

AMENDED IN ASSEMBLY JUNE 20, 2011

AMENDED IN SENATE APRIL 11, 2011

AMENDED IN SENATE MARCH 29, 2011

SENATE BILL

No. 450

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

February 16, 2011

An act to amend Sections 33080, 33080.1, 33080.2, 33080.8, 33334.2, 33334.3, 33334.4, 33334.12, 33334.16, 33413, 33413.5, 33418, 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 *publish* 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~~ *revise various provisions governing* 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 *Housing* 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 75% of the agency's expenditures from the fund directly assist the new construction, acquisition, and substantial rehabilitation, or preservation of housing for persons of extremely low, very low, low, or moderate income, with at least 25% of the expenditures required to be directed towards 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~~ *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 ~~repeat~~ *delete* the requirement that the funds be offered to the housing authority.

(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~~ 2 additional years.

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

(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 of the Health and Safety Code is*
2 *amended to read:*

1 33080. (a) Every redevelopment agency shall file with the
 2 Controller within six months of the end of the agency’s fiscal year
 3 a copy of the report required by Section 33080.1. In addition, each
 4 redevelopment agency shall file with the department a copy of the
 5 audit report required by subdivision (a) of Section 33080.1. The
 6 reports shall be made in the time, format, and manner prescribed
 7 by the Controller after consultation with the department.

8 (b) The redevelopment agency shall provide a copy of the report
 9 required by Section 33080.1, upon the written request of any person
 10 or any taxing agency. If the report does not include detailed
 11 information regarding administrative costs, professional services,
 12 or other expenditures *required under Section 33080.1*, the person
 13 or taxing agency may request, and the redevelopment agency shall
 14 provide, that information, *upon payment of fees covering the direct*
 15 *costs of duplication. ~~The person or taxing agency shall reimburse~~
 16 ~~the redevelopment agency for all actual and reasonable costs~~
 17 ~~incurred in connection with the provision of the requested~~
 18 ~~information.~~*

19 SECTION 1.

20 SEC. 2. Section 33080.1 of the Health and Safety Code is
 21 amended to read:

22 33080.1. Every redevelopment agency shall submit the final
 23 report of any audit undertaken by any other local, state, or federal
 24 government entity to its legislative body within 30 days of receipt
 25 of that audit report. In addition, every redevelopment agency shall
 26 present an annual report to its legislative body *and make the report*
 27 *available on its Internet Web site, or if the agency does not have*
 28 *an Internet Web site, on the community’s Internet Web site*, within
 29 six months of the end of the agency’s fiscal year. The annual report
 30 shall contain all of the following:

31 (a) (1) An independent financial audit report for the previous
 32 fiscal year. “Audit report” means an examination of, and opinion
 33 on, the financial statements of the agency which present the results
 34 of the operations and financial position of the agency, including
 35 all financial activities with moneys required to be held in a separate
 36 Low and Moderate Income Housing Fund pursuant to Section
 37 33334.3. This audit shall be conducted by a certified public
 38 accountant or public accountant, licensed by the State of California,
 39 in accordance with Government Auditing Standards adopted by
 40 the Comptroller General of the United States. The audit report

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

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

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

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

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

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

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

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

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

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

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

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

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

5 ~~(h) A statement of the amount and percentage of tax increment~~
6 ~~expended from the Low and Moderate Income Housing Fund for~~

7 *(h) All of the following relating to the agency's planning and*
8 *general administrative expenses for the most recently completed*
9 *fiscal year paid from the Low and Moderate Income Housing Fund:*

10 *(1) The percentage of funds deposited into the Low and*
11 *Moderate Income Housing Fund, exclusive of debt proceeds,*
12 *expended for planning and general administrative costs described*
13 *in subparagraphs (A), (B), (C), (D), and (E) of paragraph (1) of*
14 *subdivision (d) of Section 33334.3.*

15 *(2) Consistent with the categories described in paragraph (1)*
16 *of subdivision (d) of Section 33334.3, an itemization of each*
17 *category of planning and general administration expenditures*
18 *from the Low and Moderate Income Housing Fund and an explicit*
19 *description of how the expenditures are necessary for the*
20 *production, improvement, or preservation of low- and*
21 *moderate-income housing.*

22 *(3) A list of the title of any agency, city, or county employees*
23 *for whom any portion of his or her salary, wages, benefits, or*
24 *nonpersonnel costs is paid from the Low and Moderate Income*
25 *Housing Fund, the nature of the employee's activities eligible to*
26 *be paid from the Low and Moderate Income Housing Fund, the*
27 *percentage of time the employee spends on activities eligible to*
28 *be paid from the Low and Moderate Income Housing Fund, the*
29 *percentage of time the employee spends on activities that are*
30 *directly and necessarily associated with a specific eligible housing*
31 *development project or to the direct administration of programs,*
32 *and the percentage of the employee's salary, wages, benefits, and*
33 *nonpersonnel costs paid from the Low and Moderate Income*
34 *Housing Fund.*

35 *(4) A list of any overhead costs that are paid directly or*
36 *indirectly from the Low and Moderate Income Housing Fund, an*
37 *identification by title and department of any other employees with*
38 *whom the overhead costs are shared, and a description of the total*
39 *cost of the shared overhead costs.*

1 (i) A statement of the amount and percentage of funds deposited
2 into the Low and Moderate Income Housing Fund, exclusive of
3 debt proceeds, expended for planning and general administration
4 in each of the preceding five fiscal years that begin after December
5 31, 2011, broken down by the categories described in paragraph
6 (1) of subdivision (d) of Section 33334.3.

