

AMENDED IN SENATE APRIL 11, 2011

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, 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%~~ 75% 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% with at least 25% of which is the expenditures required to be directed towards rental housing for persons of extremely low-income and at least 50% of the expenditures required to be directed towards housing for persons of very low-income.~~

(4) Existing law authorizes a redevelopment agency to merge project areas under its jurisdiction, and requires that at least 20% of specified

*taxes allocated to the redevelopment agency to be deposited into the Low and Moderate Income Housing Fund to assist in the construction or rehabilitation of housing units for very low, and moderate-income households, as specified. Existing law requires that if those funds have not been committed for that purpose within 6 years, the agency shall offer the funds to the housing authority that operates within the jurisdiction of the agency, as specified.*

*This bill would repeal the requirement that the funds be offered to the housing authority.*

~~(4)~~

(5) 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)~~

(6) 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

1 government entity to its legislative body within 30 days of receipt  
2 of that audit report. In addition, every redevelopment agency shall  
3 present an annual report to its legislative body within six months  
4 of the end of the agency's fiscal year. The annual report shall  
5 contain all of the following:

6 (a) (1) An independent financial audit report for the previous  
7 fiscal year. "Audit report" means an examination of, and opinion  
8 on, the financial statements of the agency which present the results  
9 of the operations and financial position of the agency, including  
10 all financial activities with moneys required to be held in a separate  
11 Low and Moderate Income Housing Fund pursuant to Section  
12 33334.3. This audit shall be conducted by a certified public  
13 accountant or public accountant, licensed by the State of California,  
14 in accordance with Government Auditing Standards adopted by  
15 the Comptroller General of the United States. The audit report  
16 shall meet, at a minimum, the audit guidelines prescribed by the  
17 Controller's office pursuant to Section 33080.3 and also include  
18 a report on the agency's compliance with laws, regulations, and  
19 administrative requirements governing activities of the agency,  
20 and a calculation of the excess surplus in the Low and Moderate  
21 Income Housing Fund as defined in subdivision (g) of Section  
22 33334.12. The audit report shall include a statement from the  
23 auditor as to whether or not the agency has any major audit  
24 violations, as defined in subdivision (j) of Section 33080.8.

25 (2) A statement describing each corrective measure taken in  
26 that fiscal year to correct major audit violations identified during  
27 or prior to that fiscal year by the agency, its auditor, or the  
28 Department of Housing and Community Development.

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

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

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

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

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

6 (f) A description of the total number and nature of the properties  
7 that the agency owns and those properties the agency has acquired  
8 in the previous fiscal year.

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

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

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

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

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

19 (h) A statement of the amount and percentage of tax increment  
20 expended from the Low and Moderate Income Housing Fund for  
21 planning and general administration in each of the preceding five  
22 fiscal years that begin after December 31, 2011, broken down by  
23 the categories described in paragraph (1) of subdivision (d) of  
24 Section 33334.3.

25 (i) A list of all real properties owned by the agency *and*  
26 *purchased with funds from the Low and Moderate Income Housing*  
27 *Fund*, the date of acquisition for each property, the agency's  
28 intended purpose for each property, a statement of the amount, if  
29 any, of moneys from the Low and Moderate Income Housing Fund  
30 used to acquire the property, and a statement of the amount, if any,  
31 of moneys from the Low and Moderate Income Housing Fund  
32 used to maintain the property.

33 (j) A list of the redevelopment projects that have caused a  
34 replacement obligation pursuant to subdivision (a) of Section  
35 33413, and of the development projects that have caused a  
36 production obligation pursuant to subdivision (b) of Section 33413,  
37 the respective number of units the agency is obligated to replace  
38 or produce as a result of each project, and the location and status  
39 of the replacement and production units. This list shall cover each  
40 fiscal year from the agency's last adopted implementation plan

1 and also include any projects for which covenants required by  
2 paragraph (5) of subdivision (c) of Section 33413 have not been  
3 recorded for the identified replacement or production obligation.

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

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

10 33080.2. (a) When the agency presents the annual report to  
11 the legislative body pursuant to Section 33080.1, the agency shall  
12 inform the legislative body of any major audit violations of this  
13 part based on the independent financial audit report or an audit  
14 investigation conducted by the department. The agency shall inform  
15 the legislative body that the failure to correct a major audit  
16 violation of this part may result in the filing of an action by the  
17 Attorney General pursuant to Section 33080.8 in a form that  
18 indicates whether a referral to the Attorney General has been made.

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

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

26 33080.8. (a) On or before April 1 of each year, the Controller  
27 shall compile a list of agencies that appear to have major audit  
28 violations as defined in this section, based on the independent  
29 financial audit reports filed with the Controller pursuant to Section  
30 33080.

31 (b) On or before June 1 of each year, for each major audit  
32 violation of each agency identified pursuant to subdivision (a), the  
33 Controller shall determine if the agency has corrected the major  
34 audit violation. Before making this determination, the Controller  
35 shall consult with each affected agency. In making this  
36 determination, the Controller may request and shall receive the  
37 prompt assistance of public officials and public agencies, including,  
38 but not limited to, the affected agencies, counties, and cities. If the  
39 Controller determines that an agency has not corrected the major  
40 audit violation, the Controller shall send a list of those agencies,

1 their major violations, all relevant documents, and the affidavits  
2 required pursuant to subdivision (d) to the Attorney General for  
3 action pursuant to this section.

4 (c) For each agency that the Controller refers to the Attorney  
5 General pursuant to subdivision (b), the Controller shall notify the  
6 agency and the legislative body that the agency was on the list sent  
7 to the Attorney General. The Controller's notice shall inform the  
8 agency and the legislative body of the duties imposed by Section  
9 33080.2.

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

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

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

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

37 (A) Encumbering any funds or expending any money derived  
38 from any source except to pay the obligations designated in  
39 subparagraphs (A) to (G), inclusive, of paragraph (1) of subdivision  
40 (e) of Section 33334.12.

1 (B) Adopting a redevelopment plan.

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

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

6 (E) Incurring any indebtedness.

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

9 (g) If, on the basis of that subsequent hearing, the court  
10 determines that the agency has a major audit violation and has not  
11 corrected that violation, the court shall order the agency to comply  
12 with this part within 30 days, and order the agency to forfeit to the  
13 state no more than:

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

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

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

27 (h) The order issued by the court pursuant to paragraph (3) of  
28 subdivision (e) shall continue in effect until the court determines  
29 that the agency has corrected the major audit violation. If the court  
30 determines that the agency has corrected the major audit violation,  
31 the court may dissolve its order issued pursuant to paragraph (3)  
32 of subdivision (e) at any time.

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

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

38 (1) File an independent financial audit report that substantially  
39 conforms with the requirements of subdivision (a) of Section  
40 33080.1.

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

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

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

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

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

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

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

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

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

21 33080.9. (a) (1) The department shall forward to the Attorney  
22 General and the Controller a copy of any audit or investigation of  
23 a redevelopment agency conducted pursuant to Section 50464.5.

24 (2) On or before April 1 of each year, the department shall  
25 determine for all audits and investigations conducted the previous  
26 year, including those audits and investigations conducted pursuant  
27 to Section 50464.5, whether an audit or investigation contains  
28 major audit violations, as defined in subdivision (j) of Section  
29 33080.8.

30 (b) On or before June 1 of each year, the department shall  
31 determine for each major audit violation identified pursuant to  
32 subdivision (a) if the agency has corrected the major audit  
33 violation. Before making this determination, the department shall  
34 consult with each affected agency. In making this determination,  
35 the department may request and shall receive the prompt assistance  
36 of public officials and public agencies, including, but not limited  
37 to, the affected agencies, counties, and cities. If the department  
38 determines an agency has not corrected the major audit violation,  
39 the department shall send a list of those agencies, their major audit  
40 violations, all relevant documentation, and the affidavits required

1 pursuant to subdivision (e) to the Attorney General for any action  
2 pursuant to this section.

3 (c) For each agency the department refers to the Attorney  
4 General pursuant to subdivision (b), the department shall notify  
5 the agency and its legislative body that the agency was on the list  
6 sent to the Attorney General. The notice shall inform the agency  
7 and its legislative body of the duties imposed pursuant to Section  
8 33080.2.

