

35 (B) This finding shall only be made if the housing element of  
36 the community’s general plan demonstrates that the community  
37 does not have a need to improve, increase, or preserve the supply  
38 of low- and moderate-income housing available at affordable  
39 housing cost to persons and families of low or moderate income  
40 and to very low income households. This finding shall only be

1 made if it is consistent with the planning agency’s annual report  
2 to the legislative body on implementation of the housing element  
3 required by subdivision (b) of Section 65400 of the Government  
4 Code. No agency of a charter city shall make this finding unless  
5 the planning agency submits the report pursuant to subdivision (b)  
6 of Section 65400 of the Government Code. This finding shall not  
7 take effect until the agency has complied with subdivision (b) of  
8 this section.

9 (2) (A) That some stated percentage less than 20 percent of the  
10 taxes that are allocated to the agency pursuant to Section 33670  
11 is sufficient to meet the housing needs of the community, including  
12 its share of the regional housing needs of persons and families of  
13 low- or moderate-income and very low income households, and  
14 that this finding is consistent with the housing element of the  
15 community’s general plan required by Article 10.6 (commencing  
16 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the  
17 Government Code.

18 (B) This finding shall only be made if the housing element of  
19 the community’s general plan demonstrates that a percentage of  
20 less than 20 percent will be sufficient to meet the community’s  
21 need to improve, increase, or preserve the supply of low- and  
22 moderate-income housing available at affordable housing cost to  
23 persons and families of low or moderate income and to very low  
24 income households. This finding shall only be made if it is  
25 consistent with the planning agency’s annual report to the  
26 legislative body on implementation of the housing element required  
27 by subdivision (b) of Section 65400 of the Government Code. No  
28 agency of a charter city shall make this finding unless the planning  
29 agency submits the report pursuant to subdivision (b) of Section  
30 65400 of the Government Code. This finding shall not take effect  
31 until the agency has complied with subdivision (b) of this section.

32 (C) For purposes of making the findings specified in this  
33 paragraph and paragraph (1), the housing element of the general  
34 plan of a city, county, or city and county shall be current, and shall  
35 have been determined by the department pursuant to Section 65585  
36 to be in substantial compliance with Article 10.6 (commencing  
37 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the  
38 Government Code.

39 (3) (A) That the community is making a substantial effort to  
40 meet its existing and projected housing needs, including its share

1 of the regional housing needs, with respect to persons and families  
2 of low and moderate income, particularly very low income  
3 households, as identified in the housing element of the  
4 community's general plan required by Article 10.6 (commencing  
5 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the  
6 Government Code, and that this effort, consisting of direct financial  
7 contributions of local funds used to increase and improve the  
8 supply of housing affordable to, and occupied by, persons and  
9 families of low or moderate income and very low income  
10 households is equivalent in impact to the funds otherwise required  
11 to be set aside pursuant to this section. In addition to any other  
12 local funds, these direct financial contributions may include federal  
13 or state grants paid directly to a community and that the community  
14 has the discretion of using for the purposes for which moneys in  
15 the Low and Moderate Income Housing Fund may be used. The  
16 legislative body shall consider the need that can be reasonably  
17 foreseen because of displacement of persons and families of low  
18 or moderate income or very low income households from within,  
19 or adjacent to, the project area, because of increased employment  
20 opportunities, or because of any other direct or indirect result of  
21 implementation of the redevelopment plan. No finding under this  
22 subdivision may be made until the community has provided or  
23 ensured the availability of replacement dwelling units as defined  
24 in Section 33411.2 and until it has complied with Article 9  
25 (commencing with Section 33410).

26 (B) In making the determination that other financial  
27 contributions are equivalent in impact pursuant to this subdivision,  
28 the agency shall include only those financial contributions that are  
29 directly related to programs or activities authorized under  
30 subdivision (e).

31 (C) The authority for making the finding specified in this  
32 paragraph shall expire on June 30, 1993, except that the expiration  
33 shall not be deemed to impair contractual obligations to  
34 bondholders or private entities incurred prior to May 1, 1991, and  
35 made in reliance on the provisions of this paragraph. Agencies that  
36 make this finding after June 30, 1993, shall show evidence that  
37 the agency entered into the specific contractual obligation with  
38 the specific intention of making a finding under this paragraph in  
39 order to provide sufficient revenues to pay off the indebtedness.

1 (b) Within 10 days following the making of a finding under  
2 either paragraph (1) or (2) of subdivision (a), the agency shall send  
3 the Department of Housing and Community Development a copy  
4 of the finding, including the factual information supporting the  
5 finding and other factual information in the housing element that  
6 demonstrates that either (1) the community does not need to  
7 increase, improve, or preserve the supply of housing for low- and  
8 moderate-income households, including very low income  
9 households, or (2) a percentage less than 20 percent will be  
10 sufficient to meet the community's need to improve, increase, and  
11 preserve the supply of housing for low- and moderate-income  
12 households, including very low income households. Within 10  
13 days following the making of a finding under paragraph (3) of  
14 subdivision (a), the agency shall send the Department of Housing  
15 and Community Development a copy of the finding, including the  
16 factual information supporting the finding that the community is  
17 making a substantial effort to meet its existing and projected  
18 housing needs. Agencies that make this finding after June 30, 1993,  
19 shall also submit evidence to the department of its contractual  
20 obligations with bondholders or private entities incurred prior to  
21 May 1, 1991, and made in reliance on this finding.

22 (c) In any litigation to challenge or attack a finding made under  
23 paragraph (1), (2), or (3) of subdivision (a), the burden shall be  
24 upon the agency to establish that the finding is supported by  
25 substantial evidence in light of the entire record before the agency.  
26 If an agency is determined by a court to have knowingly  
27 misrepresented any material facts regarding the community's share  
28 of its regional housing need for low- and moderate-income housing,  
29 including very low income households, or the community's  
30 production record in meeting its share of the regional housing need  
31 pursuant to the report required by subdivision (b) of Section 65400  
32 of the Government Code, the agency shall be liable for all court  
33 costs and plaintiff's attorney's fees, and shall be required to allocate  
34 not less than 25 percent of the agency's tax increment revenues to  
35 its Low and Moderate Income Housing Fund in each year  
36 thereafter.

37 (d) Nothing in this section shall be construed as relieving any  
38 other public entity or entity with the power of eminent domain of  
39 any legal obligations for replacement or relocation housing arising  
40 out of its activities.



1 (e) In carrying out the purposes of this section, the agency may  
2 exercise any or all of its powers for the construction, rehabilitation,  
3 or preservation of affordable housing for extremely low, very low,  
4 low-, and moderate-income persons or families, including the  
5 following:

6 (1) Acquire real property or building sites subject to Section  
7 33334.16.

8 (2) (A) Improve real property or building sites with onsite or  
9 offsite improvements, but only if both (i) the improvements are  
10 part of the new construction or rehabilitation of affordable housing  
11 units for low- or moderate-income persons that are directly  
12 benefited by the improvements, and are a reasonable and  
13 fundamental component of the housing units, and (ii) the agency  
14 requires that the units remain available at affordable housing cost  
15 to, and occupied by, persons and families of extremely low, very  
16 low, low, or moderate income for the same time period and in the  
17 same manner as provided in subdivision (c) and paragraph (2) of  
18 subdivision (f) of Section 33334.3.

19 (B) If the newly constructed or rehabilitated housing units are  
20 part of a larger project and the agency improves or pays for onsite  
21 or offsite improvements pursuant to the authority in this  
22 subdivision, the agency shall pay only a portion of the total cost  
23 of the onsite or offsite improvement. The maximum percentage  
24 of the total cost of the improvement paid for by the agency shall  
25 be determined by dividing the number of housing units that are  
26 affordable to low- or moderate-income persons by the total number  
27 of housing units, if the project is a housing project, or by dividing  
28 the cost of the affordable housing units by the total cost of the  
29 project, if the project is not a housing project.

30 (3) Donate real property to private or public persons or entities.

31 (4) Finance insurance premiums pursuant to Section 33136.

32 (5) Construct buildings or structures.

33 (6) Acquire buildings or structures.

34 (7) Rehabilitate buildings or structures.

35 (8) Provide subsidies to, or for the benefit of, extremely low  
36 income households, as defined by Section 50106, very low income  
37 households, as defined by Section 50105, lower income  
38 households, as defined by Section 50079.5, or persons and families  
39 of low or moderate income, as defined by Section 50093, to the  
40 extent those households cannot obtain housing at affordable costs

1 on the open market. Housing units available on the open market  
2 are those units developed without direct government subsidies.

3 (9) Develop plans, pay principal and interest on bonds, loans,  
4 advances, or other indebtedness, or pay financing or carrying  
5 charges.

6 (10) Maintain the community's supply of mobilehomes.

7 (11) Preserve the availability to lower income households of  
8 affordable housing units in housing developments that are assisted  
9 or subsidized by public entities and that are threatened with  
10 imminent conversion to market rates.

11 (f) The agency may use these funds to meet, in whole or in part,  
12 the replacement housing provisions in Section 33413. However,  
13 nothing in this section shall be construed as limiting in any way  
14 the requirements of that section.

15 (g) (1) The agency may use these funds inside or outside the  
16 project area. The agency may only use these funds outside the  
17 project area upon a resolution of the agency and the legislative  
18 body that the use will be of benefit to the project. The  
19 determination by the agency and the legislative body shall be final  
20 and conclusive as to the issue of benefit to the project area. The  
21 Legislature finds and declares that the provision of replacement  
22 housing pursuant to Section 33413 is always of benefit to a project.  
23 Unless the legislative body finds, before the redevelopment plan  
24 is adopted, that the provision of low- and moderate-income housing  
25 outside the project area will be of benefit to the project, the project  
26 area shall include property suitable for low- and moderate-income  
27 housing.

28 (2) (A) The Contra Costa County Redevelopment Agency may  
29 use these funds anywhere within the unincorporated territory, or  
30 within the incorporated limits of the City of Walnut Creek on sites  
31 contiguous to the Pleasant Hill BART Station Area Redevelopment  
32 Project area. The agency may only use these funds outside the  
33 project area upon a resolution of the agency and board of  
34 supervisors determining that the use will be of benefit to the project  
35 area. In addition, the agency may use these funds within the  
36 incorporated limits of the City of Walnut Creek only if the agency  
37 and the board of supervisors find all of the following:

38 (i) Both the County of Contra Costa and the City of Walnut  
39 Creek have adopted and are implementing complete and current  
40 housing elements of their general plans that the Department of

1 Housing and Community Development has determined to be in  
2 compliance with the requirements of Article 10.6 (commencing  
3 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the  
4 Government Code.

5 (ii) The development to be funded shall not result in any  
6 residential displacement from the site where the development is  
7 to be built.

8 (iii) The development to be funded shall not be constructed in  
9 an area that currently has more than 50 percent of its population  
10 comprised of racial minorities or low-income families.

11 (iv) The development to be funded shall allow construction of  
12 affordable housing closer to a rapid transit station than could be  
13 constructed in the unincorporated territory outside the Pleasant  
14 Hill BART Station Area Redevelopment Project.

15 (B) If the agency uses these funds within the incorporated limits  
16 of the City of Walnut Creek, all of the following requirements  
17 shall apply:

18 (i) The funds shall be used only for the acquisition of land for,  
19 and the design and construction of, the development of housing  
20 containing units affordable to, and occupied by, low- and  
21 moderate-income persons.