7 (i)

8 (j) A list of all real properties owned by the agency and
9 purchased with funds from the Low and Moderate Income Housing
10 Fund, the date of acquisition for each property, the agency's
11 intended purpose for each property, a statement of the amount, if
12 any, of moneys from the Low and Moderate Income Housing Fund
13 used to acquire the property, and a statement of the amount, if any,
14 of moneys from the Low and Moderate Income Housing Fund
15 used to maintain the property.

16 (j)

17 (k) A list of the redevelopment projects that have caused a
18 replacement obligation pursuant to subdivision (a) of Section
19 33413, ~~and of the development projects that have caused a~~
20 ~~production obligation pursuant to subdivision (b) of Section 33413,~~
21 33413, the respective number of units the agency is obligated to
22 replace ~~or produce~~ as a result of each project, and the location and
23 status of the replacement and production units. This list shall cover
24 each fiscal year from the agency's last adopted implementation
25 plan ~~and also include any projects for which covenants required~~
26 ~~by paragraph (5) of subdivision (c) of Section 33413 have not been~~
27 ~~recorded for the identified replacement or production obligation.~~
28 plan.

29 (k) A separate list of the development projects that have caused
30 a production obligation pursuant to subdivision (b) of Section
31 33413, the respective number of units the agency is obligated to
32 produce as a result of each project, and the location and status of
33 the production units. This list shall cover each fiscal year from
34 the agency's last adopted implementation plan.

35 (k)

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

1 ~~SEC. 2.~~

2 SEC. 3. Section 33080.2 of the Health and Safety Code is
 3 amended to read:

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

13 ***(b) At the time the agency presents the annual report to the***
 14 ***legislative body pursuant to Section 33080.1, the legislative body***
 15 ***shall adopt a separate written resolution making a finding, based***
 16 ***on substantial evidence in the record, that the actual planning and***
 17 ***general administrative expenses for the most recently completed***
 18 ***fiscal year paid from the Low and Moderate Income Housing Fund***
 19 ***did not exceed the limits established in subparagraphs (A) and (B)***
 20 ***of paragraph (2) of subdivision (d) of Section 33334.3 or that the***
 21 ***exception in subparagraph (C) of paragraph (2) of subdivision (d)***
 22 ***of Section 33334.3 applies.***

23 ~~(b)~~

24 (c) The legislative body shall review any report submitted
 25 pursuant to Section 33080.1 and take any action it deems
 26 appropriate on that report no later than the first meeting of the
 27 legislative body occurring more than 21 days from the receipt of
 28 the report.

29 ~~SEC. 3.~~

30 SEC. 4. Section 33080.8 of the Health and Safety Code is
 31 amended to read:

32 33080.8. (a) On or before April 1 of each year, the Controller
 33 shall compile a list of agencies that appear to have major audit
 34 violations as defined in this section, based on the independent
 35 financial audit reports filed with the Controller pursuant to Section
 36 33080, *and make the list available on the Controller's Internet*
 37 *Web site.*

38 (b) On or before June 1 of each year, for each major audit
 39 violation of each agency identified pursuant to subdivision (a), the
 40 Controller shall determine if the agency has corrected the major

1 audit violation. Before making this determination, the Controller
2 shall consult with each affected agency *and may consult with*
3 *affected local community groups*. In making this determination,
4 the Controller may request and shall receive the prompt assistance
5 of public officials and public agencies, including, but not limited
6 to, the affected agencies, counties, and cities. If the Controller
7 determines that an agency has not corrected the major audit
8 violation, the Controller shall send a list of those agencies, their
9 major violations, all relevant documents, and the affidavits required
10 pursuant to subdivision (d) to the Attorney General for action
11 pursuant to this section.

12 (c) For each agency that the Controller refers to the Attorney
13 General pursuant to subdivision (b), the Controller shall notify the
14 agency and the legislative body that the agency was on the list sent
15 to the Attorney General. The Controller's notice shall inform the
16 agency and the legislative body of the duties imposed by Section
17 33080.2.

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

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

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

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

8 (A) Encumbering any funds or expending any money derived
9 from any source except to pay the obligations designated in
10 subparagraphs (A) to ~~(G)~~ (F), inclusive, of paragraph (1) of
11 subdivision (e) of Section 33334.12, *or to pay amounts for the*
12 *operation and administration of the agency in accordance with*
13 *the agency’s most recently adopted budget.*

14 (B) Adopting a redevelopment plan.