9 (d) The Attorney General shall determine whether to file an  
10 action to compel the agency’s compliance with this article within  
11 45 days of receiving notice from the department regarding major  
12 audit violations. Any action filed pursuant to this section shall be  
13 commenced in the superior court of any county where the Attorney  
14 General has an office. The time limit for the Attorney General to  
15 make this determination is directory and not mandatory.

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

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

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

29 33080.10. In an action to compel an agency’s compliance with  
30 this article pursuant to Section 33080.9, all of the following shall  
31 apply:

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

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

1 (3) If the court determines there is good cause to believe the  
2 agency had a major audit violation and has not corrected that major  
3 audit violation, the court shall set a hearing on the matter within  
4 60 days. The court also shall issue immediately an order that  
5 prohibits the agency from doing any of the following:

6 (A) Encumbering any funds or expending any money derived  
7 from any source, other than a Low and Moderate Income Housing  
8 Fund, except to pay the obligations designated in subparagraphs  
9 (A) to (G), inclusive, of paragraph (1) of subdivision (e) of Section  
10 33334.12.

11 (B) Adopting a redevelopment plan.

12 (C) Exercising the power of eminent domain.

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

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

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

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

32 (c) The order issued by the court pursuant to paragraph (3) of  
33 subdivision (a) shall continue in effect until the court determines  
34 the agency has corrected the major audit violation. If the court  
35 determines that the agency has corrected the major audit violation,  
36 the court may dissolve its order at any time.

37 (d) An action filed pursuant to this section is in addition to any  
38 other remedy and is not an exclusive means to compel compliance.  
39 This section is not intended to preclude an action to compel

1 compliance with this article by any other interested party or resident  
2 of the jurisdiction.

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

5 33080.11. (a) The Controller may conduct quality control  
6 reviews of independent financial audit reports required by Section  
7 33080.1 to the extent it is feasible to do so within existing  
8 budgetary resources. The Controller shall communicate the results  
9 of his or her reviews to the independent auditor and the agency  
10 for which the audit was conducted, and shall review his or her  
11 findings with the independent auditor.

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

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

25 33080.12. (a) (1) Whenever the Controller determines through  
26 two consecutive quality control reviews, pursuant to Section  
27 33080.11, that audits performed by an independent auditor pursuant  
28 to Section 33080.1 were not performed in substantial conformity  
29 with provisions of the audit and report guidelines adopted pursuant  
30 to Section 33080.3, the Controller shall notify in writing the  
31 independent auditor and the California Board of Accountancy.

32 (2) If the independent auditor does not file an appeal in writing  
33 to the board within 30 calendar days after receipt of the Controller’s  
34 notification, the Controller’s determination under this section shall  
35 be final.

36 (3) If an appeal is filed with the California Board of  
37 Accountancy, the board shall complete an investigation of the  
38 appeal. On the basis of the investigation, the board may do either  
39 of the following:

1 (A) Find the Controller’s determination should not be upheld  
2 and has no effect.

3 (B) Schedule the appeal for a hearing.

4 (b) If the Controller’s determination pursuant to subdivision (a)  
5 becomes final, the independent auditor shall be ineligible to  
6 conduct audits pursuant to Section 33080.1 for a period of three  
7 years, or, in the event of an appeal, for any period and subject to  
8 conditions that may be ordered by the California Board of  
9 Accountancy. No later than March 1 following the date on which  
10 the Controller’s determination becomes final, the Controller shall  
11 notify each agency of those independent auditors determined to  
12 be ineligible under this section or Section 33080.11. Agencies  
13 shall not use the audit services of an independent auditor ineligible  
14 under this section.

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

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

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

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

35 (1) (A) That no need exists in the community to improve,  
36 increase, or preserve the supply of low- and moderate-income  
37 housing, including housing for very low income households in a  
38 manner that would benefit the project area and that this finding is  
39 consistent with the housing element of the community’s general  
40 plan required by Article 10.6 (commencing with Section 65580)

1 of Chapter 3 of Division 1 of Title 7 of the Government Code,  
2 including its share of the regional housing needs of very low  
3 income households and persons and families of low or moderate  
4 income.

5 (B) This finding shall only be made if the housing element of  
6 the community's general plan demonstrates that the community  
7 does not have a need to improve, increase, or preserve the supply  
8 of low- and moderate-income housing available at affordable  
9 housing cost to persons and families of low or moderate income  
10 and to very low income households. This finding shall only be  
11 made if it is consistent with the planning agency's annual report  
12 to the legislative body on implementation of the housing element  
13 required by subdivision (b) of Section 65400 of the Government  
14 Code. No agency of a charter city shall make this finding unless  
15 the planning agency submits the report pursuant to subdivision (b)  
16 of Section 65400 of the Government Code. This finding shall not  
17 take effect until the agency has complied with subdivision (b) of  
18 this section.

19 (2) (A) That some stated percentage less than 20 percent of the  
20 taxes that are allocated to the agency pursuant to Section 33670  
21 is sufficient to meet the housing needs of the community, including  
22 its share of the regional housing needs of persons and families of  
23 low- or moderate-income and very low income households, and  
24 that this finding is consistent with the housing element of the  
25 community's general plan required by Article 10.6 (commencing  
26 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the  
27 Government Code.

28 (B) This finding shall only be made if the housing element of  
29 the community's general plan demonstrates that a percentage of  
30 less than 20 percent will be sufficient to meet the community's  
31 need to improve, increase, or preserve the supply of low- and  
32 moderate-income housing available at affordable housing cost to  
33 persons and families of low or moderate income and to very low  
34 income households. This finding shall only be made if it is  
35 consistent with the planning agency's annual report to the  
36 legislative body on implementation of the housing element required  
37 by subdivision (b) of Section 65400 of the Government Code. No  
38 agency of a charter city shall make this finding unless the planning  
39 agency submits the report pursuant to subdivision (b) of Section

1 65400 of the Government Code. This finding shall not take effect  
2 until the agency has complied with subdivision (b) of this section.

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

10 (3) (A) That the community is making a substantial effort to  
11 meet its existing and projected housing needs, including its share  
12 of the regional housing needs, with respect to persons and families  
13 of low and moderate income, particularly very low income  
14 households, as identified in 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, and that this effort, consisting of direct financial  
18 contributions of local funds used to increase and improve the  
19 supply of housing affordable to, and occupied by, persons and  
20 families of low or moderate income and very low income  
21 households is equivalent in impact to the funds otherwise required  
22 to be set aside pursuant to this section. In addition to any other  
23 local funds, these direct financial contributions may include federal  
24 or state grants paid directly to a community and that the community  
25 has the discretion of using for the purposes for which moneys in  
26 the Low and Moderate Income Housing Fund may be used. The  
27 legislative body shall consider the need that can be reasonably  
28 foreseen because of displacement of persons and families of low  
29 or moderate income or very low income households from within,  
30 or adjacent to, the project area, because of increased employment  
31 opportunities, or because of any other direct or indirect result of  
32 implementation of the redevelopment plan. No finding under this  
33 subdivision may be made until the community has provided or  
34 ensured the availability of replacement dwelling units as defined  
35 in Section 33411.2 and until it has complied with Article 9  
36 (commencing with Section 33410).

37 (B) In making the determination that other financial  
38 contributions are equivalent in impact pursuant to this subdivision,  
39 the agency shall include only those financial contributions that are

1 directly related to programs or activities authorized under  
2 subdivision (e).

3 (C) The authority for making the finding specified in this  
4 paragraph shall expire on June 30, 1993, except that the expiration  
5 shall not be deemed to impair contractual obligations to  
6 bondholders or private entities incurred prior to May 1, 1991, and  
7 made in reliance on the provisions of this paragraph. Agencies that  
8 make this finding after June 30, 1993, shall show evidence that  
9 the agency entered into the specific contractual obligation with  
10 the specific intention of making a finding under this paragraph in  
11 order to provide sufficient revenues to pay off the indebtedness.