22 (ii) If less than all the units in the development are affordable  
23 to, and occupied by, low- or moderate-income persons, any agency  
24 assistance shall not exceed the amount needed to make the housing  
25 affordable to, and occupied by, low- or moderate-income persons.

26 (iii) The units in the development that are affordable to, and  
27 occupied by, low- or moderate-income persons shall remain  
28 affordable for a period of at least 55 years.

29 (iv) The agency and the City of Walnut Creek shall determine,  
30 if applicable, whether Article XXXIV of the California Constitution  
31 permits the development.

32 (h) The Legislature finds and declares that expenditures or  
33 obligations incurred by the agency pursuant to this section shall  
34 constitute an indebtedness of the project.

35 (i) This section shall only apply to taxes allocated to a  
36 redevelopment agency for which a final redevelopment plan is  
37 adopted on or after January 1, 1977, or for any area that is added  
38 to a project by an amendment to a redevelopment plan, which  
39 amendment is adopted on or after the effective date of this section.  
40 An agency may, by resolution, elect to make all or part of the

1 requirements of this section applicable to any redevelopment  
2 project for which a redevelopment plan was adopted prior to  
3 January 1, 1977, subject to any indebtedness incurred prior to the  
4 election.

5 (j) (1) (A) An action to compel compliance with the  
6 requirement of Section 33334.3 to deposit not less than 20 percent  
7 of all taxes that are allocated to the agency pursuant to Section  
8 33670 *or other revenue* in the Low and Moderate Income Housing  
9 Fund shall be commenced within 10 years of the alleged violation.  
10 A cause of action for a violation accrues on the last day of the  
11 fiscal year in which the funds were required to be deposited in the  
12 Low and Moderate Income Housing Fund.

13 (B) An action to compel compliance with the requirement of  
14 this section or Section 33334.6 that money deposited in the Low  
15 and Moderate Income Housing Fund be used by the agency for  
16 purposes of increasing, improving, and preserving the community's  
17 supply of low- and moderate-income housing available at  
18 affordable housing cost shall be commenced within 10 years of  
19 the alleged violation. A cause of action for a violation accrues on  
20 the date of the actual expenditure of the funds.

21 (C) An agency found to have deposited less into the Low and  
22 Moderate Income Housing Fund than mandated by Section 33334.3  
23 or to have spent money from the Low and Moderate Income  
24 Housing Fund for purposes other than increasing, improving, and  
25 preserving the community's supply of low- and moderate-income  
26 housing, as mandated, by this section or Section 33334.3 or  
27 33334.6 shall repay the funds with interest, plus an additional 50  
28 percent of that amount and interest, in one lump sum pursuant to  
29 Section 970.4 or 970.5 of the Government Code or may do either  
30 of the following:

31 (i) Petition the court under Section 970.6 for repayment in  
32 installments.

33 (ii) Repay the portion of the judgment due to the Low and  
34 Moderate Income Housing Fund in equal installments over a period  
35 of five years following the judgment.

36 (D) *An action to compel compliance with requirements of*  
37 *Section 33487 shall be commenced within 10 years of the alleged*  
38 *violation. A cause of action accrues on the actual date of the last*  
39 *day of the fiscal year in which the funds were required to be*  
40 *deposited in the Low and Moderate Income Housing Fund or the*

1 *date of the actual expenditure of the funds, as applicable. In the*  
2 *event the deposits to the Low and Moderate Income Housing Fund*  
3 *are less than the amounts required pursuant to Section 33487, or*  
4 *the expenditures from the Low and Moderate Income Housing*  
5 *Fund are not consistent with Section 33487, the repayment required*  
6 *by subparagraph (C) is applicable. This subparagraph applies to*  
7 *actions filed on or after January 1, 2012.*

8 (2) Repayment shall not be made from the funds required to be  
9 set aside or used for low- and moderate-income housing pursuant  
10 to this section ~~part~~, or any other funds designated for affordable  
11 housing.

12 (3) Notwithstanding clauses (i) and (ii) of subparagraph (C) or  
13 subparagraph (D) of paragraph (1), all costs, including reasonable  
14 attorney's fees if included in the judgment, are due and shall be  
15 paid upon entry of judgment or order.

16 (4) Except as otherwise provided in this subdivision, Chapter  
17 2 (commencing with Section 970) of Part 5 of Division 3.6 of Title  
18 1 of the Government Code for the enforcement of a judgment  
19 against a local public entity applies to a judgment against a local  
20 public entity that violates this section.

21 (5) ~~This~~ Except as provided in subparagraph (D) of paragraph  
22 (1), this subdivision applies to actions filed on and after January  
23 1, 2006.

24 (6) The limitations period specified in subparagraphs ~~(A) and~~  
25 ~~(B)~~ (A), (B), and (D) of paragraph (1) does not apply to a cause of  
26 action brought pursuant to Chapter 9 (commencing with Section  
27 860) of Title 10 of Part 2 of the Code of Civil Procedure.

28 (k) (1) From July 1, 2009, to June 30, 2010, inclusive, an agency  
29 may suspend all or part of its required allocation to the Low and  
30 Moderate Income Housing Fund from taxes that are allocated to  
31 that agency pursuant to Section 33670.

32 (2) An agency that suspends revenue pursuant to paragraph (1)  
33 shall pay back to its low- and moderate-income housing fund the  
34 amount of revenue that was suspended in the 2009–10 fiscal year  
35 pursuant to this subdivision from July 1, 2010, to June 30, 2015,  
36 inclusive.

37 (3) An agency that suspends revenue pursuant to paragraph (1)  
38 and fails to repay or have repaid on its behalf the amount of revenue  
39 suspended pursuant to paragraph (2) shall, commencing July 1,  
40 2015, be required to allocate an additional 5 percent of all taxes

1 that are allocated to that agency pursuant to Section 33670 for low-  
2 and moderate-income housing for the remainder of the time that  
3 the agency receives allocations of tax revenue pursuant to Section  
4 33670.

5 (4) An agency that fails to pay or have paid on its behalf the  
6 full amount calculated pursuant to subparagraph (J) of paragraph  
7 (2) of subdivision (a) of Section 33690, or subparagraph (J) of  
8 paragraph (2) of subdivision (a) of Section 33690.5, as the case  
9 may be, shall, commencing July 1, 2010, or July 1, 2011, as  
10 applicable, be required to allocate an additional 5 percent of all  
11 taxes that are allocated to that agency pursuant to Section 33670  
12 for low- and moderate-income housing for the remainder of the  
13 time that the agency receives allocations of tax revenue pursuant  
14 to Section 33670.

15 SEC. 9. Section 33334.3 of the Health and Safety Code is  
16 amended to read:

17 33334.3. (a) The funds that are required by Section 33334.2  
18 or 33334.6 to be used for the purposes of increasing, improving,  
19 and preserving the community's supply of low- and  
20 moderate-income housing shall be held in a separate Low and  
21 Moderate Income Housing Fund until used.

22 (b) Any interest earned by the Low and Moderate Income  
23 Housing Fund and any repayments or other income to the agency  
24 for loans, advances, or grants, of any kind from the Low and  
25 Moderate Income Housing Fund, shall accrue to and be deposited  
26 in, the fund and may only be used in the manner prescribed for the  
27 Low and Moderate Income Housing Fund.

28 (c) The moneys in the Low and Moderate Income Housing Fund  
29 shall be used to increase, improve, and preserve the supply of low-  
30 and moderate-income housing within the territorial jurisdiction of  
31 the agency.

32 (d) (1) It is the intent of the Legislature that the Low and  
33 Moderate Income Housing Fund be used to the maximum extent  
34 possible to defray the actual cost of producing, improving, or  
35 preserving low- and moderate-income housing and to ~~reasonably~~  
36 restrict the use of Low and Moderate Income Housing Fund  
37 moneys for planning and general administrative costs *to those*  
38 *which are necessary for and directly related to lawful use of the*  
39 *Low and Moderate Income Housing Fund*. Subject to the  
40 restrictions set forth in paragraph (2), all of the following costs

1 shall be considered planning and general administrative costs for  
2 the purposes of funds paid from the Low and Moderate Income  
3 Housing Fund:

4 (A) Employee compensation costs, including salaries, wages,  
5 and benefits, and related nonpersonnel costs, including, but not  
6 limited to, travel, training, publications, and conferences, paid to  
7 or on behalf of any agency, city, or county employee whose duties  
8 include activities authorized under subdivision (e) of Section  
9 33334.2. If the employee spends any time on matters other than  
10 those authorized under subdivision (e) of Section 33334.2, Low  
11 and Moderate Income Housing Fund moneys may only be used to  
12 pay for employee compensation and related nonpersonnel costs in  
13 proportion to the actual time that the employee spends on activities  
14 authorized under subdivision (e) of Section 33334.2.

15 (B) Employee compensation costs, including salaries, wages,  
16 and benefits, paid to or on behalf of any agency, city, or county  
17 employee who supervises or manages the work of an employee or  
18 employees specified in subparagraph (A) or who provides general  
19 administrative services, including, but not limited to, finance, legal,  
20 human resources, information technology, and other administrative  
21 services, that indirectly support activities authorized under  
22 subdivision (e) of Section 33334.2 and nonpersonnel costs,  
23 including, but not limited to, travel, training, publications, and  
24 conferences, for such employees that are directly related to such  
25 activities. Employee compensation costs shall (i) be justified by  
26 an independent cost allocation study no more than six years old,  
27 and (ii) not represent a greater proportion of the employee's total  
28 compensation than the proportion of employees working directly  
29 and exclusively on activities authorized under subdivision (e) of  
30 Section 33334.2 in comparison to the total number of employees  
31 supervised, managed, or indirectly supported by that employee.

32 (C) Overhead costs, including, but not limited to, rent or  
33 mortgage payments, equipment, and office supplies, provided that  
34 if the overhead costs are shared with departments or employees  
35 whose duties include activities other than those authorized under  
36 subdivision (e) of Section 33334.2. The proportion of the overhead  
37 costs paid from the Low and Moderate Income Housing Fund shall  
38 not exceed the proportion of employees working directly and  
39 exclusively on activities authorized under subdivision (e) of Section

1 33334.2 represented in comparison to the total number of  
 2 employees sharing the space, equipment, or office supplies.

3 (D) The total value of any contracts for agency planning or  
 4 administrative services that are ~~directly~~ related to activities  
 5 authorized under subdivision (e) of Section 33334.2 and that are  
 6 ~~not associated with a specific development project or program to~~  
 7 ~~meet the requirements of Sections 33334.2, 33334.3, 33412, and~~  
 8 ~~33413; not associated with a specific housing development project~~  
 9 *allowed pursuant to Sections 33334.2, 33334.3, and 33334.6.*

10 (2) (A) Except as provided in subparagraph (B), an agency in  
 11 any fiscal year shall not expend more than 15 percent of the tax  
 12 increment deposited into the Low and Moderate Income Housing  
 13 Fund for planning and general administrative costs.

14 (B) Subparagraph (A) shall not apply to a project area-specific  
 15 Low and Moderate Income Housing Fund during the first five  
 16 fiscal years after adoption of that specific project area.  
 17 Subparagraph (A) shall apply to a new or amended project area if  
 18 tax increment for that new or amended project area is deposited  
 19 into an aggregate Low and Moderate Income Housing Fund  
 20 covering more than one project area.