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

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

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

28 (F) *Exercising the power of eminent domain.*

29 (f) In a case that is subject to paragraph (3) of subdivision (e),
30 the court shall also set a hearing on the matter within 60 days *after*
31 *issuance of the order.*

32 (g) If, on the basis of that subsequent hearing, the court
33 determines that the agency has a major audit violation and has not
34 corrected that violation, the court shall order the agency to comply
35 with this part within 30 days, and order the agency to forfeit to the
36 ~~state no more than:~~

37 ~~(1) Two thousand dollars (\$2,000) in the case of a community~~
38 ~~redevelopment agency with a total revenue, in the prior year, of~~
39 ~~less than one hundred thousand dollars (\$100,000) as reported in~~
40 ~~the Controller’s annual financial reports.~~

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

6 ~~(3) Ten thousand dollars (\$10,000) in the case of a community~~
7 ~~redevelopment agency with a total revenue, in the prior year, of~~
8 ~~at least two hundred fifty thousand dollars (\$250,000) as reported~~
9 ~~in the Controller's annual financial reports. *state a monetary*~~
10 ~~*sanction commensurate with the violation. The sanction shall not*~~
11 ~~*be paid from the agency's Low and Moderate Income Housing*~~
12 ~~*Fund or any other city, county, or agency special fund related to*~~
13 ~~*housing.*~~

14 (h) The order issued by the court pursuant to paragraph (3) of
15 subdivision (e) shall continue in effect until the court determines
16 that the agency has corrected the major audit violation. If the court
17 determines that the agency has corrected the major audit violation,
18 the court may dissolve its order issued pursuant to paragraph (3)
19 of subdivision (e) at any time.

20 (i) An action filed pursuant to this section to compel an agency
21 to comply with this part is in addition to any other remedy, and is
22 not an exclusive means to compel compliance. *This section shall*
23 *not be construed to preclude an action to compel compliance with*
24 *this article by any other interested party or resident of the*
25 *jurisdiction.*

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

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

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

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

34 (4) Deposit all required tax increment revenues *and all other*
35 *funds required to be deposited into the fun* directly into the Low
36 and Moderate Income Housing Fund upon receipt, as required by
37 Section 33334.3, 33334.6, 33487, or 33492.16.

38 (5) Establish a Low and Moderate Income Housing Fund, as
39 required by subdivision (a) of Section 33334.3 *or Section 33487.*

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

4 (7) Comply with subdivisions (d) and (e) of Section 33334.3,
5 governing eligible expenditures for planning and general
6 administration from the Low and Moderate Income Housing Fund,
7 *and adopt the resolution required by subdivision (b) of Section*
8 *33080.2.*

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

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

13 ~~SEC. 4.~~

14 *SEC. 5.* Section 33080.9 is added to the Health and Safety
15 Code, to read:

16 33080.9. (a) (1) The department shall forward to the Attorney
17 General and the Controller a copy of any audit or investigation of
18 a redevelopment agency conducted pursuant to Section 50464.5.

19 (2) On or before April 1 of each year, the department shall
20 determine for all audits and investigations conducted the previous
21 year, including those audits and investigations conducted pursuant
22 to Section 50464.5, whether an audit or investigation contains
23 major audit violations, as defined in subdivision (j) of Section
24 33080.8. *The department shall make the information available on*
25 *its Internet Web site.*

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

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

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

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

22 *(d) For each agency the department refers to the Attorney*
23 *General pursuant to subdivision (b), the provisions of subdivisions*
24 *(d) to (i), inclusive, of Section 33080.8 shall apply, except that*
25 *references to the Controller in those subdivisions shall be deemed*
26 *to refer to the department.*

27 (f)

28 (e) Nothing in this section shall be construed to permit the
29 department to initiate or settle litigation, or to resolve any
30 departmental audit or investigation in a manner contrary to law.

31 ~~SEC. 5. Section 33080.10 is added to the Health and Safety~~
32 ~~Code, to read:~~

33 ~~33080.10. In an action to compel an agency's compliance with~~
34 ~~this article pursuant to Section 33080.9, all of the following shall~~
35 ~~apply:~~

36 ~~(a) (1) On the earliest day that the business of the court will~~
37 ~~permit, but no later than 45 days after the filing of an action, the~~
38 ~~court shall conduct a hearing to determine if good cause exists for~~
39 ~~believing the agency has a major audit violation, as defined in~~

1 subdivision (j) of Section 33080.8, and has not corrected the major
2 audit violation.

3 ~~(2) If the court determines that no major audit violation exists
4 or that the agency had a major audit violation and has corrected
5 the major audit violation, the court shall dismiss the action.~~

6 ~~(3) If the court determines there is good cause to believe the
7 agency had a major audit violation and has not corrected that major
8 audit violation, the court shall set a hearing on the matter within
9 60 days. The court also shall issue immediately an order that
10 prohibits the agency from doing any of the following:~~

11 ~~(A) Encumbering any funds or expending any money derived
12 from any source, other than a Low and Moderate Income Housing
13 Fund, except to pay the obligations designated in subparagraphs
14 (A) to (G), inclusive, of paragraph (1) of subdivision (c) of Section
15 33334.12.~~

16 ~~(B) Adopting a redevelopment plan.~~

17 ~~(C) Exercising the power of eminent domain.~~

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

20 ~~(E) Issuing, selling, offering for sale, or delivering any bonds
21 or any other evidence of 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 ~~(F) Incurring any indebtedness, except to increase, improve,
27 preserve, or assist in the construction or rehabilitation of, housing
28 units that will be occupied by and affordable to persons or families
29 of extremely low, very low, low, or moderate income, in
30 accordance with this part.~~

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

37 ~~(c) The order issued by the court pursuant to paragraph (3) of
38 subdivision (a) shall continue in effect until the court determines
39 the agency has corrected the major audit violation. If the court~~

1 determines that the agency has corrected the major audit violation,
2 the court may dissolve its order at any time.