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

33 (c) In any litigation to challenge or attack a finding made under  
34 paragraph (1), (2), or (3) of subdivision (a), the burden shall be  
35 upon the agency to establish that the finding is supported by  
36 substantial evidence in light of the entire record before the agency.  
37 If an agency is determined by a court to have knowingly  
38 misrepresented any material facts regarding the community's share  
39 of its regional housing need for low- and moderate-income housing,  
40 including very low income households, or the community's

1 production record in meeting its share of the regional housing need  
2 pursuant to the report required by subdivision (b) of Section 65400  
3 of the Government Code, the agency shall be liable for all court  
4 costs and plaintiff's attorney's fees, and shall be required to allocate  
5 not less than 25 percent of the agency's tax increment revenues to  
6 its Low and Moderate Income Housing Fund in each year  
7 thereafter.

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

12 (e) In carrying out the purposes of this section, the agency may  
13 exercise any or all of its powers for the construction, rehabilitation,  
14 or preservation of affordable housing for extremely low, very low,  
15 low-, and moderate-income persons or families, including the  
16 following:

17 (1) Acquire real property or building sites subject to Section  
18 33334.16.

19 (2) (A) Improve real property or building sites with onsite or  
20 offsite improvements, but only if both (i) the improvements are  
21 part of the new construction or rehabilitation of affordable housing  
22 units for low- or moderate-income persons that are directly  
23 benefited by the improvements, and are a reasonable and  
24 fundamental component of the housing units, and (ii) the agency  
25 requires that the units remain available at affordable housing cost  
26 to, and occupied by, persons and families of extremely low, very  
27 low, low, or moderate income for the same time period and in the  
28 same manner as provided in subdivision (c) and paragraph (2) of  
29 subdivision (f) of Section 33334.3.

30 (B) If the newly constructed or rehabilitated housing units are  
31 part of a larger project and the agency improves or pays for onsite  
32 or offsite improvements pursuant to the authority in this  
33 subdivision, the agency shall pay only a portion of the total cost  
34 of the onsite or offsite improvement. The maximum percentage  
35 of the total cost of the improvement paid for by the agency shall  
36 be determined by dividing the number of housing units that are  
37 affordable to low- or moderate-income persons by the total number  
38 of housing units, if the project is a housing project, or by dividing  
39 the cost of the affordable housing units by the total cost of the  
40 project, if the project is not a housing project.

- 1 (3) Donate real property to private or public persons or entities.
- 2 (4) Finance insurance premiums pursuant to Section 33136.
- 3 (5) Construct buildings or structures.
- 4 (6) Acquire buildings or structures.
- 5 (7) Rehabilitate buildings or structures.
- 6 (8) Provide subsidies to, or for the benefit of, extremely low
- 7 income households, as defined by Section 50106, very low income
- 8 households, as defined by Section 50105, lower income
- 9 households, as defined by Section 50079.5, or persons and families
- 10 of low or moderate income, as defined by Section 50093, to the
- 11 extent those households cannot obtain housing at affordable costs
- 12 on the open market. Housing units available on the open market
- 13 are those units developed without direct government subsidies.
- 14 (9) Develop plans, pay principal and interest on bonds, loans,
- 15 advances, or other indebtedness, or pay financing or carrying
- 16 charges.
- 17 (10) Maintain the community’s supply of mobilehomes.
- 18 (11) Preserve the availability to lower income households of
- 19 affordable housing units in housing developments that are assisted
- 20 or subsidized by public entities and that are threatened with
- 21 imminent conversion to market rates.
- 22 (f) The agency may use these funds to meet, in whole or in part,
- 23 the replacement housing provisions in Section 33413. However,
- 24 nothing in this section shall be construed as limiting in any way
- 25 the requirements of that section.
- 26 (g) (1) The agency may use these funds inside or outside the
- 27 project area. The agency may only use these funds outside the
- 28 project area upon a resolution of the agency and the legislative
- 29 body that the use will be of benefit to the project. The
- 30 determination by the agency and the legislative body shall be final
- 31 and conclusive as to the issue of benefit to the project area. The
- 32 Legislature finds and declares that the provision of replacement
- 33 housing pursuant to Section 33413 is always of benefit to a project.
- 34 Unless the legislative body finds, before the redevelopment plan
- 35 is adopted, that the provision of low- and moderate-income housing
- 36 outside the project area will be of benefit to the project, the project
- 37 area shall include property suitable for low- and moderate-income
- 38 housing.
- 39 (2) (A) The Contra Costa County Redevelopment Agency may
- 40 use these funds anywhere within the unincorporated territory, or

1 within the incorporated limits of the City of Walnut Creek on sites  
2 contiguous to the Pleasant Hill BART Station Area Redevelopment  
3 Project area. The agency may only use these funds outside the  
4 project area upon a resolution of the agency and board of  
5 supervisors determining that the use will be of benefit to the project  
6 area. In addition, the agency may use these funds within the  
7 incorporated limits of the City of Walnut Creek only if the agency  
8 and the board of supervisors find all of the following:

9 (i) Both the County of Contra Costa and the City of Walnut  
10 Creek have adopted and are implementing complete and current  
11 housing elements of their general plans that the Department of  
12 Housing and Community Development has determined to be in  
13 compliance with the requirements of Article 10.6 (commencing  
14 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the  
15 Government Code.

16 (ii) The development to be funded shall not result in any  
17 residential displacement from the site where the development is  
18 to be built.

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

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

26 (B) If the agency uses these funds within the incorporated limits  
27 of the City of Walnut Creek, all of the following requirements  
28 shall apply:

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

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

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

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

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

7 (i) This section shall only apply to taxes allocated to a  
8 redevelopment agency for which a final redevelopment plan is  
9 adopted on or after January 1, 1977, or for any area that is added  
10 to a project by an amendment to a redevelopment plan, which  
11 amendment is adopted on or after the effective date of this section.  
12 An agency may, by resolution, elect to make all or part of the  
13 requirements of this section applicable to any redevelopment  
14 project for which a redevelopment plan was adopted prior to  
15 January 1, 1977, subject to any indebtedness incurred prior to the  
16 election.

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

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

33 (C) An agency found to have deposited less into the Low and  
34 Moderate Income Housing Fund than mandated by Section 33334.3  
35 or to have spent money from the Low and Moderate Income  
36 Housing Fund for purposes other than increasing, improving, and  
37 preserving the community's supply of low- and moderate-income  
38 housing, as mandated, by this section or Section 33334.3 or  
39 33334.6 shall repay the funds with interest, plus an additional 50  
40 percent of that amount and interest, in one lump sum pursuant to

1 Section 970.4 or 970.5 of the Government Code or may do either  
2 of the following:

3 (i) Petition the court under Section 970.6 for repayment in  
4 installments.

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

8 (D) An action to compel compliance with *the* requirements of  
9 Section 33487 shall be commenced within 10 years of the alleged  
10 violation. A cause of action accrues on ~~the actual date of~~ the last  
11 day of the fiscal year in which the funds were required to be  
12 deposited in the Low and Moderate Income Housing Fund or the  
13 date of the actual expenditure of the funds, as applicable. In the  
14 event the deposits to the Low and Moderate Income Housing Fund  
15 are less than the amounts required pursuant to Section 33487, or  
16 the expenditures from the Low and Moderate Income Housing  
17 Fund are not consistent with Section 33487, the repayment required  
18 by subparagraph (C) is applicable. This subparagraph applies to  
19 actions filed on or after January 1, 2012.

20 (2) Repayment shall not be made from the funds required to be  
21 set aside or used for low- and moderate-income housing pursuant  
22 to this part, or any other funds designated for affordable housing.

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

27 (4) Except as otherwise provided in this subdivision, Chapter  
28 2 (commencing with Section 970) of Part 5 of Division 3.6 of Title  
29 1 of the Government Code for the enforcement of a judgment  
30 against a local public entity applies to a judgment against a local  
31 public entity that violates this section.

32 (5) Except as provided in subparagraph (D) of paragraph (1),  
33 this subdivision applies to actions filed on and after January 1,  
34 2006.