21 (3) At the time the budget is adopted, the agency shall annually  
 22 adopt a separate written resolution making a finding, based on  
 23 substantial evidence in the record, that the planning and general  
 24 administrative expenses budgeted for the fiscal year to be paid  
 25 from the Low and Moderate Income Housing Fund shall not exceed  
 26 15 percent of the tax increment to be deposited into the Low and  
 27 Moderate Income Housing Fund for that fiscal year or that the  
 28 exception in subparagraph (B) of paragraph (2) applies. The  
 29 resolution shall do all of the following:

30 (A) State the percentage of tax increment to be deposited into  
 31 the Low and Moderate Income Housing Fund that is budgeted for  
 32 planning and general administration in the fiscal year.

33 (B) ~~Be consistent with~~ *Consistent with the categories described*  
 34 *in paragraph (1), itemize each category of planning and general*  
 35 *administration expenditures from the Low and Moderate Income*  
 36 *Housing Fund and explicitly describe how the expenditures are*  
 37 *necessary for the production, improvement, or preservation of low-*  
 38 *and moderate-income housing.*

39 (C) List the title of any agency, city, or county employees for  
 40 whom any portion of his or her salary, wages, benefits, or



1 nonpersonnel costs is paid from the Low and Moderate Income  
2 Housing Fund, the nature of the employee's activities eligible to  
3 be paid from the Low and Moderate Income Housing Fund, the  
4 percentage of time the employees spends on activities eligible to  
5 be paid from the Low and Moderate Income Housing Fund, and  
6 the percentage of the employee's salary, wages, benefits, and  
7 nonpersonnel costs paid from the Low and Moderate Income  
8 Housing Fund.

9 (D) List any overhead costs that are paid directly or indirectly  
10 from the Low and Moderate Income Housing Fund, identify by  
11 title and department any other employees with whom the overhead  
12 costs are shared, and specify the total cost of the shared overhead  
13 costs.

14 *(4) In a challenge related to the proportionality of costs, as*  
15 *required by subparagraphs (A), (B), and (C) of paragraph (1), the*  
16 *agency shall bear the burden of proof to demonstrate that the costs*  
17 *are proportionate.*

18 (e) Notwithstanding paragraph (1) of subdivision (d), the agency  
19 shall not expend moneys from the Low and Moderate Income  
20 Housing Fund for any of the following purposes:

21 (1) Code enforcement.

22 (2) Land use planning *or related* activities of a planning  
23 department, including development or revision of the general plan  
24 housing element, except for the payment of normal project-related  
25 planning fees applicable to all similar development projects.

26 (3) Lobbying. The Legislature finds and declares that this  
27 paragraph is declaratory of existing law.

28 ~~(4) Administration of nonredevelopment activities, including~~  
29 ~~housing programs funded with federal, state, or local funds.~~

30 ~~(5) Direct or indirect administration of an activity authorized~~  
31 ~~under subdivision (e) of Section 33334.2 but that is not funded~~  
32 ~~with Low and Moderate Income Housing Fund moneys.~~

33 *(4) Administration of nonredevelopment activities unrelated to*  
34 *activities allowed pursuant to this section, and Sections 33334.2,*  
35 *33334.6, and 33487.*

36 (f) (1) The requirements of this subdivision apply to all new or  
37 substantially rehabilitated housing units developed or otherwise  
38 assisted with moneys from the Low and Moderate Income Housing  
39 Fund, pursuant to an agreement approved by an agency on or after  
40 January 1, 1988. Except to the extent that a longer period of time

1 may be required by other provisions of law, the agency shall require  
2 that housing units subject to this subdivision shall remain available  
3 at affordable housing cost to, and occupied by, persons and families  
4 of low or moderate income and very low income and extremely  
5 low income households for the longest feasible time, but for not  
6 less than the following periods of time:

7 (A) Fifty-five years for rental units. However, the agency may  
8 replace rental units with equally affordable and comparable rental  
9 units in another location within the community if (i) the  
10 replacement units are available for occupancy prior to the  
11 displacement of any persons and families of low or moderate  
12 income residing in the units to be replaced and (ii) the comparable  
13 replacement units are not developed with moneys from the Low  
14 and Moderate Income Housing Fund.

15 (B) Forty-five years for owner-occupied units. However, the  
16 agency may permit sales of owner-occupied units prior to the  
17 expiration of the 45-year period for a price in excess of that  
18 otherwise permitted under this subdivision pursuant to an adopted  
19 program which protects the agency's investment of moneys from  
20 the Low and Moderate Income Housing Fund, including, but not  
21 limited to, an equity sharing program which establishes a schedule  
22 of equity sharing that permits retention by the seller of a portion  
23 of those excess proceeds based on the length of occupancy. The  
24 remainder of the excess proceeds of the sale shall be allocated to  
25 the agency and deposited in the Low and Moderate Income  
26 Housing Fund. Only the units originally assisted by the agency  
27 shall be counted towards the agency's obligations under Section  
28 33413.

29 (C) Fifteen years for mutual self-help housing units that are  
30 occupied by and affordable to very low and low-income  
31 households. However, the agency may permit sales of mutual  
32 self-help housing units prior to expiration of the 15-year period  
33 for a price in excess of that otherwise permitted under this  
34 subdivision pursuant to an adopted program that (i) protects the  
35 agency's investment of moneys from the Low and Moderate  
36 Income Housing Fund, including, but not limited to, an equity  
37 sharing program that establishes a schedule of equity sharing that  
38 permits retention by the seller of a portion of those excess proceeds  
39 based on the length of occupancy; and (ii) ensures through a  
40 recorded regulatory agreement, deed of trust, or similar recorded

1 instrument that if a mutual self-help housing unit is sold at any  
2 time after expiration of the 15-year period and prior to 45 years  
3 after the date of recording of the covenants or restrictions required  
4 pursuant to paragraph (2), the agency recovers, at a minimum, its  
5 original principal from the Low and Moderate Income Housing  
6 Fund from the proceeds of the sale and deposits those funds into  
7 the Low and Moderate Income Housing Fund. The remainder of  
8 the excess proceeds of the sale not retained by the seller shall be  
9 allocated to the agency and deposited in the Low and Moderate  
10 Income Housing Fund. For the purposes of this subparagraph,  
11 “mutual self-help housing unit” means an owner-occupied housing  
12 unit for which persons and families of very low and low income  
13 contribute no fewer than 500 hours of their own labor in individual  
14 or group efforts to provide a decent, safe, and sanitary ownership  
15 housing unit for themselves, their families, and others authorized  
16 to occupy that unit. Nothing in this subparagraph precludes the  
17 agency and the developer of the mutual self-help housing units  
18 from agreeing to 45-year deed restrictions.

19 (2) If land on which those dwelling units are located is deleted  
20 from the project area, the agency shall continue to require that  
21 those units remain affordable as specified in this subdivision.

22 (3) The agency shall require the recording in the office of the  
23 county recorder of the following documents:

24 (A) The covenants or restrictions implementing this subdivision  
25 for each parcel or unit of real property subject to this subdivision.  
26 The agency shall obtain and maintain a copy of the recorded  
27 covenants or restrictions for not less than the life of the covenant  
28 or restriction.

29 (B) For all new or substantially rehabilitated units developed  
30 or otherwise assisted with moneys from the Low and Moderate  
31 Income Housing Fund on or after January 1, 2008, a separate  
32 document called “Notice of Affordability Restrictions on Transfer  
33 of Property,” set forth in 14-point type or larger. This document  
34 shall contain all of the following information:

35 (i) A recitation of the affordability covenants or restrictions. If  
36 the document recorded under this subparagraph is recorded  
37 concurrently with the covenants or restrictions recorded under  
38 subparagraph (A), the recitation of the affordability covenants or  
39 restrictions shall also reference the concurrently recorded  
40 document. If the document recorded under this subparagraph is

- 1 not recorded concurrently with the covenants or restrictions  
2 recorded under subparagraph (A), the recitation of the affordability  
3 covenants or restrictions shall also reference the recorder's  
4 identification number of the document recorded under subparagraph  
5 (A).
- 6 (ii) The date the covenants or restrictions expire.
- 7 (iii) The street address of the property, including, if applicable,  
8 the unit number, unless the property is used to confidentially house  
9 victims of domestic violence.
- 10 (iv) The assessor's parcel number for the property.
- 11 (v) The legal description of the property.
- 12 (4) The agency shall require the recording of the document  
13 required under subparagraph (B) of paragraph (3) not more than  
14 30 days after the date of recordation of the covenants or restrictions  
15 required under subparagraph (A) of paragraph (3).
- 16 (5) The county recorder shall index the documents required to  
17 be recorded under paragraph (3) by the agency and current owner.
- 18 (6) Notwithstanding Section 27383 of the Government Code,  
19 a county recorder may charge all authorized recording fees to any  
20 party, including a public agency, for recording the document  
21 specified in subparagraph (B) of paragraph (3).
- 22 (7) Notwithstanding any other provision of law, the covenants  
23 or restrictions implementing this subdivision shall run with the  
24 land and shall be enforceable against any owner who violates a  
25 covenant or restriction and each successor in interest who continues  
26 the violation, by any of the following:
- 27 (A) The agency.
- 28 (B) The community, as defined in Section 33002.
- 29 (C) A resident of a unit subject to this subdivision.
- 30 (D) A residents' association with members who reside in units  
31 subject to this subdivision.
- 32 (E) A former resident of a unit subject to this subdivision who  
33 last resided in that unit.
- 34 (F) An applicant seeking to enforce the covenants or restrictions  
35 for a particular unit that is subject to this subdivision, if the  
36 applicant conforms to all of the following:
- 37 (i) Is of low or moderate income, as defined in Section 50093.
- 38 (ii) Is able and willing to occupy that particular unit.

1 (iii) Was denied occupancy of that particular unit due to an  
2 alleged breach of a covenant or restriction implementing this  
3 subdivision.

4 (G) A person on an affordable housing waiting list who is of  
5 low or moderate income, as defined in Section 50093, and who is  
6 able and willing to occupy a unit subject to this subdivision.

7 (8) A dwelling unit shall not be counted as satisfying the  
8 affordable housing requirements of this part, unless covenants for  
9 that dwelling unit are recorded in compliance with subparagraph  
10 (A) of paragraph (3).

11 (9) Failure to comply with the requirements of subparagraph  
12 (B) of paragraph (3) shall not invalidate any covenants or  
13 restrictions recorded pursuant to subparagraph (A) of paragraph  
14 (3).

15 (g) “Housing,” as used in this section, includes residential hotels,  
16 as defined in subdivision (k) of Section 37912. The definitions of  
17 “lower income households,” “very low income households,” and  
18 “extremely low income households” in Sections 50079.5, 50105,  
19 and 50106 shall apply to this section. “Longest feasible time,” as  
20 used in this section, includes, but is not limited to, unlimited  
21 duration.

22 (h) “Increasing, improving, and preserving the community’s  
23 supply of low- and moderate-income housing,” as used in this  
24 section and in Section 33334.2, includes the preservation of rental  
25 housing units assisted by federal, state, or local government on the  
26 condition that units remain affordable to, and occupied by, low-  
27 and moderate-income households, including extremely low and  
28 very low income households, for the longest feasible time, but not  
29 less than 55 years, beyond the date the subsidies and use restrictions  
30 could be terminated and the assisted housing units converted to  
31 market rate rentals. In preserving these units the agency shall  
32 require that the units remain affordable to, and occupied by, persons  
33 and families of low- and moderate-income and extremely low and  
34 very low income households for the longest feasible time but not  
35 less than 55 years. However, the agency may replace rental units  
36 with equally affordable and comparable rental units in another  
37 location within the community if (1) the replacement units in  
38 another location are available for occupancy prior to the  
39 displacement of any persons and families of low or moderate  
40 income residing in the units to be replaced and (2) the comparable

1 replacement units are not developed with moneys from the Low  
2 and Moderate Income Housing Fund.