3 ~~(d) An action filed pursuant to this section is in addition to any
4 other remedy and is not an exclusive means to compel compliance.
5 This section is not intended to preclude an action to compel
6 compliance with this article by any other interested party or resident
7 of the jurisdiction.~~

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

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

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

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

30 33080.12. (a) (1) Whenever the Controller determines through
31 two consecutive quality control reviews, pursuant to Section
32 33080.11, that audits performed by an independent auditor pursuant
33 to Section 33080.1 were not performed in substantial conformity
34 with provisions of the audit and report guidelines adopted pursuant
35 to Section 33080.3, the Controller shall notify in writing the
36 independent auditor and the California Board of Accountancy.

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

1 (3) If an appeal is filed with the California Board of
2 Accountancy, the board shall complete an investigation of the
3 appeal. On the basis of the investigation, the board may do either
4 of the following:

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

7 (B) Schedule the appeal for a hearing.

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

19 (c) For the purposes of this section, "independent auditor" shall
20 mean any person or firm entering into a contract to conduct an
21 audit under Section 33080.1.

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

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

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

39 (1) (A) That no need exists in the community to improve,
40 increase, or preserve the supply of low- and moderate-income

1 housing, including housing for very low income households in a
2 manner that would benefit the project area and that this finding is
3 consistent with the housing element of the community’s general
4 plan required by Article 10.6 (commencing with Section 65580)
5 of Chapter 3 of Division 1 of Title 7 of the Government Code,
6 including its share of the regional housing needs of very low
7 income households and persons and families of low or moderate
8 income.

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

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

32 (B) This finding shall only be made if the housing element of
33 the community’s general plan demonstrates that a percentage of
34 less than 20 percent will be sufficient to meet the community’s
35 need to improve, increase, or preserve the supply of low- and
36 moderate-income housing available at affordable housing cost to
37 persons and families of low or moderate income and to very low
38 income households. This finding shall only be made if it is
39 consistent with the planning agency’s annual report to the
40 legislative body on implementation of the housing element required

1 by subdivision (b) of Section 65400 of the Government Code. No
2 agency of a charter city shall make this finding unless the planning
3 agency submits the report pursuant to subdivision (b) of Section
4 65400 of the Government Code. This finding shall not take effect
5 until the agency has complied with subdivision (b) of this section.

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

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

1 (B) In making the determination that other financial
2 contributions are equivalent in impact pursuant to this subdivision,
3 the agency shall include only those financial contributions that are
4 directly related to programs or activities authorized under
5 subdivision (e).

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

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

36 (c) In any litigation to challenge or attack a finding made under
37 paragraph (1), (2), or (3) of subdivision (a), the burden shall be
38 upon the agency to establish that the finding is supported by
39 substantial evidence in light of the entire record before the agency.
40 If an agency is determined by a court to have knowingly

1 misrepresented any material facts regarding the community's share
2 of its regional housing need for low- and moderate-income housing,
3 including very low income households, or the community's
4 production record in meeting its share of the regional housing need
5 pursuant to the report required by subdivision (b) of Section 65400
6 of the Government Code, the agency shall be liable for all court
7 costs and plaintiff's attorney's fees, and shall be required to allocate
8 not less than 25 percent of the agency's tax increment revenues to
9 its Low and Moderate Income Housing Fund in each year
10 thereafter.

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

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

20 (1) Acquire real property or building sites subject to Section
21 33334.16.

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

33 (B) If the newly constructed or rehabilitated housing units are
34 part of a larger project and the agency improves or pays for onsite
35 or offsite improvements pursuant to the authority in this
36 subdivision, the agency shall pay only a portion of the total cost
37 of the onsite or offsite improvement. The maximum percentage
38 of the total cost of the improvement paid for by the agency shall
39 be determined by dividing the number of housing units that are
40 affordable to low- or moderate-income persons by the total number

1 of housing units, if the project is a housing project, or by dividing
2 the cost of the affordable housing units by the total cost of the
3 project, if the project is not a housing project.

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

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

6 (5) Construct buildings or structures.

7 (6) Acquire buildings or structures.

8 (7) Rehabilitate buildings or structures.

9 (8) Provide subsidies to, or for the benefit of, extremely low
10 income households, as defined by Section 50106, very low income
11 households, as defined by Section 50105, lower income
12 households, as defined by Section 50079.5, or persons and families
13 of low or moderate income, as defined by Section 50093, to the
14 extent those households cannot obtain housing at affordable costs
15 on the open market. Housing units available on the open market
16 are those units developed without direct government subsidies.