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

39 (k) (1) From July 1, 2009, to June 30, 2010, inclusive, an agency  
40 may suspend all or part of its required allocation to the Low and

1 Moderate Income Housing Fund from taxes that are allocated to  
2 that agency pursuant to Section 33670.

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

8 (3) An agency that suspends revenue pursuant to paragraph (1)  
9 and fails to repay or have repaid on its behalf the amount of revenue  
10 suspended pursuant to paragraph (2) shall, commencing July 1,  
11 2015, be required to allocate an additional 5 percent of all taxes  
12 that are allocated to that agency pursuant to Section 33670 for low-  
13 and moderate-income housing for the remainder of the time that  
14 the agency receives allocations of tax revenue pursuant to Section  
15 33670.

16 (4) An agency that fails to pay or have paid on its behalf the  
17 full amount calculated pursuant to subparagraph (J) of paragraph  
18 (2) of subdivision (a) of Section 33690, or subparagraph (J) of  
19 paragraph (2) of subdivision (a) of Section 33690.5, as the case  
20 may be, shall, commencing July 1, 2010, or July 1, 2011, as  
21 applicable, be required to allocate an additional 5 percent of all  
22 taxes that are allocated to that agency pursuant to Section 33670  
23 for low- and moderate-income housing for the remainder of the  
24 time that the agency receives allocations of tax revenue pursuant  
25 to Section 33670.

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

28 33334.3. (a) The funds that are required by Section 33334.2  
29 or 33334.6 to be used for the purposes of increasing, improving,  
30 and preserving the community's supply of low- and  
31 moderate-income housing shall be held in a separate Low and  
32 Moderate Income Housing Fund until used.

33 (b) Any interest earned by the Low and Moderate Income  
34 Housing Fund and any repayments or other income to the agency  
35 for loans, advances, or grants, of any kind from the Low and  
36 Moderate Income Housing Fund, shall accrue to and be deposited  
37 in, the fund and may only be used in the manner prescribed for the  
38 Low and Moderate Income Housing Fund.

39 (c) The moneys in the Low and Moderate Income Housing Fund  
40 shall be used to increase, improve, and preserve the supply of low-

1 and moderate-income housing within the territorial jurisdiction of  
2 the agency.

3 (d) (1) It is the intent of the Legislature that the Low and  
4 Moderate Income Housing Fund be used to the maximum extent  
5 possible to defray the actual cost of producing, improving, or  
6 preserving low- and moderate-income housing and to restrict the  
7 use of Low and Moderate Income Housing Fund moneys for  
8 planning and general administrative costs to those which are  
9 necessary for and directly related to lawful use of the Low and  
10 Moderate Income Housing Fund. Subject to the restrictions set  
11 forth in paragraph (2), all of the following costs shall be considered  
12 planning and general administrative costs for the purposes of funds  
13 paid from the Low and Moderate Income Housing Fund:

14 (A) Employee compensation costs, including salaries, wages,  
15 and benefits, and related nonpersonnel costs, including, but not  
16 limited to, travel, training, publications, and conferences, paid to  
17 or on behalf of any agency, city, or county employee whose duties  
18 include activities authorized under subdivision (e) of Section  
19 33334.2. If the employee spends any time on matters other than  
20 those authorized under subdivision (e) of Section 33334.2, Low  
21 and Moderate Income Housing Fund moneys may only be used to  
22 pay for employee compensation and related nonpersonnel costs in  
23 proportion to the actual time that the employee spends on activities  
24 authorized under subdivision (e) of Section 33334.2.

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

1 Section 33334.2 in comparison to the total number of employees  
2 supervised, managed, or indirectly supported by that employee.

3 (C) Overhead costs, including, but not limited to, rent or  
4 mortgage payments, equipment, and office supplies, provided that  
5 if the overhead costs are shared with departments or employees  
6 whose duties include activities other than those authorized under  
7 subdivision (e) of Section 33334.2. The proportion of the overhead  
8 costs paid from the Low and Moderate Income Housing Fund shall  
9 not exceed the proportion of employees working directly and  
10 exclusively on activities authorized under subdivision (e) of Section  
11 33334.2 represented in comparison to the total number of  
12 employees sharing the space, equipment, or office supplies.

13 (D) The total value of any contracts for agency planning or  
14 administrative services that are related to activities authorized  
15 under subdivision (e) of Section 33334.2 and that are not associated  
16 with a specific housing development project allowed pursuant to  
17 Sections 33334.2, 33334.3, and 33334.6.

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

22 (B) Subparagraph (A) shall not apply to a project area-specific  
23 Low and Moderate Income Housing Fund during the first five  
24 fiscal years after adoption of that specific project area.  
25 Subparagraph (A) shall apply to a new or amended project area if  
26 tax increment for that new or amended project area is deposited  
27 into an aggregate Low and Moderate Income Housing Fund  
28 covering more than one project area.

29 (3) At the time the budget is adopted, the agency shall annually  
30 adopt a separate written resolution making a finding, based on  
31 substantial evidence in the record, that the planning and general  
32 administrative expenses budgeted for the fiscal year to be paid  
33 from the Low and Moderate Income Housing Fund shall not exceed  
34 15 percent of the tax increment to be deposited into the Low and  
35 Moderate Income Housing Fund for that fiscal year or that the  
36 exception in subparagraph (B) of paragraph (2) applies. The  
37 resolution shall do all of the following:

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

1 (B) Consistent with the categories described in paragraph (1),  
2 itemize each category of planning and general administration  
3 expenditures from the Low and Moderate Income Housing Fund  
4 and explicitly describe how the expenditures are necessary for the  
5 production, improvement, or preservation of low- and  
6 moderate-income housing.

7 (C) List the title of any agency, city, or county employees for  
8 whom any portion of his or her salary, wages, benefits, or  
9 nonpersonnel costs is paid from the Low and Moderate Income  
10 Housing Fund, the nature of the employee's activities eligible to  
11 be paid from the Low and Moderate Income Housing Fund, the  
12 percentage of time the employees spends on activities eligible to  
13 be paid from the Low and Moderate Income Housing Fund, and  
14 the percentage of the employee's salary, wages, benefits, and  
15 nonpersonnel costs paid from the Low and Moderate Income  
16 Housing Fund.

17 (D) List any overhead costs that are paid directly or indirectly  
18 from the Low and Moderate Income Housing Fund, identify by  
19 title and department any other employees with whom the overhead  
20 costs are shared, and specify the total cost of the shared overhead  
21 costs.

22 (4) In a challenge related to the proportionality of costs, as  
23 required by subparagraphs (A), (B), and (C) of paragraph (1), the  
24 agency shall bear the burden of proof to demonstrate that the costs  
25 are proportionate.

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

29 (1) Code enforcement.

30 (2) Land use planning or related activities of a planning  
31 department, including development or revision of the general plan  
32 housing element, except for the payment of normal project-related  
33 planning fees applicable to all similar development projects.

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

36 (4) Administration of nonredevelopment activities unrelated to  
37 activities allowed pursuant to this section, and Sections 33334.2,  
38 33334.6, and 33487.

39 (f) (1) The requirements of this subdivision apply to all new or  
40 substantially rehabilitated housing units developed or otherwise

1 assisted with moneys from the Low and Moderate Income Housing  
2 Fund, pursuant to an agreement approved by an agency on or after  
3 January 1, 1988. Except to the extent that a longer period of time  
4 may be required by other provisions of law, the agency shall require  
5 that housing units subject to this subdivision shall remain available  
6 at affordable housing cost to, and occupied by, persons and families  
7 of low or moderate income and very low income and extremely  
8 low income households for the longest feasible time, but for not  
9 less than the following periods of time:

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

18 (B) Forty-five years for owner-occupied units. However, the  
19 agency may permit sales of owner-occupied units prior to the  
20 expiration of the 45-year period for a price in excess of that  
21 otherwise permitted under this subdivision pursuant to an adopted  
22 program which protects the agency's investment of moneys from  
23 the Low and Moderate Income Housing Fund, including, but not  
24 limited to, an equity sharing program which establishes a schedule  
25 of equity sharing that permits retention by the seller of a portion  
26 of those excess proceeds based on the length of occupancy. The  
27 remainder of the excess proceeds of the sale shall be allocated to  
28 the agency and deposited in the Low and Moderate Income  
29 Housing Fund. Only the units originally assisted by the agency  
30 shall be counted towards the agency's obligations under Section  
31 33413.