3 (i) Agencies that have more than one project area may satisfy  
4 the requirements of Sections 33334.2 and 33334.6 and of this  
5 section by allocating, in any fiscal year, less than 20 percent in  
6 one project area, if the difference between the amount allocated  
7 and the 20 percent required is instead allocated, in that same fiscal  
8 year, to the Low and Moderate Income Housing Fund from tax  
9 increment revenues from other project areas. Prior to allocating  
10 funds pursuant to this subdivision, the agency shall make the  
11 finding required by subdivision (g) of Section 33334.2.

12 (j) Funds from the Low and Moderate Income Housing Fund  
13 shall not be used to the extent that other reasonable means of  
14 private or commercial financing of the new or substantially  
15 rehabilitated units at the same level of affordability and quantity  
16 are reasonably available to the agency or to the owner of the units.  
17 Prior to the expenditure of funds from the Low and Moderate  
18 Income Housing Fund for new or substantially rehabilitated  
19 housing units, where those funds will exceed 50 percent of the  
20 cost of producing the units, the agency shall find, based on  
21 substantial evidence, that the use of the funds is necessary because  
22 the agency or owner of the units has made a good faith attempt  
23 but been unable to obtain commercial or private means of financing  
24 the units at the same level of affordability and quantity.

25 SEC. 10. Section 33334.4 of the Health and Safety Code is  
26 amended to read:

27 ~~33334.4. (a) Except as specified in subdivision (d), during~~  
28 ~~each 10-year period of the implementation plan, as specified in~~  
29 ~~clause (iii) of subparagraph (A) of paragraph (2) of subdivision~~  
30 ~~(a) of Section 33490, at least 70 percent of each agency's~~  
31 ~~expenditures from the Low and Moderate Income Housing Fund~~  
32 ~~shall directly assist the new construction, acquisition, and~~  
33 ~~substantial rehabilitation or preservation of rental housing for~~  
34 ~~persons of extremely low, very low, or low income and at least 20~~  
35 ~~percent of these expenditures shall directly assist the new~~  
36 ~~construction, acquisition, and substantial rehabilitation, or~~  
37 ~~preservation of rental housing for persons of extremely low income.~~  
38 ~~The expenditures for extremely low income rental housing shall~~  
39 ~~count towards the requirement to directly assist very low and~~  
40 ~~low-income rental housing.~~

1 33334.4. (a) (1) During each 10-year period of the  
2 implementation plan, as specified in clause (iii) of subparagraph  
3 (A) of paragraph (2) of subdivision (a) of Section 33490, all of the  
4 following shall apply:

5 (A) At least 75 percent of each agency's expenditures from the  
6 Low and Moderate Income Housing Fund exclusive of debt service  
7 payments shall directly assist the new construction, acquisition,  
8 and substantial rehabilitation, or preservation of housing for  
9 persons of extremely low, very low, or low income.

10 (B) At least 25 percent of each agency's expenditures from the  
11 Low and Moderate Income Housing Fund exclusive of debt service  
12 payments shall directly assist the new construction, acquisition,  
13 and substantial rehabilitation, or preservation of housing for  
14 persons of very low income.

15 (C) At least 25 percent of each agency's expenditures from the  
16 Low and Moderate Income Housing Fund exclusive of debt service  
17 payments shall directly assist the new construction, acquisition,  
18 and substantial rehabilitation, or preservation of housing for  
19 persons of extremely low income.

20 (2) The expenditures for extremely low income housing,  
21 pursuant to subparagraph (C) of paragraph (1), shall count  
22 towards the requirements of subparagraphs (A) and (B) of  
23 paragraph (1), and the expenditures for very low and extremely  
24 low income housing pursuant to subparagraphs (B) and (C) of  
25 paragraph (1) shall count towards the requirements of  
26 subparagraph (A) of paragraph (1).

27 (3) (A) For purposes of this subdivision, "preservation" means  
28 preserving the affordability of an assisted housing development  
29 that is eligible for prepayment or termination or for which within  
30 the expiration of rental restrictions is scheduled to occur within  
31 five years, as those terms are defined in Section 65863.10 of the  
32 Government Code.

33 (B) For purposes of this section, "housing for persons of  
34 extremely low income" shall mean housing that is available at an  
35 affordable rent or affordable housing cost to, and occupied by,  
36 households earning 30 percent of the area median income or 30  
37 percent of the statewide median income, whichever is greater.

38 (b) Each agency shall expend over the duration of each  
39 redevelopment implementation plan, the moneys in the Low and  
40 Moderate Income Housing Fund to assist housing that is available

1 to all persons regardless of age in at least the same proportion as  
2 the number of low-income households with a member under age  
3 65 years bears to the total number of low-income households of  
4 the community as reported in the most recent census of the United  
5 States Census Bureau.

6 (c) An agency that has deposited in the Low and Moderate  
7 Income Housing Fund over the first five years of the period of an  
8 implementation plan an aggregate that is less than two million  
9 dollars (\$2,000,000) shall have an extra five years to meet the  
10 requirements of this section.

11 ~~(d) For the purposes of this section, “locally controlled” means~~  
12 ~~government assistance where the community or other local~~  
13 ~~government entity has the discretion and the authority to determine~~  
14 ~~the recipient and the amount of the assistance, whether or not the~~  
15 ~~source of the funds or other assistance is from the state or federal~~  
16 ~~government. Examples of locally controlled government assistance~~  
17 ~~include, but are not limited to, Community Development Block~~  
18 ~~Grant Program (42 U.S.C. Sec. 5301 and following) funds allocated~~  
19 ~~to a city or county, Home Investment Partnership Program (42~~  
20 ~~U.S.C. Sec. 12721 and following) funds allocated to a city or~~  
21 ~~county, fees or funds received by a city or county pursuant to a~~  
22 ~~city or county authorized program, and the waiver or deferral of~~  
23 ~~city or other charges.~~

24 SEC. 11. Section 33334.12 of the Health and Safety Code is  
25 amended to read:

26 33334.12. (a) *Agencies shall expend moneys from the Low*  
27 *and Moderate Income Housing Fund in a manner that does not*  
28 *accrue an excess surplus, as defined in paragraph (1) of*  
29 *subdivision (c).* If an agency, after three years has elapsed from  
30 the date that the moneys become excess surplus, has not expended  
31 or encumbered its excess surplus, the agency shall be subject to  
32 sanctions pursuant to subdivision (b), until the agency has expended  
33 or encumbered its excess surplus plus an additional amount, equal  
34 to 50 percent of the amount of the excess surplus that remains at  
35 the end of the three-year period. The additional expenditure shall  
36 not be from the agency’s Low and Moderate Income Housing  
37 Fund, *or any other city, county, or agency special fund related to*  
38 *housing*, but shall be used in a manner that meets all requirements  
39 for expenditures from that fund.



1     ***(b) For disbursements or expenditures of excess surplus made***  
2 ***prior to January 1, 2012, the housing authority or other public***  
3 ***agency to which the money is transferred shall utilize the moneys***  
4 ***for the purposes of, and subject to the same restrictions that are***  
5 ***applicable to, the redevelopment agency under this part, and for***  
6 ***that purpose may exercise all of the powers of a housing authority***  
7 ***under Part 2 (commencing with Section 34200) to an extent not***  
8 ***inconsistent with these limitations.***

9     ***(c) For disbursements or expenditures of excess surplus made***  
10 ***prior to January 1, 2012, notwithstanding Section 34209 or any***  
11 ***other law, for the purpose of accepting a transfer of, and using,***  
12 ***moneys pursuant to this section, the housing authority of a county***  
13 ***or other public agency may exercise its powers within the***  
14 ***territorial jurisdiction of a city redevelopment agency located in***  
15 ***that county.***

16     ***(d) For disbursements or expenditures of excess surplus made***  
17 ***prior to January 1, 2012, the amount of excess surplus that shall***  
18 ***be transferred to the housing authority or other public agency***  
19 ***because of a failure of the redevelopment agency to expend or***  
20 ***encumber excess surplus within one year shall be the amount of***  
21 ***the excess surplus that is not so expended or encumbered. The***  
22 ***housing authority or other public agency to which the moneys are***  
23 ***transferred shall expend or encumber these moneys for authorized***  
24 ***purposes not later than three years after the date these moneys***  
25 ***were transferred from the Low and Moderate Income Housing***  
26 ***Fund.***

27     ***(b)***

28     ***(e) (1) Until a time when the agency has expended or***  
29 ***encumbered excess surplus moneys pursuant to subdivision (a),***  
30 ***the agency shall be prohibited from encumbering any funds or***  
31 ***expending any moneys derived from any source, except that the***  
32 ***agency may encumber funds and expend moneys to pay the***  
33 ***following obligations, if any, that were incurred by the agency***  
34 ***prior to three years from the date the moneys became excess***  
35 ***surplus:***

36     ***(A) Bonds, notes, interim certificates, debentures, or other***  
37 ***obligations issued by an agency, whether funded, refunded,***  
38 ***assumed, or otherwise, pursuant to Article 5 (commencing with***  
39 ***Section 33640).***

1 (B) Loans or moneys advanced to the agency, including, but  
2 not limited to, loans from federal, state, or local agencies, or a  
3 private entity.

4 (C) Contractual obligations which, if breached, could subject  
5 the agency to damages or other liabilities or remedies.

6 (D) Obligations incurred pursuant to Section 33445.

7 (E) Indebtedness incurred pursuant to Section 33334.2 or  
8 33334.6.

9 (F) Obligations incurred pursuant to Section 33401.

10 (G) An amount, to be expended for the operation and  
11 administration of the agency, that may not exceed 75 percent of  
12 the amount spent for those purposes in the preceding fiscal year.

13 (2) This subdivision shall not be construed to prohibit the  
14 expenditure of excess surplus funds or other funds to meet the  
15 requirement in subdivision (a) that the agency spend or encumber  
16 excess surplus funds, plus an amount equal to 50 percent of excess  
17 surplus, prior to spending or encumbering funds for any other  
18 purpose.

19 ~~(e) For purposes of this section, the following terms have the~~  
20 ~~following meanings:~~

21 *(f) For purposes of this section:*

22 (1) “Excess surplus” means any unexpended and unencumbered  
23 amount in an agency’s Low and Moderate Income Housing Fund,  
24 plus the amount of funds expended from the Low and Moderate  
25 Income Housing Fund for real property that the agency ~~owns~~ *has*  
26 *owned for more than three years* and for which the agency has not  
27 completed ~~either one~~ of the activities described in subparagraphs  
28 (A) and (B) of paragraph (1) of subdivision (a) of Section  
29 33334.16, that exceeds the greater of one million dollars  
30 (\$1,000,000) or the aggregate amount deposited into the Low and  
31 Moderate Income Housing Fund pursuant to Sections 33334.2 and  
32 33334.6 during the agency’s preceding four fiscal years. The first  
33 fiscal year to be included in this computation is the 1989–90 fiscal  
34 year, and the first date on which an excess surplus may exist is  
35 July 1, 1994.

36 (2) Moneys shall be deemed encumbered if committed pursuant  
37 to a legally enforceable contract or agreement for expenditure for  
38 purposes specified in Section 33334.2 or 33334.3.