17 (9) Develop plans, pay principal and interest on bonds, loans,
18 advances, or other indebtedness, or pay financing or carrying
19 charges.

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

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

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

29 (g) (1) The agency may use these funds inside or outside the
30 project area. The agency may only use these funds outside the
31 project area upon a resolution of the agency and the legislative
32 body that the use will be of benefit to the project. The
33 determination by the agency and the legislative body shall be final
34 and conclusive as to the issue of benefit to the project area. The
35 Legislature finds and declares that the provision of replacement
36 housing pursuant to Section 33413 is always of benefit to a project.
37 Unless the legislative body finds, before the redevelopment plan
38 is adopted, that the provision of low- and moderate-income housing
39 outside the project area will be of benefit to the project, the project

1 area shall include property suitable for low- and moderate-income
2 housing.

3 (2) (A) The Contra Costa County Redevelopment Agency may
4 use these funds anywhere within the unincorporated territory, or
5 within the incorporated limits of the City of Walnut Creek on sites
6 contiguous to the Pleasant Hill BART Station Area Redevelopment
7 Project area. The agency may only use these funds outside the
8 project area upon a resolution of the agency and board of
9 supervisors determining that the use will be of benefit to the project
10 area. In addition, the agency may use these funds within the
11 incorporated limits of the City of Walnut Creek only if the agency
12 and the board of supervisors find all of the following:

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

20 (ii) The development to be funded shall not result in any
21 residential displacement from the site where the development is
22 to be built.

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

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

30 (B) If the agency uses these funds within the incorporated limits
31 of the City of Walnut Creek, all of the following requirements
32 shall apply:

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

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

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

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

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

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

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

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

36 (C) An agency found to have deposited less into the Low and
37 Moderate Income Housing Fund than mandated by Section 33334.3
38 or to have spent money from the Low and Moderate Income
39 Housing Fund for purposes other than increasing, improving, and
40 preserving the community's supply of low- and moderate-income

1 housing, as mandated, by this section or Section 33334.3 or
2 33334.6 shall repay the funds with interest, plus an additional 50
3 percent of that amount and interest, in one lump sum pursuant to
4 Section 970.4 or 970.5 of the Government Code or may do either
5 of the following:

6 (i) Petition the court under Section 970.6 for repayment in
7 installments.

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

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

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

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

30 (4) Except as otherwise provided in this subdivision, Chapter
31 2 (commencing with Section 970) of Part 5 of Division 3.6 of Title
32 1 of the Government Code for the enforcement of a judgment
33 against a local public entity applies to a judgment against a local
34 public entity that violates this section.

35 (5) Except as provided in subparagraph (D) of paragraph (1),
36 this subdivision applies to actions filed on and after January 1,
37 2006.

38 (6) The limitations period specified in subparagraphs (A), (B),
39 and (D) of paragraph (1) does not apply to a cause of action brought

1 pursuant to Chapter 9 (commencing with Section 860) of Title 10
2 of Part 2 of the Code of Civil Procedure.

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

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

12 (3) An agency that suspends revenue pursuant to paragraph (1)
13 and fails to repay or have repaid on its behalf the amount of revenue
14 suspended pursuant to paragraph (2) shall, commencing July 1,
15 2015, be required to allocate an additional 5 percent of all taxes
16 that are allocated to that agency pursuant to Section 33670 for low-
17 and moderate-income housing for the remainder of the time that
18 the agency receives allocations of tax revenue pursuant to Section
19 33670.

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

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

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

37 (b) Any interest earned by the Low and Moderate Income
38 Housing Fund and any repayments or other income to the agency
39 for loans, advances, or grants, of any kind from the Low and
40 Moderate Income Housing Fund, shall accrue to and be deposited

1 in, the fund and may only be used in the manner prescribed for the
 2 Low and Moderate Income Housing Fund.

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

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

22 (A) Employee compensation costs, including salaries, wages,
 23 and benefits, and related nonpersonnel costs, including, but not
 24 limited to, travel, training, publications, and conferences, paid to
 25 or on behalf of any agency, city, or county employee whose duties
 26 include activities authorized under subdivision (e) of Section
 27 33334.2, *except for those activities that are directly and necessarily*
 28 *associated with the development of a specific eligible housing*
 29 *development project and those activities necessary to directly*
 30 *deliver eligible programs serving low- and moderate-income*
 31 *households. If the employee spends any time on matters other than*
 32 *those authorized under subdivision (e) of Section 33334.2, Low*
 33 *and Moderate Income Housing Fund moneys may only be used to*
 34 *pay for employee compensation and related nonpersonnel costs in*
 35 *proportion to the actual time that the employee spends on activities*
 36 *authorized under subdivision (e) of Section 33334.2.*

37 (B) *Employee compensation costs, including salaries, wages,*
 38 *and benefits, and related nonpersonnel costs, including, but not*
 39 *limited to, travel, training, publications, and conferences, paid to*
 40 *or on behalf of any agency, city, or county employee for activities*