32 (C) Fifteen years for mutual self-help housing units that are  
33 occupied by and affordable to very low and low-income  
34 households. However, the agency may permit sales of mutual  
35 self-help housing units prior to expiration of the 15-year period  
36 for a price in excess of that otherwise permitted under this  
37 subdivision pursuant to an adopted program that (i) protects the  
38 agency's investment of moneys from the Low and Moderate  
39 Income Housing Fund, including, but not limited to, an equity  
40 sharing program that establishes a schedule of equity sharing that

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

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

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

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

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

38 (i) A recitation of the affordability covenants or restrictions. If  
39 the document recorded under this subparagraph is recorded  
40 concurrently with the covenants or restrictions recorded under

1 subparagraph (A), the recitation of the affordability covenants or  
2 restrictions shall also reference the concurrently recorded  
3 document. If the document recorded under this subparagraph is  
4 not recorded concurrently with the covenants or restrictions  
5 recorded under subparagraph (A), the recitation of the affordability  
6 covenants or restrictions shall also reference the recorder's  
7 identification number of the document recorded under subparagraph  
8 (A).

9 (ii) The date the covenants or restrictions expire.

10 (iii) The street address of the property, including, if applicable,  
11 the unit number, unless the property is used to confidentially house  
12 victims of domestic violence.

13 (iv) The assessor's parcel number for the property.

14 (v) The legal description of the property.

15 (4) The agency shall require the recording of the document  
16 required under subparagraph (B) of paragraph (3) not more than  
17 30 days after the date of recordation of the covenants or restrictions  
18 required under subparagraph (A) of paragraph (3).

19 (5) The county recorder shall index the documents required to  
20 be recorded under paragraph (3) by the agency and current owner.

21 (6) Notwithstanding Section 27383 of the Government Code,  
22 a county recorder may charge all authorized recording fees to any  
23 party, including a public agency, for recording the document  
24 specified in subparagraph (B) of paragraph (3).

25 (7) Notwithstanding any other provision of law, the covenants  
26 or restrictions implementing this subdivision shall run with the  
27 land and shall be enforceable against any owner who violates a  
28 covenant or restriction and each successor in interest who continues  
29 the violation, by any of the following:

30 (A) The agency.

31 (B) The community, as defined in Section 33002.

32 (C) A resident of a unit subject to this subdivision.

33 (D) A residents' association with members who reside in units  
34 subject to this subdivision.

35 (E) A former resident of a unit subject to this subdivision who  
36 last resided in that unit.

37 (F) An applicant seeking to enforce the covenants or restrictions  
38 for a particular unit that is subject to this subdivision, if the  
39 applicant conforms to all of the following:

40 (i) Is of low or moderate income, as defined in Section 50093.

1 (ii) Is able and willing to occupy that particular unit.

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

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

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

12 (9) Failure to comply with the requirements of subparagraph  
13 (B) of paragraph (3) shall not invalidate any covenants or  
14 restrictions recorded pursuant to subparagraph (A) of paragraph  
15 (3).

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

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

1 income residing in the units to be replaced and (2) the comparable  
2 replacement units are not developed with moneys from the Low  
3 and Moderate Income Housing Fund.

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

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

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

28 33334.4. (a) (1) During each 10-year period of the  
29 implementation plan, as specified in clause (iii) of subparagraph  
30 (A) of paragraph (2) of subdivision (a) of Section 33490, all of the  
31 following shall apply:

32 (A) At least 75 percent of each agency’s expenditures from the  
33 Low and Moderate Income Housing Fund exclusive of debt service  
34 payments shall directly assist the new construction, acquisition,  
35 and substantial rehabilitation, or preservation of housing for  
36 persons of extremely low, very low, or low income.

37 (B) At least ~~25~~ 50 percent of each agency’s expenditures from  
38 the Low and Moderate Income Housing Fund exclusive of debt  
39 service payments shall directly assist the new construction,

1 acquisition, and substantial rehabilitation, or preservation of  
2 housing for persons of very low income.

3 (C) At least 25 percent of each agency’s expenditures from the  
4 Low and Moderate Income Housing Fund exclusive of debt service  
5 payments shall directly assist the new construction, acquisition,  
6 and substantial rehabilitation, or preservation of housing for  
7 persons of extremely low income.

8 (2) The expenditures for extremely low income housing,  
9 pursuant to subparagraph (C) of paragraph (1), shall count towards  
10 the requirements of subparagraphs (A) and (B) of paragraph (1),  
11 and the expenditures for very low and extremely low income  
12 housing pursuant to subparagraphs (B) and (C) of paragraph (1)  
13 shall count towards the requirements of subparagraph (A) of  
14 paragraph (1).

15 (3) (A) For purposes of this subdivision, “preservation” means  
16 preserving the affordability of an assisted housing development  
17 that is eligible for prepayment or termination or for which within  
18 the expiration of rental restrictions is scheduled to occur within  
19 five years, as those terms are defined in Section 65863.10 of the  
20 Government Code.

21 (B) For purposes of this section, “housing for persons of  
22 extremely low income” shall mean housing that is available at an  
23 affordable rent or affordable housing cost to, and occupied by,  
24 households earning 30 percent of the area median income or 30  
25 percent of the statewide median income, whichever is greater.

26 (b) Each agency shall expend over the duration of each  
27 redevelopment implementation plan, the moneys in the Low and  
28 Moderate Income Housing Fund to assist housing that is available  
29 to all persons regardless of age in at least the same proportion as  
30 the number of low-income households with a member under age  
31 65 years bears to the total number of low-income households of  
32 the community as reported in the most recent census of the United  
33 States Census Bureau.

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

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

1 33334.12. (a) Agencies shall expend moneys from the Low  
2 and Moderate Income Housing Fund in a manner that does not  
3 accrue an excess surplus, as defined in paragraph (1) of subdivision  
4 (c). If an agency, after three years has elapsed from the date that  
5 the moneys become excess surplus, has not expended or  
6 encumbered its excess surplus, the agency shall be subject to  
7 sanctions pursuant to subdivision ~~(b)~~ (e), until the agency has  
8 expended or encumbered its excess surplus plus an additional  
9 amount, equal to 50 percent of the amount of the excess surplus  
10 that remains at the end of the three-year period. The additional  
11 expenditure shall not be from the agency's Low and Moderate  
12 Income Housing Fund, or any other city, county, or agency special  
13 fund related to housing, but shall be used in a manner that meets  
14 all requirements for expenditures from that fund.

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

23 (c) For disbursements or expenditures of excess surplus made  
24 prior to January 1, 2012, notwithstanding Section 34209 or any  
25 other law, for the purpose of accepting a transfer of, and using,  
26 moneys pursuant to this section, the housing authority of a county  
27 or other public agency may exercise its powers within the territorial  
28 jurisdiction of a city redevelopment agency located in that county.

29 (d) For disbursements or expenditures of excess surplus made  
30 prior to January 1, 2012, the amount of excess surplus that shall  
31 be transferred to the housing authority or other public agency  
32 because of a failure of the redevelopment agency to expend or  
33 encumber excess surplus within one year shall be the amount of  
34 the excess surplus that is not so expended or encumbered. The  
35 housing authority or other public agency to which the moneys are  
36 transferred shall expend or encumber these moneys for authorized  
37 purposes not later than three years after the date these moneys  
38 were transferred from the Low and Moderate Income Housing  
39 Fund.

1 (e) (1) Until a time when the agency has expended or  
2 encumbered excess surplus moneys pursuant to subdivision (a),  
3 the agency shall be prohibited from encumbering any funds or  
4 expending any moneys derived from any source, except that the  
5 agency may encumber funds and expend moneys to pay the  
6 following obligations, if any, that were incurred by the agency  
7 prior to three years from the date the moneys became excess  
8 surplus:

9 (A) Bonds, notes, interim certificates, debentures, or other  
10 obligations issued by an agency, whether funded, refunded,  
11 assumed, or otherwise, pursuant to Article 5 (commencing with  
12 Section 33640).