39 (3) (A) For purposes of determining whether an excess surplus  
40 exists, it is the intent of the Legislature to give credit to agencies

1 which convey land for less than fair market value, on which low-  
2 and moderate-income housing is built or is to be built if at least  
3 49 percent of the units developed on the land are available at  
4 affordable housing cost to lower income households for at least  
5 the time specified in subdivision (e) of Section 33334.3, and  
6 otherwise comply with all of the provisions of this division  
7 applicable to expenditures of moneys from a low- and  
8 moderate-income housing fund established pursuant to Section  
9 33334.3. Therefore, for the sole purpose of determining the amount,  
10 if any, of an excess surplus, an agency may make the following  
11 calculation: if an agency sells, leases, or grants land acquired with  
12 moneys from the Low and Moderate Income Housing Fund,  
13 established pursuant to Section 33334.3, for an amount which is  
14 below fair market value, and if at least 49 percent of the units  
15 constructed or rehabilitated on the land are affordable to lower  
16 income households, as defined in Section 50079.5, the difference  
17 between the fair market value of the land and the amount the  
18 agency receives may be subtracted from the amount of moneys in  
19 an agency's Low and Moderate Income Housing Fund.

20 (B) If taxes that are deposited in the Low and Moderate Income  
21 Housing Fund are used as security for bonds or other indebtedness,  
22 the proceeds of the bonds or other indebtedness, and income and  
23 expenditures related to those proceeds, shall not be counted in  
24 determining whether an excess surplus exists. The unspent portion  
25 of the proceeds of bonds or other indebtedness, and income related  
26 thereto, shall be excluded from the calculation of the unexpended  
27 and unencumbered amount in the Low and Moderate Income  
28 Housing Fund when determining whether an excess surplus exists.

29 (C) Nothing in this subdivision shall be construed to restrict the  
30 authority of an agency provided in any other provision of this part  
31 to expend funds from the Low and Moderate Income Housing  
32 Fund.

33 (D) The department shall develop and periodically revise the  
34 methodology to be used in the calculation of excess surplus as  
35 required by this section. The director shall appoint an advisory  
36 committee to advise in the development of this methodology. The  
37 advisory committee shall include department staff, affordable  
38 housing advocates, and representatives of the California  
39 Redevelopment Association, the California Society of Certified  
40 Public Accountants, the Controller, and any other authorities or

1 persons interested in the field that the director deems necessary  
 2 and appropriate.

3 ~~(d)~~

4 (g) Communities in which an agency has disbursed excess  
 5 surplus funds pursuant to this section shall not disapprove a low-  
 6 or moderate-income housing project funded in whole or in part by  
 7 the excess surplus funds if the project is consistent with applicable  
 8 building codes and the land use designation specified in any  
 9 element of the general plan as it existed on the date the application  
 10 was deemed complete. A local agency may require compliance  
 11 with local development standards and policies appropriate to and  
 12 consistent with meeting the quantified objectives relative to the  
 13 development of housing, as required in housing elements of the  
 14 community pursuant to subdivision (b) of Section 65583 of the  
 15 Government Code.

16 SEC. 12. Section 33334.16 of the Health and Safety Code is  
 17 amended to read:

18 33334.16. (a) (1) For each interest in real property acquired  
 19 using moneys from the Low and Moderate Income Housing Fund,  
 20 the agency shall, within five years from the date it first acquires  
 21 the property interest for the development of housing affordable to  
 22 persons and families of low and moderate income, complete ~~either~~  
 23 *at least one* of the following activities:

24 (A) Enter into a disposition and development agreement with  
 25 a third party for the development of housing affordable to persons  
 26 and families of low and moderate income.

27 (B) Obtain final land use entitlements and secure full financing  
 28 for agency development of housing affordable to persons and  
 29 families of low and moderate income.

30 (2) ~~If these activities have not~~ *neither of these activities has*  
 31 ~~been completed within this period or if a certificate of occupancy~~  
 32 ~~has not been issued within 10 years from the date of acquisition;~~  
 33 *completed within five years, or if less than 10 percent of the*  
 34 *dwelling units or floor area ratio of a project is developed within*  
 35 *10 years from the date the agency originally acquired the property,*  
 36 the agency shall reimburse the Low and Moderate Income Housing  
 37 Fund 150 percent of the amount expended to acquire *and maintain*  
 38 the property or the current fair market value of the property,  
 39 whichever amount is greater.

1 (3) *If the agency owns two or more adjacent parcels of real*  
2 *property that comprise a single redevelopment project for which*  
3 *the parcels are described in the implementation plan, the date of*  
4 *acquisition for all such parcels shall be the date of acquisition of*  
5 *the last acquired parcel, provided that this date shall not be later*  
6 *than 5 years after the acquisition of the first parcel.*

7 (b) At any time, if a real property acquired using moneys from  
8 the Low and Moderate Income Housing Fund is sold or transferred  
9 for a purpose other than housing affordable to persons and families  
10 of low and moderate income, or if the real property is developed  
11 such that less than 50 percent of the floor area is housing affordable  
12 to persons and families of low and moderate income, the agency,  
13 in addition to proceeds from the sale or transfer, shall deposit into  
14 the Low and Moderate Income Housing Fund from agency  
15 revenues other than those required to be deposited in the Low and  
16 Moderate Income Housing Fund an amount equal to 50 percent  
17 of the ~~sale price of the property~~ *fair market value of the property*  
18 *at the time it is sold* or, if the property is not sold, of the fair market  
19 value of the land at the time a building permit is issued for the  
20 property.

21 SEC. 13. Section 33413 of the Health and Safety Code is  
22 amended to read:

23 33413. (a) Whenever dwelling units affordable to or occupied  
24 by persons and families of low or moderate income are destroyed  
25 or removed from the low- and moderate-income housing market  
26 as part of a redevelopment project that is subject to a written  
27 agreement with the agency or where financial assistance has been  
28 provided by the agency, the agency shall, within four years of the  
29 destruction or removal, rehabilitate, develop, or construct, or cause  
30 to be constructed, for rental or sale to persons and families of low  
31 or moderate income, an equal number of replacement dwelling  
32 units that have an equal or greater number of bedrooms as those  
33 destroyed or removed units at affordable housing costs within the  
34 ~~territorial jurisdiction of the agency~~ *project area*. The replacement  
35 obligation shall apply to all units affordable to low or moderate  
36 income persons or families at the time of initiation of negotiations  
37 of a written agreement with or financial assistance from the agency.  
38 *For purposes of this section, the rehabilitation of an existing*  
39 *nonresidential structure, at least 50 percent of the floor area ratio*

1 of which will be used for residential purposes shall constitute  
2 construction.

3 (1) When dwelling units are destroyed or removed after  
4 September 1, 1989, 75 percent of the replacement dwelling units  
5 shall replace dwelling units available at affordable housing cost  
6 in the same or a lower income level (~~extremely low, very low, low,~~  
7 ~~or moderate~~) of very low income households, lower income  
8 households, and persons and families of low and moderate income,  
9 as the persons displaced from those destroyed or removed units.

10 (2) When dwelling units are destroyed or removed on or after  
11 January 1, 2002, 100 percent of the replacement dwelling units  
12 shall be available at affordable housing cost to persons in the same  
13 or a lower income category (extremely low, very low, low, or  
14 moderate), as the persons displaced from those destroyed or  
15 removed units. *This paragraph is declaratory of existing law.*

16 (3) ~~In~~ On or after January 1, 2012, in the case where the agency  
17 is obligated to replace vacant units or units housing persons above  
18 moderate income, such units, those replacement units shall be  
19 available at housing costs in the same or lower income category  
20 (extremely low, very low, low, or moderate) in the same proportion  
21 as the units occupied or last occupied by low- and  
22 moderate-income households in the property.

23 (4) ~~Replacement dwelling units shall be located in the same~~  
24 ~~project area as the units demolished or removed.~~

25 (5)

26 (4) Up to 25 percent of the replacement obligation incurred  
27 during a five-year implementation plan may be satisfied with units  
28 that have been rehabilitated such that after-rehabilitation value is  
29 increased by 50 percent or more of the pre-rehabilitation value, as  
30 evidenced by pre and post rehabilitation appraisals and, the  
31 rehabilitated units were, at the time the dwelling units to be  
32 replaced were destroyed or removed were both of the following:

33 (A) Occupied by extremely low or very low income households  
34 at risk of demolition or closure due to substandard conditions.

35 (B) Vacant due to substandard conditions as defined in Section  
36 1941.1 of the Civil Code.

37 (6)

38 (5) For each project containing rehabilitated replacement units,  
39 the agency shall adopt a separate written resolution, after public

1 hearing and based on substantial evidence, that the rehabilitation  
2 of the replacement dwelling units complies with this subdivision.

3 (b) (1) Prior to the time limit on the effectiveness of the  
4 redevelopment plan established pursuant to Sections 33333.2,  
5 33333.6, and 33333.10 at least 30 percent of all new and  
6 substantially rehabilitated dwelling units developed by an agency  
7 shall be available at affordable housing cost to, and occupied by,  
8 persons and families of low or moderate income. Not less than 50  
9 percent of the dwelling units required to be available at affordable  
10 housing cost to, and occupied by, persons and families of low or  
11 moderate income shall be available at affordable housing cost to,  
12 and occupied by, very low income households.

13 (2) (A) (i) Prior to the time limit on the effectiveness of the  
14 redevelopment plan established pursuant to Sections 33333.2,  
15 33333.6, and 33333.10 at least 15 percent of all new and  
16 substantially rehabilitated dwelling units developed within a project  
17 area under the jurisdiction of an agency by public or private entities  
18 or persons other than the agency shall be available at affordable  
19 housing cost to, and occupied by, persons and families of low or  
20 moderate income. Not less than 40 percent of the dwelling units  
21 required to be available at affordable housing cost to, and occupied  
22 by, persons and families of low or moderate income shall be  
23 available at affordable housing cost to, and occupied by, very low  
24 income households.

25 (ii) To satisfy this paragraph, in whole or in part, the agency  
26 may cause, by regulation or agreement, to be available, at  
27 affordable housing cost, to, and occupied by, persons and families  
28 of low or moderate income or to very low income households, as  
29 applicable, two units outside a project area for each unit that  
30 otherwise would have been required to be available inside a project  
31 area.

32 (iii) On or after January 1, 2002, as used in this paragraph and  
33 in paragraph (1), “substantially rehabilitated dwelling units” means  
34 all units substantially rehabilitated, with agency assistance. Prior  
35 to January 1, 2002, “substantially rehabilitated dwelling units”  
36 shall mean substantially rehabilitated multifamily rented dwelling  
37 units with three or more units regardless of whether there is agency  
38 assistance, or substantially rehabilitated, with agency assistance,  
39 single-family dwelling units with one or two units.

1 (iv) As used in this paragraph and in paragraph (1), “substantial  
2 rehabilitation” means rehabilitation, the value of which constitutes  
3 25 percent of the after rehabilitation value of the dwelling, inclusive  
4 of the land value.

5 (v) To satisfy this paragraph, the agency may aggregate new or  
6 substantially rehabilitated dwelling units in one or more project  
7 areas, if the agency finds, based on substantial evidence, after a  
8 public hearing, that the aggregation will not cause or exacerbate  
9 racial, ethnic, or economic segregation.