1 *authorized under subdivision (e) of Section 33334.2 that are*
2 *directly and necessarily associated with the development of a*
3 *specific eligible housing development project or necessary to*
4 *directly deliver eligible programs serve low- and moderate-income*
5 *households. Those activities shall include negotiation and project*
6 *management of disposition and development agreements, land*
7 *leases, loan agreements, and similar affordable housing*
8 *agreements; redevelopment agency work on entitlements for*
9 *eligible affordable housing developments; loan processing and*
10 *servicing; inspection of new and rehabilitated units; construction*
11 *monitoring of an eligible housing development; and monitoring*
12 *of affordable housing units. If the employee spends any time on*
13 *matters other than those authorized under subdivision (e) of Section*
14 *33334.2, Low and Moderate Income Housing Fund moneys may*
15 *only be used to pay for employee compensation and related*
16 *nonpersonnel costs in proportion to the actual time that the*
17 *employee spends on activities authorized under subdivision (e) of*
18 *Section 33334.2.*

19 ~~(B)~~

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

38 ~~(C)~~

39 (D) Overhead costs, including, but not limited to, rent or
40 mortgage payments, equipment, and office supplies, provided that

1 if the overhead costs are shared with departments or employees
2 whose duties include activities other than those authorized under
3 subdivision (e) of Section 33334.2. The proportion of the overhead
4 costs paid from the Low and Moderate Income Housing Fund shall
5 not exceed the proportion of employees working directly and
6 exclusively on activities authorized under subdivision (e) of Section
7 33334.2 represented in comparison to the total number of
8 employees sharing the space, equipment, or office supplies.

9 ~~(D)~~

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

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

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

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

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

38 ~~(B) Consistent with the categories described in paragraph (1),
39 itemize each category of planning and general administration
40 expenditures from the Low and Moderate Income Housing Fund~~

1 and explicitly describe how the expenditures are necessary for the
2 production, improvement, or preservation of low- and
3 moderate-income housing.

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

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

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

23 (2) (A) *Except as provided in subparagraph (C), an agency in*
24 *any fiscal year shall not expend more than 10 percent of the money*
25 *deposited into the Low and Moderate Income Housing Fund,*
26 *exclusive of debt proceeds, for planning and general administrative*
27 *costs described in subparagraphs (A), (C), (D), and (E) of*
28 *paragraph (1).*

29 (B) *Except as provided in subparagraph (C), an agency in any*
30 *fiscal year shall not expend more than 10 percent of the money*
31 *deposited into the Low and Moderate Income Housing Fund,*
32 *exclusive of debt proceeds, for planning and general administrative*
33 *costs described in subparagraph (B) of paragraph (1), except that*
34 *an agency may additionally expend for these purposes any*
35 *difference between the cap described in subparagraph (A) and*
36 *actual expenditures for those planning and general administrative*
37 *costs.*

38 (C) *Subparagraphs (A) and (B) shall not apply to a project*
39 *area-specific Low and Moderate Income Housing Fund during*
40 *the first five fiscal years after adoption of that specific project*

1 area. Subparagraphs (A) and (B) shall apply to a new or amended
2 project area if tax increment for that new or amended project area
3 is deposited into an aggregate Low and Moderate Income Housing
4 Fund covering more than one project area.

5 (3) In a challenge related to the proportionality of costs, as
6 required by subparagraphs (A), (B), (C), and (D) of paragraph
7 (1), the agency shall bear the burden of proof to demonstrate that
8 the costs are proportionate. In a challenge related to compliance
9 with the requirements of paragraph (2), the agency shall bear the
10 burden of proof to demonstrate that costs are appropriately
11 allocated to subparagraph (B) of paragraph (1).

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

15 (1) Code enforcement.

16 (2) Land use planning or related activities of a planning
17 department, including development or revision of the general plan
18 housing element, except for the payment of normal project-related
19 planning fees applicable to all similar development projects. *This*
20 *limitation shall not preclude an agency from expending moneys*
21 *from the Low and Moderate Income Housing Fund toward the*
22 *cost of agency staff participation in the development of the general*
23 *plan housing element provided that those costs are counted towards*
24 *the cap described in subparagraph (A) of paragraph (2) of*
25 *subdivision (d).*

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

28 (4) Administration of nonredevelopment activities unrelated to
29 activities allowed pursuant to this section, and Sections 33334.2,
30 33334.6, and 33487.

31 (f) (1) The requirements of this subdivision apply to all new or
32 substantially rehabilitated housing units developed or otherwise
33 assisted with moneys from the Low and Moderate Income Housing
34 Fund, pursuant to an agreement approved by an agency on or after
35 January 1, 1988. Except to the extent that a longer period of time
36 may be required by other provisions of law, the agency shall require
37 that housing units subject to this subdivision shall remain available
38 at affordable housing cost to, and occupied by, persons and families
39 of low or moderate income and very low income and extremely

1 low income households for the longest feasible time, but for not
2 less than the following periods of time:

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

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

25 (C) Fifteen years for mutual self-help housing units that are
26 occupied by and affordable to very low and low-income
27 households. However, the agency may permit sales of mutual
28 self-help housing units prior to expiration of the 15-year period
29 for a price in excess of that otherwise permitted under this
30 subdivision pursuant to an adopted program that (i) protects the
31 agency's investment of moneys from the Low and Moderate
32 Income Housing Fund, including, but not limited to, an equity
33 sharing program that establishes a schedule of equity sharing that
34 permits retention by the seller of a portion of those excess proceeds
35 based on the length of occupancy; and (ii) ensures through a
36 recorded regulatory agreement, deed of trust, or similar recorded
37 instrument that if a mutual self-help housing unit is sold at any
38 time after expiration of the 15-year period and prior to 45 years
39 after the date of recording of the covenants or restrictions required
40 pursuant to paragraph (2), the agency recovers, at a minimum, its

1 original principal from the Low and Moderate Income Housing
2 Fund from the proceeds of the sale and deposits those funds into
3 the Low and Moderate Income Housing Fund. The remainder of
4 the excess proceeds of the sale not retained by the seller shall be
5 allocated to the agency and deposited in the Low and Moderate
6 Income Housing Fund. For the purposes of this subparagraph,
7 “mutual self-help housing unit” means an owner-occupied housing
8 unit for which persons and families of very low and low income
9 contribute no fewer than 500 hours of their own labor in individual
10 or group efforts to provide a decent, safe, and sanitary ownership
11 housing unit for themselves, their families, and others authorized
12 to occupy that unit. Nothing in this subparagraph precludes the
13 agency and the developer of the mutual self-help housing units
14 from agreeing to 45-year deed restrictions.

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

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

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

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

31 (i) A recitation of the affordability covenants or restrictions. If
32 the document recorded under this subparagraph is recorded
33 concurrently with the covenants or restrictions recorded under
34 subparagraph (A), the recitation of the affordability covenants or
35 restrictions shall also reference the concurrently recorded
36 document. If the document recorded under this subparagraph is
37 not recorded concurrently with the covenants or restrictions
38 recorded under subparagraph (A), the recitation of the affordability
39 covenants or restrictions shall also reference the recorder’s

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

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

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

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

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

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

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

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

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

37 ~~33334.4. (a) (1) During each 10-year period of the~~
38 ~~implementation plan, as specified in clause (iii) of subparagraph~~
39 ~~(A) of paragraph (2) of subdivision (a) of Section 33490, all of the~~

1 33334.4. (a) (1) Over each 10-year implementation planning
2 period, as specified in clause (iii) of subparagraph (A) of
3 paragraph (2) of subdivision (a) of Section 33490, that begins
4 before January 1, 2010, each agency shall expend the moneys in
5 the Low and Moderate Income Housing Fund to assist housing
6 for persons of low income and housing for persons of very low
7 income in at least the same proportion as the total number of
8 housing units needed for each of those income groups bears to the
9 total number of units needed for persons of moderate, low, and
10 very low income within the community, as those needs have been
11 determined for the community pursuant to Section 65584 of the
12 Government Code.

13 (2) Following the last 10-year implementation planning period
14 referenced in paragraph (1), all of the following shall apply:

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

20 (B) At least 50 percent of each agency's expenditures from the
21 Low and Moderate Income Housing Fund exclusive of debt service
22 payments shall directly assist the new construction, ~~acquisition,~~
23 ~~and substantial rehabilitation, or preservation of housing for~~
24 ~~persons of very low income.~~ *acquisition and substantial*
25 *rehabilitation, or preservation of housing for persons of extremely*
26 *low or very low income.*

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

32 ~~(2) The expenditures for extremely low income housing,~~
33 ~~pursuant to subparagraph (C) of paragraph (1), shall count towards~~
34 ~~the requirements of subparagraphs (A) and (B) of paragraph (1),~~
35 ~~and the expenditures for very low and extremely low income~~
36 ~~housing pursuant to subparagraphs (B) and (C) of paragraph (1)~~
37 ~~shall count towards the requirements of subparagraph (A) of~~
38 ~~paragraph (1).~~

39 (3) *The expenditures for extremely low income housing, pursuant*
40 *to subparagraph (C) of paragraph (2), shall count towards the*

1 requirements of subparagraphs (A) and (B) of paragraph (2), and
2 the expenditures for very low and extremely low-income housing
3 pursuant to subparagraphs (B) and (C) of paragraph (2) shall
4 count towards the requirements of subparagraph (A) of paragraph
5 (2).

6 (4) An agency shall satisfy the requirements of paragraph (2)
7 by demonstrating in each implementation plan that as of the end
8 of the immediately preceding five-year implementation planning
9 period, the agency's aggregate expenditures from the Low and
10 Moderate Income Housing Fund, exclusive of debt service
11 payments, between the end of the last 10-year implementation
12 period referenced in paragraph (1) and the end of the immediately
13 preceding five-year implementation planning period satisfy the
14 proportionality requirements set forth in paragraph (2).

15 (3)

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

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

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

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

1 (c) (1) An agency that has deposited an aggregate amount that
2 is less than two million dollars (\$2,000,000) in the Low and
3 Moderate Income Housing Fund over the first five-year
4 implementation planning period following the last 10-year
5 implementation planning period referenced in paragraph (1) of
6 subdivision (a) shall have 10 years following the last 10-year
7 implementation planning period referenced in paragraph (1) of
8 subdivision (a) to meet the requirements of paragraph (2) of
9 subdivision (a).