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

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

18 (D) Obligations incurred pursuant to Section 33445.

19 (E) Indebtedness incurred pursuant to Section 33334.2 or  
20 33334.6.

21 (F) Obligations incurred pursuant to Section 33401.

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

25 (2) This subdivision shall not be construed to prohibit the  
26 expenditure of excess surplus funds or other funds to meet the  
27 requirement in subdivision (a) that the agency spend or encumber  
28 excess surplus funds, plus an amount equal to 50 percent of excess  
29 surplus, prior to spending or encumbering funds for any other  
30 purpose.

31 (f) For purposes of this section:

32 (1) “Excess surplus” means any unexpended and unencumbered  
33 amount in an agency’s Low and Moderate Income Housing Fund,  
34 plus the amount of funds expended from the Low and Moderate  
35 Income Housing Fund for real property that the agency has owned  
36 for more than three years and for which the agency has not  
37 completed one of the activities described in subparagraphs (A)  
38 and (B) of paragraph (1) of subdivision (a) of Section 33334.16,  
39 that exceeds the greater of one million dollars (\$1,000,000) or the  
40 aggregate amount deposited into the Low and Moderate Income

1 Housing Fund pursuant to Sections 33334.2 and 33334.6 during  
2 the agency's preceding four fiscal years. The first fiscal year to be  
3 included in this computation is the 1989–90 fiscal year, and the  
4 first date on which an excess surplus may exist is July 1, 1994.

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

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

29 (B) If taxes that are deposited in the Low and Moderate Income  
30 Housing Fund are used as security for bonds or other indebtedness,  
31 the proceeds of the bonds or other indebtedness, and income and  
32 expenditures related to those proceeds, shall not be counted in  
33 determining whether an excess surplus exists. The unspent portion  
34 of the proceeds of bonds or other indebtedness, and income related  
35 thereto, shall be excluded from the calculation of the unexpended  
36 and unencumbered amount in the Low and Moderate Income  
37 Housing Fund when determining whether an excess surplus exists.

38 (C) Nothing in this subdivision shall be construed to restrict the  
39 authority of an agency provided in any other provision of this part

1 to expend funds from the Low and Moderate Income Housing  
2 Fund.

3 (D) The department shall develop and periodically revise the  
4 methodology to be used in the calculation of excess surplus as  
5 required by this section. The director shall appoint an advisory  
6 committee to advise in the development of this methodology. The  
7 advisory committee shall include department staff, affordable  
8 housing advocates, and representatives of the California  
9 Redevelopment Association, the California Society of Certified  
10 Public Accountants, the Controller, and any other authorities or  
11 persons interested in the field that the director deems necessary  
12 and appropriate.

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

25 *(h) Notwithstanding subdivision (a), any agency that has funds*  
26 *that become excess surplus on July 1, 1994, shall have, pursuant*  
27 *to subdivision (a), until January 1, 1995, to decide to transfer the*  
28 *funds to a housing authority or other public agency, or until*  
29 *January 1, 1997, to expend or encumber those funds, or face*  
30 *sanctions pursuant to subdivision (e).*

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

33 33334.16. (a) (1) For each interest in real property acquired  
34 using moneys from the Low and Moderate Income Housing Fund,  
35 the agency shall, within five years from the date it first acquires  
36 the property interest for the development of housing affordable to  
37 persons and families of low and moderate income, complete at  
38 least one of the following activities:

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

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

7 (2) If neither of these activities has been completed within five  
8 years, or if less than 10 percent of the dwelling units or floor area  
9 ratio of a project is developed within 10 years from the date the  
10 agency originally acquired the property, the agency shall reimburse  
11 the Low and Moderate Income Housing Fund 150 percent of the  
12 amount expended to acquire and maintain the property or *of* the  
13 current fair market value of the property, whichever amount is  
14 greater.

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

21 (b) At any time, if a real property acquired using moneys from  
22 the Low and Moderate Income Housing Fund is sold or transferred  
23 for a purpose other than housing affordable to persons and families  
24 of low and moderate income, or if the real property is developed  
25 such that less than 50 percent of the floor area is housing affordable  
26 to persons and families of low and moderate income, the agency,  
27 in addition to proceeds from the sale or transfer, shall deposit into  
28 the Low and Moderate Income Housing Fund from agency  
29 revenues other than those required to be deposited in the Low and  
30 Moderate Income Housing Fund an amount equal to 50 percent  
31 of the fair market value of the property at the time it is sold or, if  
32 the property is not sold, of the fair market value of the land at the  
33 time a building permit is issued for the property.

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

36 33413. (a) Whenever dwelling units affordable to or occupied  
37 by persons and families of low or moderate income are destroyed  
38 or removed from the low- and moderate-income housing market  
39 as part of a redevelopment project that is subject to a written  
40 agreement with the agency or where financial assistance has been

1 provided by the agency, the agency shall, within four years of the  
2 destruction or removal, ~~rehabilitate, develop, or~~ construct, or cause  
3 to be constructed, for rental or sale to persons and families of low  
4 or moderate income, an equal number of replacement dwelling  
5 units that have an equal or greater number of bedrooms as those  
6 destroyed or removed units at affordable housing costs within the  
7 project area. The replacement obligation shall apply to all units  
8 affordable to low or moderate income persons or families at the  
9 time of initiation of negotiations of a written agreement with or  
10 financial assistance from the agency. For purposes of this section,  
11 the rehabilitation of an existing nonresidential structure, at least  
12 50 percent of the floor area ratio of which will be used for  
13 residential purposes shall constitute construction.

14 (1) When dwelling units are destroyed or removed after  
15 September 1, 1989, 75 percent of the replacement dwelling units  
16 shall replace dwelling units available at affordable housing cost  
17 in the same or a lower income level of very low income  
18 households, lower income households, and persons and families  
19 of low and moderate income, as the persons displaced from those  
20 destroyed or removed units.

21 (2) When dwelling units are destroyed or removed on or after  
22 January 1, 2002, 100 percent of the replacement dwelling units  
23 shall be available at affordable housing cost to persons in the same  
24 or a lower income category (extremely low, very low, low, or  
25 moderate), as the persons displaced from those destroyed or  
26 removed units. This paragraph is declaratory of existing law.

27 (3) On or after January 1, 2012, in the case where the agency  
28 is obligated to replace vacant units, those replacement units shall  
29 be available at housing costs in the same or lower income category  
30 (extremely low, very low, low, or moderate) in the same proportion  
31 as the units occupied or last occupied by low- and moderate-income  
32 households in the property.

33 (4) Up to 25 percent of the replacement obligation incurred  
34 during a five-year implementation plan may be satisfied with units  
35 that have been rehabilitated such that after-rehabilitation value is  
36 increased by 50 percent or more of the pre-rehabilitation value, as  
37 evidenced by pre and post rehabilitation appraisals and, the  
38 rehabilitated units were, at the time the dwelling units to be  
39 replaced were destroyed or removed were ~~both~~ *either* of the  
40 following:

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

3 *(A) At risk of demolition or closure due to substandard*  
4 *conditions and occupied by extremely low or very low income*  
5 *households.*

6 (B) Vacant due to substandard conditions as defined in Section  
7 1941.1 of the Civil Code.

8 (5) For each project containing rehabilitated replacement units,  
9 the agency shall adopt a separate written resolution, after public  
10 hearing and based on substantial evidence, that the rehabilitation  
11 of the replacement dwelling units complies with this subdivision.

12 (b) (1) Prior to the time limit on the effectiveness of the  
13 redevelopment plan established pursuant to Sections 33333.2,  
14 33333.6, and 33333.10 at least 30 percent of all new and  
15 substantially rehabilitated dwelling units developed by an agency  
16 shall be available at affordable housing cost to, and occupied by,  
17 persons and families of low or moderate income. Not less than 50  
18 percent of the dwelling units required to be available at affordable  
19 housing cost to, and occupied by, persons and families of low or  
20 moderate income shall be available at affordable housing cost to,  
21 and occupied by, very low income households.