10 (B) To satisfy the requirements of paragraph (1) and  
11 subparagraph (A), the agency may purchase, or otherwise acquire  
12 or cause by regulation or agreement the purchase or other  
13 acquisition of, long-term affordability covenants on multifamily  
14 units that restrict the cost of renting or purchasing those units that  
15 either: (i) are not presently available at affordable housing cost to  
16 persons and families of low or very low income households, as  
17 applicable; or (ii) are units that are presently available at affordable  
18 housing cost to this same group of persons or families, but are  
19 units that the agency finds, based upon substantial evidence, after  
20 a public hearing, cannot reasonably be expected to remain  
21 affordable to this same group of persons or families.

22 (C) To satisfy the requirements of paragraph (1) and  
23 subparagraph (A), the long-term affordability covenants purchased  
24 or otherwise acquired pursuant to subparagraph (B) shall be  
25 required to be maintained on dwelling units at affordable housing  
26 cost to, and occupied by, persons and families of low or very low  
27 income, for the longest feasible time but not less than 55 years for  
28 rental units and 45 years for owner-occupied units. Not more than  
29 50 percent of the units made available pursuant to paragraph (1)  
30 and subparagraph (A) may be assisted through the purchase or  
31 acquisition of long-term affordability covenants pursuant to  
32 subparagraph (B). Not less than 50 percent of the units made  
33 available through the purchase or acquisition of long-term  
34 affordability covenants pursuant to subparagraph (B) shall be  
35 available at affordable housing cost to, and occupied by, very low  
36 income households.

37 (D) To satisfy the requirements of paragraph (1) and  
38 subparagraph (A), each mutual self-help housing unit, as defined  
39 in subparagraph (C) of paragraph (1) of subdivision (f) of Section



1 33334.3, that is subject to a 15-year deed restriction shall count as  
2 one-third of a unit.

3 (3) The requirements of this subdivision shall apply  
4 independently of the requirements of subdivision (a). The  
5 requirements of this subdivision shall apply, in the aggregate, to  
6 housing made available pursuant to paragraphs (1) and (2),  
7 respectively, and not to each individual case of rehabilitation,  
8 development, or construction of dwelling units, unless an agency  
9 determines otherwise.

10 (4) Each redevelopment agency, as part of the implementation  
11 plan required by Section 33490, shall adopt a plan to comply with  
12 the requirements of this subdivision for each project area. The plan  
13 shall be consistent with, and may be included within, the  
14 community's housing element. The plan shall be reviewed and, if  
15 necessary, amended at least every five years in conjunction with  
16 either the housing element cycle or the plan implementation cycle.  
17 The plan shall ensure that the requirements of this subdivision are  
18 met every 10 years. If the requirements of this subdivision are not  
19 met by the end of each 10-year period, the agency shall meet these  
20 goals on an annual basis until the requirements for the 10-year  
21 period are met. If the agency has exceeded the requirements within  
22 the 10-year period, the agency may count the units that exceed the  
23 requirement in order to meet the requirements during the next  
24 10-year period. The plan shall contain the contents required by  
25 paragraphs (2), (3), and (4) of subdivision (a) of Section 33490.

26 (c) (1) The agency shall require that the aggregate number of  
27 replacement dwelling units and other dwelling units rehabilitated,  
28 developed, constructed, or price restricted pursuant to subdivision  
29 (a) or (b) remain available at affordable housing cost to, and  
30 occupied by, persons and families of low-income,  
31 moderate-income, and very low income households, respectively,  
32 for the longest feasible time, but for not less than 55 years for  
33 rental units, 45 years for home ownership units, and 15 years for  
34 mutual self-help housing units, as defined in subparagraph (C) of  
35 paragraph (1) of subdivision (f) of Section 33334.3, except as set  
36 forth in paragraph (2). Nothing in this paragraph precludes the  
37 agency and the developer of the mutual self-help housing units  
38 from agreeing to 45-year deed restrictions.

39 (2) Notwithstanding paragraph (1), the agency may permit sales  
40 of owner-occupied units prior to the expiration of the 45-year

1 period, and mutual self-help housing units prior to the expiration  
2 of the 15-year period, established by the agency for a price in  
3 excess of that otherwise permitted under this subdivision pursuant  
4 to an adopted program that protects the agency's investment of  
5 moneys from the Low and Moderate Income Housing Fund,  
6 including, but not limited to, an equity sharing program that  
7 establishes a schedule of equity sharing that permits retention by  
8 the seller of a portion of those excess proceeds, based on the length  
9 of occupancy. The remainder of the excess proceeds of the sale  
10 shall be allocated to the agency, and deposited into the Low and  
11 Moderate Income Housing Fund. The agency shall, within three  
12 years from the date of sale pursuant to this paragraph of each home  
13 ownership or mutual self-help housing unit subject to a 45-year  
14 deed restriction, and every third mutual self-help housing unit  
15 subject to a 15-year deed restriction, expend funds to make  
16 affordable an equal number of units at the same or lowest income  
17 level as the unit or units sold pursuant to this paragraph, for a  
18 period not less than the duration of the original deed restrictions.  
19 Only the units originally assisted by the agency shall be counted  
20 towards the agency's obligations under Section 33413.

21 (3) The requirements of this section shall be made enforceable  
22 in the same manner as provided in paragraph (7) of subdivision  
23 (f) of Section 33334.3.

24 (4) If land on which the dwelling units required by this section  
25 are located is deleted from the project area, the agency shall  
26 continue to require that those units remain affordable as specified  
27 in this subdivision.

28 (5) For each unit counted towards the requirements of  
29 subdivisions (a) and (b), the agency shall require the recording in  
30 the office of the county recorder of covenants or restrictions that  
31 ensure compliance with this subdivision. With respect to covenants  
32 or restrictions that are recorded on or after January 1, 2008, the  
33 agency shall comply with the requirements of paragraphs (3) and  
34 (4) of subdivision (f) of Section 33334.3.

35 (d) (1) This section applies only to redevelopment projects for  
36 which a final redevelopment plan is adopted pursuant to Article 5  
37 (commencing with Section 33360) on or after January 1, 1976,  
38 and to areas that are added to a project area by amendment to a  
39 final redevelopment plan adopted on or after January 1, 1976. In  
40 addition, subdivision (a) shall apply to any other redevelopment

1 project with respect to dwelling units destroyed or removed from  
2 the low- and moderate-income housing market on or after January  
3 1, 1996, irrespective of the date of adoption of a final  
4 redevelopment plan or an amendment to a final redevelopment  
5 plan adding areas to a project area. Additionally, any agency may,  
6 by resolution, elect to make all or part of the requirements of this  
7 section applicable to any redevelopment project of the agency for  
8 which the final redevelopment plan was adopted prior to January  
9 1, 1976. In addition, subdivision (b) shall apply to redevelopment  
10 plans adopted prior to January 1, 1976, for which an amendment  
11 is adopted pursuant to Section 33333.10, except that subdivision  
12 (b) shall apply to those redevelopment plans prospectively only  
13 so that the requirements of subdivision (b) shall apply only to new  
14 and substantially rehabilitated dwelling units for which the building  
15 permits are issued on or after the date that the ordinance adopting  
16 the amendment pursuant to Section 33333.10 becomes effective.

17 (2) An agency may, by resolution, elect to require that whenever  
18 dwelling units housing persons or families of low or moderate  
19 income are destroyed or removed from the low- and  
20 moderate-income housing market as part of a redevelopment  
21 project, the agency shall replace each dwelling unit with up to  
22 three replacement dwelling units pursuant to subdivision (a).

23 (e) Except as otherwise authorized by law, this section does not  
24 authorize an agency to operate a rental housing development  
25 beyond the period reasonably necessary to sell or lease the housing  
26 development.

27 (f) Notwithstanding subdivision (a), the agency may replace  
28 destroyed or removed dwelling units with a fewer number of  
29 replacement dwelling units if the replacement dwelling units meet  
30 both of the following criteria:

31 (1) The total number of bedrooms in the replacement dwelling  
32 units equals or exceeds the number of bedrooms in the destroyed  
33 or removed units. Destroyed or removed units having one or no  
34 bedroom are deemed for this purpose to have one bedroom.

35 (2) The replacement units are affordable to and occupied by the  
36 same income level of households as the destroyed or removed  
37 units.

38 (g) “Longest feasible time,” as used in this section, includes,  
39 but is not limited to, unlimited duration.

1 (h) If a court finds that an agency has failed to comply with the  
2 requirements of this section, the court, at a minimum, shall issue  
3 an order that prohibits the agency from issuing any debt for any  
4 project area, except debt from which all the proceeds will be  
5 deposited into the Low and Moderate Income Housing Fund or  
6 otherwise used to comply with the requirements of this section,  
7 until such time as the court finds that the agency has fully complied  
8 with the requirements of this section.

9 SEC. 14. Section 33413.5 of the Health and Safety Code is  
10 amended to read:

11 33413.5. Not less than 30 days prior to the execution of an  
12 agreement for acquisition of real property, or the execution of an  
13 agreement for the disposition and development of property, the  
14 execution of an owner participation agreement, which agreement  
15 would lead to the destruction or removal of dwelling units from  
16 the low- and moderate-income housing market, the agency shall  
17 adopt by resolution a replacement housing plan. For a reasonable  
18 time prior to adopting a replacement housing plan by resolution,  
19 the agency shall make available a draft of the proposed replacement  
20 housing plan for review and comment by the project area  
21 committee, other public agencies, and the general public.

22 The replacement housing plan shall include (1) the general  
23 location of housing to be rehabilitated, developed, or constructed  
24 pursuant to Section 33413, (2) a description of the occupancy and  
25 affordability restrictions to be imposed on the replacement dwelling  
26 units, (3) substantial evidence supporting a finding that the  
27 replacement dwelling units will meet the needs of the households  
28 displaced from the dwelling units that the replacement units are  
29 intended to replace, (4) a declaration of whether the agency intends  
30 to rehabilitate existing dwelling units pursuant to paragraph (5) of  
31 subdivision (a) of Section 33413, ~~(5) a description of the occupancy~~  
32 ~~and affordability restrictions to be imposed on the replacement~~  
33 ~~dwelling units, (6) substantial evidence supporting a finding that~~  
34 ~~the replacement dwelling units will meet the needs of the~~  
35 ~~households displaced from the dwelling units that the replacement~~  
36 ~~units are intended to replace, (7) a declaration whether the agency~~  
37 ~~intends to rehabilitate existing dwelling units pursuant to paragraph~~  
38 ~~(5) of subdivision (a) of Section 33413, (8) an adequate means of~~  
39 ~~financing such rehabilitation, development, or construction, (9)~~  
40 (6) a finding that the replacement housing does not require the

1 approval of the voters pursuant to Article XXXIV of the California  
 2 Constitution, or that such approval has been obtained, ~~(10) (7)~~  
 3 the number of dwelling units housing persons and families of low  
 4 or moderate income planned for construction or rehabilitation, and  
 5 ~~(11) (8)~~ the timetable for meeting the plan’s relocation,  
 6 rehabilitation, and replacement housing objectives. A dwelling  
 7 unit whose replacement is required by Section 33413 but for which  
 8 no replacement housing plan has been prepared, shall not be  
 9 destroyed or removed from the low- and moderate-income housing  
 10 market until the agency has by resolution adopted a replacement  
 11 housing plan.

12 Nothing in this section shall prevent an agency from destroying  
 13 or removing from the low- and moderate-income housing market  
 14 a dwelling unit which the agency owns and which is an immediate  
 15 danger to health and safety. The agency shall, as soon as  
 16 practicable, adopt by resolution a replacement housing plan with  
 17 respect to such dwelling unit.