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

34 (ii) To satisfy this paragraph, in whole or in part, the agency  
35 may cause, by regulation or agreement, to be available, at  
36 affordable housing cost, to, and occupied by, persons and families  
37 of low or moderate income or to very low income households, as  
38 applicable, two units outside a project area for each unit that  
39 otherwise would have been required to be available inside a project  
40 area.

1 (iii) On or after January 1, 2002, as used in this paragraph and  
2 in paragraph (1), “substantially rehabilitated dwelling units” means  
3 all units substantially rehabilitated, with agency assistance. Prior  
4 to January 1, 2002, “substantially rehabilitated dwelling units”  
5 shall mean substantially rehabilitated multifamily rented dwelling  
6 units with three or more units regardless of whether there is agency  
7 assistance, or substantially rehabilitated, with agency assistance,  
8 single-family dwelling units with one or two units.

9 (iv) As used in this paragraph and in paragraph (1), “substantial  
10 rehabilitation” means rehabilitation, the value of which constitutes  
11 25 percent of the after rehabilitation value of the dwelling, inclusive  
12 of the land value.

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

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

30 (C) To satisfy the requirements of paragraph (1) and  
31 subparagraph (A), the long-term affordability covenants purchased  
32 or otherwise acquired pursuant to subparagraph (B) shall be  
33 required to be maintained on dwelling units at affordable housing  
34 cost to, and occupied by, persons and families of low or very low  
35 income, for the longest feasible time but not less than 55 years for  
36 rental units and 45 years for owner-occupied units. Not more than  
37 50 percent of the units made available pursuant to paragraph (1)  
38 and subparagraph (A) may be assisted through the purchase or  
39 acquisition of long-term affordability covenants pursuant to  
40 subparagraph (B). Not less than 50 percent of the units made

1 available through the purchase or acquisition of long-term  
2 affordability covenants pursuant to subparagraph (B) shall be  
3 available at affordable housing cost to, and occupied by, very low  
4 income households.

5 (D) To satisfy the requirements of paragraph (1) and  
6 subparagraph (A), each mutual self-help housing unit, as defined  
7 in subparagraph (C) of paragraph (1) of subdivision (f) of Section  
8 33334.3, that is subject to a 15-year deed restriction shall count as  
9 one-third of a unit.

10 (3) The requirements of this subdivision shall apply  
11 independently of the requirements of subdivision (a). The  
12 requirements of this subdivision shall apply, in the aggregate, to  
13 housing made available pursuant to paragraphs (1) and (2),  
14 respectively, and not to each individual case of rehabilitation,  
15 development, or construction of dwelling units, unless an agency  
16 determines otherwise.

17 (4) Each redevelopment agency, as part of the implementation  
18 plan required by Section 33490, shall adopt a plan to comply with  
19 the requirements of this subdivision for each project area. The plan  
20 shall be consistent with, and may be included within, the  
21 community's housing element. The plan shall be reviewed and, if  
22 necessary, amended at least every five years in conjunction with  
23 ~~either the housing element cycle or the plan implementation cycle.~~  
24 The plan shall ensure that the requirements of this subdivision are  
25 met every 10 years. If the requirements of this subdivision are not  
26 met by the end of each 10-year period, the agency shall meet these  
27 goals on an annual basis until the requirements for the 10-year  
28 period are met. If the agency has exceeded the requirements within  
29 the 10-year period, the agency may count the units that exceed the  
30 requirement in order to meet the requirements during the next  
31 10-year period. The plan shall contain the contents required by  
32 paragraphs (2), (3), and (4) of subdivision (a) of Section 33490.

33 (c) (1) The agency shall require that the aggregate number of  
34 replacement dwelling units and other dwelling units rehabilitated,  
35 developed, constructed, or price restricted pursuant to subdivision  
36 (a) or (b) remain available at affordable housing cost to, and  
37 occupied by, persons and families of low-income,  
38 moderate-income, and very low income households, respectively,  
39 for the longest feasible time, but for not less than 55 years for  
40 rental units, 45 years for home ownership units, and 15 years for

1 mutual self-help housing units, as defined in subparagraph (C) of  
2 paragraph (1) of subdivision (f) of Section 33334.3, except as set  
3 forth in paragraph (2). Nothing in this paragraph precludes the  
4 agency and the developer of the mutual self-help housing units  
5 from agreeing to 45-year deed restrictions.

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

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

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

35 (5) For each unit counted towards the requirements of  
36 subdivisions (a) and (b), the agency shall require the recording in  
37 the office of the county recorder of covenants or restrictions that  
38 ensure compliance with this subdivision. With respect to covenants  
39 or restrictions that are recorded on or after January 1, 2008, the

1 agency shall comply with the requirements of paragraphs (3) and  
2 (4) of subdivision (f) of Section 33334.3.

3 (d) (1) This section applies only to redevelopment projects for  
4 which a final redevelopment plan is adopted pursuant to Article 5  
5 (commencing with Section 33360) on or after January 1, 1976,  
6 and to areas that are added to a project area by amendment to a  
7 final redevelopment plan adopted on or after January 1, 1976. In  
8 addition, subdivision (a) shall apply to any other redevelopment  
9 project with respect to dwelling units destroyed or removed from  
10 the low- and moderate-income housing market on or after January  
11 1, 1996, irrespective of the date of adoption of a final  
12 redevelopment plan or an amendment to a final redevelopment  
13 plan adding areas to a project area. Additionally, any agency may,  
14 by resolution, elect to make all or part of the requirements of this  
15 section applicable to any redevelopment project of the agency for  
16 which the final redevelopment plan was adopted prior to January  
17 1, 1976. In addition, subdivision (b) shall apply to redevelopment  
18 plans adopted prior to January 1, 1976, for which an amendment  
19 is adopted pursuant to Section 33333.10, except that subdivision  
20 (b) shall apply to those redevelopment plans prospectively only  
21 so that the requirements of subdivision (b) shall apply only to new  
22 and substantially rehabilitated dwelling units for which the building  
23 permits are issued on or after the date that the ordinance adopting  
24 the amendment pursuant to Section 33333.10 becomes effective.

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

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

35 (f) Notwithstanding subdivision (a), the agency may replace  
36 destroyed or removed dwelling units with a fewer number of  
37 replacement dwelling units if the replacement dwelling units meet  
38 both of the following criteria:

39 (1) The total number of bedrooms in the replacement dwelling  
40 units equals or exceeds the number of bedrooms in the destroyed

1 or removed units. Destroyed or removed units having one or no  
2 bedroom are deemed for this purpose to have one bedroom.

3 (2) The replacement units are affordable to and occupied by the  
4 same income level of households as the destroyed or removed  
5 units.

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

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

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

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

29 The replacement housing plan shall include (1) the general  
30 location of housing to be ~~rehabilitated, developed,~~ *rehabilitated*  
31 or constructed pursuant to Section 33413, (2) a description of the  
32 occupancy and affordability restrictions to be imposed on the  
33 replacement dwelling units, (3) substantial evidence supporting a  
34 finding that the replacement dwelling units will meet the needs of  
35 the households displaced from the dwelling units that the  
36 replacement units are intended to replace, (4) a declaration of  
37 whether the agency intends to rehabilitate existing dwelling units  
38 pursuant to paragraph (5) of subdivision (a) of Section 33413, (5)  
39 an adequate means of financing such ~~rehabilitation, development,~~  
40 *rehabilitation* or construction, (6) a finding that the replacement

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

1 pursuant to paragraph (7) of subdivision (a) of Section 25.5 of  
2 Article XIII of the California 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 33486,  
12 not less than 20 percent of all taxes that are allocated to the  
13 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 ~~(e) 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)~~

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

30 ~~(e)~~

31 (d) Notwithstanding subdivision (d) of Section 33413, any  
32 agency that merges its redevelopment project areas pursuant to  
33 this article shall be subject to subdivisions (a) and (c) of Section  
34 33413.