18 SEC. 15. Article 13 (commencing with Section 33460) is added  
 19 to Chapter 4 of Part 1 of Division 24 of the Health and Safety  
 20 Code, to read:

21  
 22 Article 13. Accountability Audits

23  
 24 33460. (a) The Legislature hereby finds and declares both of  
 25 the following:

26 (1) Past department audits of redevelopment agencies have  
 27 uncovered errors, omissions, and violations that have resulted in  
 28 significant repayments to agencies’ Low and Moderate Income  
 29 Housing Fund, thereby providing additional resources for  
 30 increasing, improving, and preserving the supply of low- and  
 31 moderate- income housing available at affordable housing cost.

32 (2) Providing funding for future department audits of  
 33 redevelopment agencies will ensure that tax increment, interest,  
 34 and debt proceeds are appropriately deposited into the Low and  
 35 Moderate Income Housing Fund and that agencies make only legal  
 36 expenditures from the fund, thereby providing additional resources  
 37 for increasing, improving, and preserving the supply of low- and  
 38 moderate-income housing available at affordable housing cost. As  
 39 a result, the deposits required by this section are permissible  
 40 pursuant to ~~clause (ii) of subparagraph (B) of paragraph (7) of~~

1 subdivision (a) of Section 25.5 of Article XIII of the California  
2 Constitution.

3 (b) Immediately upon receipt, each agency shall annually deposit  
4 one-half of one-tenth (.0005) percent of any tax increment  
5 deposited into the Low and Moderate Income Housing Fund into  
6 the Redevelopment Agency Accountability Fund created pursuant  
7 to Section 50464.5 to be used solely for the purpose described in  
8 subdivision (b) of that section.

9 *SEC. 16. Section 33487 of the Health and Safety Code is*  
10 *amended to read:*

11 33487. (a) Subject to subdivisions (a) and (b) of Section  
12 33486, not less than 20 percent of all taxes that are allocated to  
13 the redevelopment agency pursuant to Section 33670 for  
14 redevelopment projects merged pursuant to this article, irrespective  
15 of the date of adoption of the final redevelopment plans, shall be  
16 deposited by the agency in the Low and Moderate Income Housing  
17 Fund established pursuant to Section 33334.3, or which shall be  
18 established for purposes of this section. The agency shall use the  
19 moneys in this fund to assist in the construction or rehabilitation  
20 of housing units that will be available to, or occupied by, persons  
21 and families of low or moderate income, as defined in Section  
22 50093, and very low income households, as defined in Section  
23 50105, *at an affordable housing cost* for the longest feasible time  
24 period but not less than 55 years for rental units and 45 years for  
25 owner-occupied units. For the purposes of this subdivision,  
26 “construction and rehabilitation” shall include acquisition of land,  
27 improvements to land; the acquisition, rehabilitation, or  
28 construction of structures; or the provision of subsidies necessary  
29 to provide housing for persons and families of low or moderate  
30 income, as defined in Section 50093, and very low income  
31 households, as defined in Section 50105.

32 (b) The agency may use the funds set aside by subdivision (a)  
33 inside or outside the project area. However, the agency may only  
34 use these funds outside the project area upon a resolution of the  
35 agency and the legislative body that the use will be of benefit to  
36 the project. This determination by the agency and the legislative  
37 body shall be final and conclusive as to the issue of benefit to the  
38 project area. The Legislature finds and declares that the provision  
39 of replacement housing pursuant to Section 33413 is of benefit to  
40 a project.

1 The Legislature finds and declares that expenditures or  
2 obligations incurred by the agency pursuant to this section shall  
3 constitute an indebtedness of the project.

4 (c) If moneys deposited in the Low and Moderate Income  
5 Housing Fund pursuant to this section have not been committed  
6 for the purposes specified in subdivisions (a) and (b) for a period  
7 of six years following deposit in that fund, the agency shall offer  
8 these moneys to the housing authority that operates within the  
9 jurisdiction of the agency, if activated pursuant to Section 34240,  
10 for the purpose of constructing or rehabilitating housing as  
11 provided in subdivisions (a) and (b). However, if no housing  
12 authority operates within the jurisdiction of the agency, the agency  
13 may retain these moneys for use pursuant to this section.

14 (d) If the agency deposits less than 20 percent of taxes allocated  
15 pursuant to Section 33670, due to the provisions of subdivisions  
16 (a) and (b) of Section 33486, in any fiscal year, a deficit shall be  
17 created in the Low and Moderate Income Housing Fund in an  
18 amount equal to the difference between 20 percent of the taxes  
19 allocated pursuant to Section 33670 and the amount deposited in  
20 that year. The deficit, if any, created pursuant to this section  
21 constitutes an indebtedness of the project. The agency shall  
22 eliminate the deficit by expending taxes allocated in years  
23 subsequent to creation of the deficit and, until the time when that  
24 deficit has been eliminated, an agency shall not incur new  
25 obligations for purposes other than those set forth in Section 33487,  
26 except to comply with the terms of any resolution or other  
27 agreement pledging taxes allocated pursuant to Section 33670 that  
28 existed on the date of merger pursuant to this article.

29 (e) Notwithstanding subdivision (d) of Section 33413, any  
30 agency that merges its redevelopment project areas pursuant to  
31 this article shall be subject to subdivisions (a) and (c) of Section  
32 33413.

33 *SEC. 17. Section 33490 of the Health and Safety Code is*  
34 *amended to read:*

35 33490. (a) (1) (A) On or before December 31, 1994, and each  
36 five years thereafter, each agency that has adopted a redevelopment  
37 plan prior to December 31, 1993, shall adopt, after a public hearing,  
38 an implementation plan that shall contain the specific goals and  
39 objectives of the agency for the project area, the specific programs,  
40 including potential projects, and estimated expenditures proposed

1 to be made during the next five years, and an explanation of how  
2 the goals and objectives, programs, and expenditures will eliminate  
3 blight within the project area and implement the requirements of  
4 Section 33333.10, if applicable, and Sections 33334.2, 33334.4,  
5 33334.6, and 33413. After adoption of the first implementation  
6 plan, the parts of the implementation plan that address Section  
7 33333.10, if applicable, and Sections 33334.2, 33334.4, 33334.6,  
8 and 33413 shall be adopted every five years either in conjunction  
9 with the housing element cycle or the implementation plan cycle  
10 and shall be made available to the public on the Internet. The  
11 agency may amend the implementation plan after conducting a  
12 public hearing on the proposed amendment. If an action attacking  
13 the adoption, approval, or validity of a redevelopment plan adopted  
14 prior to January 1, 1994, has been brought pursuant to Chapter 5  
15 (commencing with Section 33500), the first implementation plan  
16 required pursuant to this section shall be adopted within six months  
17 after a final judgment or order has been entered. Subsequent  
18 implementation plans required pursuant to this section shall be  
19 adopted pursuant to the terms of this section, and as if the first  
20 implementation plan had been adopted on or before December 31,  
21 1994.

22 (B) Adoption of an implementation plan shall not constitute an  
23 approval of any specific program, project, or expenditure and shall  
24 not change the need to obtain any required approval of a specific  
25 program, project, or expenditure from the agency or community.  
26 The adoption of an implementation plan shall not constitute a  
27 project within the meaning of Section 21000 of the Public  
28 Resources Code. However, the inclusion of a specific program,  
29 potential project, or expenditure in an implementation plan  
30 prepared pursuant to subdivision (c) of Section 33352 in  
31 conjunction with a redevelopment plan adoption shall not eliminate  
32 analysis of those programs, potential projects, and expenditures  
33 in the environmental impact report prepared pursuant to subdivision  
34 (k) of Section 33352 to the extent that it would be otherwise  
35 required. In addition, the inclusion of programs, potential projects,  
36 and expenditures in an implementation plan shall not eliminate  
37 review pursuant to the California Environmental Quality Act  
38 (Division 13 (commencing with Section 21000) of the Public  
39 Resources Code), at the time of the approval of the program,



1 project, or expenditure, to the extent that it would be otherwise  
2 required.

3 (2) (A) A portion of the implementation plan shall address the  
4 agency housing responsibilities and shall contain a section  
5 addressing Section 33333.10, if applicable, and Sections 33334.2,  
6 33334.4, and 33334.6, the Low and Moderate Income Housing  
7 Fund, and, if subdivision (b) of Section 33413 applies, a section  
8 addressing agency developed and project area housing. The section  
9 addressing the Low and Moderate Income Housing Fund shall  
10 contain:

11 (i) The amount available in the Low and Moderate Income  
12 Housing Fund and the estimated amounts which will be deposited  
13 in the Low and Moderate Income Housing Fund during each of  
14 the next five years.

15 (ii) A housing program with estimates of the number of new,  
16 rehabilitated, or price restricted units to be assisted during each of  
17 the five years and estimates of the expenditures of moneys from  
18 the Low and Moderate Income Housing Fund during each of the  
19 five years.

20 (iii) A description of how the housing program will implement  
21 the requirement for expenditures of moneys in the Low and  
22 Moderate Income Housing Fund over a 10-year period for various  
23 groups as required by Section 33334.4. For project areas to which  
24 subdivision (b) of Section 33413 applies, the 10-year period within  
25 which Section 33334.4 is required to be implemented shall be the  
26 same 10-year period within which subdivision (b) of Section 33413  
27 is required to be implemented. Notwithstanding the first sentence  
28 of Section 33334.4 and the first sentence of this clause, in order  
29 to allow these two 10-year time periods to coincide for the first  
30 time period, the time to implement the requirements of Section  
31 33334.4 shall be extended two years, and project areas in existence  
32 on December 31, 1993, shall implement the requirements of  
33 Section 33334.4 on or before December 31, 2014, and each 10  
34 years thereafter rather than December 31, 2012. For project areas  
35 to which subdivision (b) of Section 33413 does not apply, the  
36 requirements of Section 33334.4 shall be implemented on or before  
37 December 31, 2014, and each 10 years thereafter.

38 (iv) This requirement to include a description of how the housing  
39 program will implement Section 33334.4 in the implementation

1 plan shall apply to implementation plans adopted pursuant to  
2 subdivision (a) on or after December 31, 2002.

3 (B) For each project area to which subdivision (b) of Section  
4 33413 applies, the section addressing the agency developed and  
5 project area housing shall contain:

6 (i) Estimates of the number of new, substantially rehabilitated  
7 or price restricted residential units to be developed or purchased  
8 within one or more project areas, both over the life of the plan and  
9 during the next 10 years.

10 (ii) Estimates of the number of units of very low, low-, and  
11 moderate-income households required to be developed within one  
12 or more project areas in order to meet the requirements of  
13 paragraph (2) of subdivision (b) of Section 33413, both over the  
14 life of the plan and during the next 10 years.

15 (iii) ~~The~~ *A statement of the* number of units of very low, low-,  
16 and moderate-income households which have been developed *over*  
17 *the life of the plan* within one or more project areas which meet  
18 the requirements of ~~paragraph (2) of~~ subdivision (b) of Section  
19 33413.

20 (iv) Estimates of the number of agency developed residential  
21 units which will be developed during the next five years, if any,  
22 which will be governed by paragraph (1) of subdivision (b) of  
23 Section 33413.

24 (v) Estimates of the number of agency developed units for very  
25 low, low-, and moderate-income households which will be  
26 developed by the agency during the next five years to meet the  
27 requirements of paragraph (1) of subdivision (b) of Section 33413.

28 (C) The section addressing Section 33333.10, if applicable, and  
29 Section 33334.4 shall contain all of the following:

30 (i) The number of housing units needed for very low income  
31 persons, low-income persons, and moderate-income persons as  
32 each of those needs have been identified in the most recent  
33 determination pursuant to Section 65584 of the Government Code,  
34 and the proposed amount of expenditures from the Low and  
35 Moderate Income Housing Fund for each income group during  
36 each year of the implementation plan period.

37 (ii) The total population of the community and the population  
38 under 65 years of age as reported in the most recent census of the  
39 United States Census Bureau.

1 (iii) A housing program that provides a detailed schedule of  
2 actions the agency is undertaking or intends to undertake to ensure  
3 expenditure of the Low and Moderate Income Housing Fund in  
4 the proportions required by Section 33333.10, if applicable,  
5 *purchasing multiple parcels pursuant to subparagraph (A) of*  
6 *paragraph (3) of subdivision (a) of Section 33334.16, if applicable,*  
7 and Section 33334.4.

8 (iv) For the previous implementation plan period, the amounts  
9 of Low and Moderate Income Housing Fund moneys utilized to  
10 assist units affordable to, and occupied by, extremely low income  
11 households, very low income households, and low-income  
12 households; the number, the location, and level of affordability of  
13 units newly constructed with other locally controlled government  
14 assistance and without agency assistance and that are required to  
15 be affordable to, and occupied by, persons of low, very low, or  
16 extremely low income for at least 55 years for rental housing or  
17 45 years for homeownership housing, and the amount of Low and  
18 Moderate Income Housing Fund moneys utilized to assist housing  
19 units available to families with children, and the number, location,  
20 and level of affordability of those units.

21 (3) If the implementation plan contains a project that will result  
22 in the destruction or removal of dwelling units that will have to  
23 be replaced pursuant to subdivision (a) of Section 33413, the  
24 implementation plan shall identify proposed locations suitable for  
25 those replacement dwelling units. *If the implementation plan*  
26 *contains a project that has resulted in the destruction or removal*  
27 *of dwelling units that must be replaced pursuant to subdivision*  
28 *(a) of Section 33413, the implementation plan shall identify either*  
29 *of the following:*

30 (A) *The replacement dwelling units that satisfy each replacement*  
31 *housing obligation.*

32 (B) *In the case where dwelling units have been destroyed or*  
33 *removed, but replacement units are not yet complete, the proposed*  
34 *location of the replacement dwelling units.*

35 (4) *The implementation plan shall include a complete accounting*  
36 *for compliance with its affordable housing obligations over the*  
37 *life of the plan, including the total number of units the agency is*  
38 *obligated to replace pursuant to subdivision (a) of Section 33413,*  
39 *the number of units the agency is obligated to produce pursuant*  
40 *to subdivision (b) of Section 33413, and the number of dwelling*

1 units that satisfy these obligations. For each owner-occupied unit  
2 or rental unit counted towards meeting the agency obligations, or  
3 for each group of such units, if more than one unit is subject to  
4 the same covenant, the implementation plan shall identify all of  
5 the following:

6 (A) The street address and assessor’s parcel number of the  
7 property.

8 (B) The size of each unit, measured by the number of bedrooms.

9 (C) The housing cost of each unit, according to the categories  
10 required by Section 33413.

11 (D) The year in which the construction or substantial  
12 rehabilitation of the unit was completed.

13 (E) The date of recordation and document number of the  
14 affordability covenants or restrictions required under subdivision  
15 (f) of Section 33334.3 or subdivision (c) of Section 33413.

16 (F) The date on which the covenants or restrictions expire.

17 (G) For the projects developed prior to January 1, 2002, a  
18 statement of the effective period of the land use controls established  
19 in the plan at the time each unit was developed.

20 (H) For owner-occupied units that have changed ownership  
21 during the reporting year, as described in subdivision (a), the date  
22 and document number of the new affordability covenants or other  
23 documents recorded to assure that the affordability restriction is  
24 enforceable and continues to run with the land.

25 (5) Notwithstanding subparagraphs (A) and (E) of paragraph  
26 (4), the implementation plan shall omit any property used to  
27 confidentially house victims of domestic violence.

28 ~~(4)~~

29 (6) For a project area that is within six years of the time limit  
30 on the effectiveness of the redevelopment plan established pursuant  
31 to Section 33333.2, 33333.6, 33333.7, or 33333.10, the portion of  
32 the implementation plan addressing the housing responsibilities  
33 shall specifically address the ability of the agency to comply, prior  
34 to the time limit on the effectiveness of the redevelopment plan,  
35 with subdivision (a) of Section 33333.8, subdivision (a) of Section  
36 33413 with respect to replacement dwelling units, subdivision (b)  
37 of Section 33413 with respect to project area housing, and the  
38 disposition of the remaining moneys in the Low and Moderate  
39 Income Housing Fund.

40 ~~(5)~~

1 (7) The implementation plan shall identify the fiscal year that  
2 the agency expects each of the following time limits to expire:

3 (A) The time limit for the commencement for eminent domain  
4 proceedings to acquire property within the project area.

5 (B) The time limit for the establishment of loans, advances, and  
6 indebtedness to finance the redevelopment project.

7 (C) The time limit for the effectiveness of the redevelopment  
8 plan.

9 (D) The time limit to repay indebtedness with the proceeds of  
10 property taxes.

11 (b) For a project area for which a redevelopment plan is adopted  
12 on or after January 1, 1994, the implementation plan prepared  
13 pursuant to subdivision (c) of Section 33352 shall constitute the  
14 initial implementation plan and thereafter the agency after a public  
15 hearing shall adopt an implementation plan every five years  
16 commencing with the fifth year after the plan has been adopted.  
17 Agencies may adopt implementation plans that include more than  
18 one project area.

19 (c) Every agency, at least once within the five-year term of the  
20 plan, shall conduct a public hearing and hear testimony of all  
21 interested parties for the purpose of reviewing the redevelopment  
22 plan and the corresponding implementation plan for each  
23 redevelopment project within the jurisdiction and evaluating the  
24 progress of the redevelopment project. The hearing required by  
25 this subdivision shall take place no earlier than two years and no  
26 later than three years after the adoption of the implementation plan.  
27 For a project area that is within three years of the time limit on the  
28 effectiveness of the redevelopment plan established pursuant to  
29 Section 33333.2, 33333.6, 33333.7, or 33333.10, the review shall  
30 specifically address those items in paragraph (4) of subdivision  
31 (a). An agency may hold one hearing for two or more project areas  
32 if those project areas are included within the same implementation  
33 plan.

34 (d) Notice of public hearings conducted pursuant to this section  
35 shall be published pursuant to Section 6063 of the Government  
36 Code, mailed at least three weeks in advance to all persons and  
37 agencies that have requested notice, and posted in at least four  
38 permanent places within the project area for a period of three weeks  
39 *and concurrently posted on the Internet*. Publication, mailing, and

1 posting shall be completed not less than 10 days prior to the date  
2 set for hearing.

3 *SEC. 18. Section 33506 is added to the Health and Safety Code,*  
4 *to read:*

5 *33506. (a) An action to compel compliance with any of the*  
6 *following provisions shall be commenced within 6 years from the*  
7 *time limit of the effectiveness of the plan established pursuant to*  
8 *Sections 33333.2, 33333.6, and 33333.10, or the date the agency*  
9 *exceeds a limit on the number of dollars of taxes that may be*  
10 *divided and allocated to the redevelopment agency if required by*  
11 *Section 33333.4 or the limit on the number of dollars of taxes in*  
12 *a redevelopment plan, whichever is later:*

13 *(1) The obligation to make deposits to and expenditures from*  
14 *the Low and Moderate Income Housing Fund pursuant to Sections*  
15 *33334.4, 33492.16, and other similar and related provisions of*  
16 *law.*

17 *(2) The obligation to eliminate project deficits pursuant to*  
18 *Sections 33334.6, 33487, 33492.16, and other similar and related*  
19 *provisions of law.*

20 *(3) The obligation to expend or transfer excess surplus funds*  
21 *pursuant to Section 33334.12 and other similar and related*  
22 *provisions of law.*

23 *(4) The obligation to provide relocation assistance pursuant to*  
24 *Article 9 (commencing with Section 33410), Section 7260 of the*  
25 *Government Code, or other applicable relocation laws.*

26 *(5) The obligation to provide replacement housing pursuant to*  
27 *subdivision (a) of Section 33413, Article 9 (commencing with*  
28 *Section 33410), and other similar and related provisions of law.*

29 *(6) The obligation to provide inclusionary housing pursuant to*  
30 *Section 33413 and other similar and related provisions of law.*

31 *(7) The obligation to monitor and enforce affordability*  
32 *covenants required pursuant to Section 33418.*

33 *(8) The obligation to continue the project past the effectiveness*  
34 *date of the redevelopment plan pursuant to Section 33333.8.*

35 *(b) Notwithstanding subdivision (a), an agency or its successor*  
36 *entity shall continue to monitor and enforce the covenants covered*  
37 *by Section 33418 for the entire period of the covenant. An action*  
38 *to compel compliance with the covenants required by subdivision*  
39 *(c) of Section 33413, or the obligation to monitor and enforce such*

1 *covenants pursuant to Section 33418 shall be commenced within*  
2 *six years from the expiration of the covenants.*

3 *(c) This section applies to actions pending on and after January*  
4 *1, 2012.*

5 ~~SEC. 16.~~

6 *SEC. 19.* Section 50464.5 is added to the Health and Safety  
7 Code, to read:

8 50464.5. (a) The Redevelopment Agency Accountability Fund  
9 is hereby created in the State Treasury and is available, upon  
10 appropriation, to the department for the purposes of subdivision  
11 (b). Notwithstanding Section 16305.7 of the Government Code,  
12 any moneys received by the department pursuant to Section 33460,  
13 and any other sources, repayments, interest, or new appropriations,  
14 shall be deposited in the fund. Moneys in the fund shall not be  
15 subject to transfer to any other fund pursuant to any provision of  
16 Part 2 (commencing with Section 16300) of Division 4 of Title 2  
17 of the Government Code, except the Surplus Money Investment  
18 Fund. The department may require the transfer of moneys in the  
19 fund to the Surplus Money Investment Fund for investment  
20 pursuant to Article 4 (commencing with Section 16470) of Chapter  
21 3 of Part 2 of Division 4 of Title 2 of the Government Code.  
22 Notwithstanding Section 16305.7 of the Government Code, all  
23 interest, dividends, and pecuniary gains from the investments shall  
24 accrue to the fund.

25 (b) With funds made available pursuant to subdivision (a), the  
26 department shall conduct audits of redevelopment agencies to  
27 ensure compliance with the housing provisions of the Community  
28 Redevelopment Law. The department shall include in the audits  
29 a review of agency compliance with production and replacement  
30 housing obligations, recording and monitoring of affordability  
31 covenants, provision of relocation assistance, propriety of deposits  
32 to and expenditures from the Low and Moderate Income Housing  
33 Fund, compliance with the debt limit of the agency, adoption of a  
34 legally sufficient implementation plan, each of the major audit  
35 violations pursuant to subdivision (j) of Section 33080.8, and any  
36 other accounting practice or provision of the Community  
37 Redevelopment Law in the discretion of the department. The  
38 department shall require that each agency take action to correct  
39 the audit violations. If the department determines that an agency  
40 has not corrected the audit violations within 180 days of a final

1 audit report, it shall forward all relevant documents to the Attorney  
2 General for action pursuant to Section 33080.9. The department  
3 shall make available on its Internet Web site the final audit reports,  
4 a statement of any resolution of audit reports, or if not resolved,  
5 the date audit reports were forwarded to the Attorney General.

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