35 SEC. 17. Section 33490 of the Health and Safety Code is  
36 amended to read:

37 33490. (a) (1) (A) On or before December 31, 1994, and each  
38 five years thereafter, each agency that has adopted a redevelopment  
39 plan prior to December 31, 1993, shall adopt, after a public hearing,  
40 an implementation plan that shall contain the specific goals and

1 objectives of the agency for the project area, the specific programs,  
2 including potential projects, and estimated expenditures proposed  
3 to be made during the next five years, and an explanation of how  
4 the goals and objectives, programs, and expenditures will eliminate  
5 blight within the project area and implement the requirements of  
6 Section 33333.10, if applicable, and Sections 33334.2, 33334.4,  
7 33334.6, and 33413. After adoption of the first implementation  
8 plan, the parts of the implementation plan that address Section  
9 33333.10, if applicable, and Sections 33334.2, 33334.4, 33334.6,  
10 and 33413 shall be adopted every five years either in conjunction  
11 with the housing element cycle or the implementation plan cycle  
12 and shall be made available to the public on the Internet. The  
13 agency may amend the implementation plan after conducting a  
14 public hearing on the proposed amendment. If an action attacking  
15 the adoption, approval, or validity of a redevelopment plan adopted  
16 prior to January 1, 1994, has been brought pursuant to Chapter 5  
17 (commencing with Section 33500), the first implementation plan  
18 required pursuant to this section shall be adopted within six months  
19 after a final judgment or order has been entered. Subsequent  
20 implementation plans required pursuant to this section shall be  
21 adopted pursuant to the terms of this section, and as if the first  
22 implementation plan had been adopted on or before December 31,  
23 1994.

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

1 Resources Code), at the time of the approval of the program,  
2 project, or expenditure, to the extent that it would be otherwise  
3 required.

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

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

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

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

39 (iv) This requirement to include a description of how the housing  
40 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) A statement of the number of units of very low, low-, and  
16 moderate-income households which have been developed over the  
17 life of the plan within one or more project areas which meet the  
18 requirements of subdivision (b) of Section 33413.

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

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

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

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

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

39 (iii) A housing program that provides a detailed schedule of  
40 actions the agency is undertaking or intends to undertake to ensure

1 expenditure of the Low and Moderate Income Housing Fund in  
2 the proportions required by Section 33333.10, if applicable,  
3 purchasing multiple parcels pursuant to subparagraph (A) of  
4 paragraph (3) of subdivision (a) of Section 33334.16, if applicable,  
5 and Section 33334.4.

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

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

28 (A) The replacement dwelling units that satisfy each replacement  
29 housing obligation.

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

33 (4) The implementation plan shall include a complete accounting  
34 for compliance with its affordable housing obligations over the  
35 life of the plan, including the total number of units the agency is  
36 obligated to replace pursuant to subdivision (a) of Section 33413,  
37 the number of units the agency is obligated to produce pursuant  
38 to subdivision (b) of Section 33413, and the number of dwelling  
39 units that satisfy these obligations. For each owner-occupied unit  
40 or rental unit counted towards meeting the agency obligations, or

1 for each group of such units, if more than one unit is subject to the  
2 same covenant, the implementation plan shall identify all of the  
3 following:

4 (A) The street address and assessor's parcel number of the  
5 property.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (d) Notice of public hearings conducted pursuant to this section  
31 shall be published pursuant to Section 6063 of the Government  
32 Code, mailed at least three weeks in advance to all persons and  
33 agencies that have requested notice, and posted in at least four  
34 permanent places within the project area for a period of three weeks  
35 and concurrently posted on the Internet. Publication, mailing, and  
36 posting shall be completed not less than 10 days prior to the date  
37 set for hearing.

38 SEC. 18. Section 33506 is added to the Health and Safety Code,  
39 to read:

1 33506. (a) An action to compel compliance with any of the  
2 following provisions shall be commenced within 6 years from the  
3 time limit of the effectiveness of the plan established pursuant to  
4 Sections 33333.2, 33333.6, and 33333.10, ~~or~~ the date the agency  
5 exceeds a limit on the number of dollars of taxes that may be  
6 divided and allocated to the redevelopment agency if required by  
7 Section 33333.4, or the *date the agency exceeds the* limit on the  
8 number of dollars of taxes in a redevelopment plan, whichever is  
9 later:

10 (1) The obligation to make deposits to and expenditures from  
11 the Low and Moderate Income Housing Fund pursuant to Sections  
12 33334.4, 33492.16, and other similar and related provisions of  
13 law.

14 (2) The obligation to eliminate project deficits pursuant to  
15 Sections 33334.6, 33487, 33492.16, and other similar and related  
16 provisions of law.

17 (3) The obligation to expend or ~~transfer~~ *encumber* excess surplus  
18 funds pursuant to Section 33334.12 and other similar and related  
19 provisions of law.

20 (4) The obligation to provide relocation assistance pursuant to  
21 Article 9 (commencing with Section 33410), Section 7260 of the  
22 Government Code, or other applicable relocation laws.

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

26 (6) The obligation to ~~provide inclusionary housing pursuant to~~  
27 *provide housing pursuant to subdivision (b) of* Section 33413 and  
28 other similar and related provisions of law.

29 (7) The obligation to monitor and enforce affordability covenants  
30 required pursuant to Section 33418.

31 (8) The obligation to continue the project past the effectiveness  
32 date of the redevelopment plan pursuant to Section 33333.8.

33 (b) Notwithstanding subdivision (a), an agency or its successor  
34 entity shall continue to monitor and enforce the covenants covered  
35 by Section 33418 for the entire period of the covenant. An action  
36 to compel compliance with the covenants required by subdivision  
37 *(f) of Section 33334.3 and subdivision (c) of* Section 33413, or the  
38 obligation to monitor and enforce such covenants pursuant to  
39 Section 33418 shall be commenced within six years from the  
40 expiration of the covenants.

1 (c) This section applies to actions pending on and after January  
2 1, 2012.

3 SEC. 19. Section 50464.5 is added to the Health and Safety  
4 Code, to read:

5 50464.5. (a) The Redevelopment Agency Accountability Fund  
6 is hereby created in the State Treasury and is available, upon  
7 appropriation, to the department for the purposes of subdivision  
8 (b). Notwithstanding Section 16305.7 of the Government Code,  
9 any moneys received by the department pursuant to Section 33460,  
10 and any other sources, repayments, interest, or new appropriations,  
11 shall be deposited in the fund. Moneys in the fund shall not be  
12 subject to transfer to any other fund pursuant to any provision of  
13 Part 2 (commencing with Section 16300) of Division 4 of Title 2  
14 of the Government Code, except the Surplus Money Investment  
15 Fund. The department may require the transfer of moneys in the  
16 fund to the Surplus Money Investment Fund for investment  
17 pursuant to Article 4 (commencing with Section 16470) of Chapter  
18 3 of Part 2 of Division 4 of Title 2 of the Government Code.  
19 Notwithstanding Section 16305.7 of the Government Code, all  
20 interest, dividends, and pecuniary gains from the investments shall  
21 accrue to the fund.

22 (b) With funds made available pursuant to subdivision (a), the  
23 department shall conduct audits of redevelopment agencies to  
24 ensure compliance with the housing provisions of the Community  
25 Redevelopment Law. The department shall include in the audits  
26 a review of agency compliance with production and replacement  
27 housing obligations, recording and monitoring of affordability  
28 covenants, provision of relocation assistance, propriety of deposits  
29 to and expenditures from the Low and Moderate Income Housing  
30 Fund, compliance with the debt limit of the agency, adoption of a  
31 legally sufficient implementation plan, each of the major audit  
32 violations pursuant to subdivision (j) of Section 33080.8, and any  
33 other accounting practice or provision of the Community  
34 Redevelopment Law in the discretion of the department. The  
35 department shall require that each agency take action to correct  
36 the audit violations. If the department determines that an agency  
37 has not corrected the audit violations within 180 days of a final  
38 audit report, it shall forward all relevant documents to the Attorney  
39 General for action pursuant to Section 33080.9. The department  
40 shall make available on its Internet Web site the final audit reports,

- 1 a statement of any resolution of audit reports, or if not resolved,
- 2 the date audit reports were forwarded to the Attorney General.

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