10 (2) An agency that has deposited in the Low and Moderate
11 Income Housing Fund over the first five years of the period of an
12 implementation plan an aggregate amount that is less than two
13 million dollars (\$2,000,000) shall have an extra five years to meet
14 the requirements of subdivision (b).

15 (d) For the purposes of this section only, funds may be deemed
16 expended if the agency has contractually obligated the funds to
17 an entity that is independent of the agency or its community for
18 the development of a specific eligible housing development,
19 provided that if the contract is terminated prior to expenditure of
20 the funds, the funds shall be discounted from the calculations
21 required in subdivisions (a) and (b) and the provisions of
22 subdivision (e) shall apply.

23 (e) (1) If an agency fails to comply with subdivision (a) within
24 the required time period, it shall not expend any moneys from the
25 Low and Moderate Income Housing Fund to assist households
26 whose incomes exceed 50 percent of the area median income until
27 the agency has expended the funds that it should have expended
28 for extremely low, very low, and low-income housing, respectively,
29 in previous implementation plan periods.

30 (2) If an agency fails to comply with subdivision (b) within the
31 required time period, it shall not expend any moneys from the Low
32 and Moderate Income Housing Fund to assist senior households
33 until the agency has expended the funds that it should have
34 expended for housing available to all persons regardless of age
35 in previous implementation plan periods.

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

38 33334.12. (a) Agencies shall expend moneys from the Low
39 and Moderate Income Housing Fund in a manner that does not
40 accrue an excess surplus, as defined in paragraph (1) of subdivision

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

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

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

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

37 (e) (1) Until a time when the agency has expended or
38 encumbered excess surplus moneys pursuant to subdivision (a),
39 the agency shall be prohibited from encumbering any funds or
40 expending any moneys derived from any source, except that the

1 agency may encumber funds and expend moneys to pay the
2 following obligations, if any, that were incurred by the agency
3 prior to three years from the date the moneys became excess
4 surplus:

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

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

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

14 (D) Obligations incurred pursuant to Section 33445.

15 (E) Indebtedness incurred pursuant to Section 33334.2 or
16 33334.6.

17 (F) Obligations incurred pursuant to Section 33401.

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

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

27 (f) For purposes of this section:

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

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

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

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

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

38 (D) The department shall develop and periodically revise the
39 methodology to be used in the calculation of excess surplus as
40 required by this section. The director shall appoint an advisory

1 committee to advise in the development of this methodology. The
 2 advisory committee shall include department staff, affordable
 3 housing advocates, and representatives of the California
 4 Redevelopment Association, the California Society of Certified
 5 Public Accountants, the Controller, and any other authorities or
 6 persons interested in the field that the director deems necessary
 7 and appropriate.

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

20 (h) Notwithstanding subdivision (a), any agency that has funds
 21 that become excess surplus on July 1, 1994, shall have, pursuant
 22 to subdivision (a), until January 1, 1995, to decide to transfer the
 23 funds to a housing authority or other public agency, or until January
 24 1, 1997, to expend or encumber those funds, or face sanctions
 25 pursuant to subdivision (e).

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

28 33334.16. (a) (1) For each interest in real property acquired
 29 using moneys from the Low and Moderate Income Housing Fund,
 30 the agency shall, within five years from the date ~~it first acquires~~
 31 ~~the property interest for the development of housing affordable to~~
 32 ~~persons and families of low and moderate income, complete at of~~
 33 *acquisition, complete at* least one of the following activities:

34 (A) Enter into a disposition and development agreement *or a*
 35 *land lease* with a third party for the development of housing
 36 affordable to persons and families of low and moderate income.

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

1 (C) *Submit a remedial action plan for the real property to the*
2 *appropriate oversight agency, including, but not limited to, the*
3 *Department of Toxic Substances Control, the Regional Water*
4 *Quality Control Board, or the Office of Human Health Risk*
5 *Assessment, for the cleanup of contamination.*

6 (2) ~~If neither of these activities~~ *none of the activities described*
7 *in paragraph (1) has been completed within five years, or if less*
8 *than 10 percent of the dwelling units or floor area ratio of a project*
9 *is developed within 10 years from the date the agency originally*
10 *acquired the property, the agency shall reimburse the Low and*
11 *Moderate Income Housing Fund 150 percent of the amount*
12 *expended to acquire and maintain the property or of the current*
13 *fair market value of the property, whichever amount is greater.*

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

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

33 (4) *An agency may adopt a resolution to petition the department*
34 *for, and the department may grant, a single extension for up to*
35 *five years of the deadlines established in paragraphs (1) and (2)*
36 *if the department makes a finding that the failure to complete the*
37 *required activities is due to circumstances beyond the agency's*
38 *or host jurisdiction's control and that the agency has a feasible*
39 *plan for the development of housing affordable to persons and*
40 *families of low and moderate income on the real property within*

1 *the period of the extension. The agency shall provide information*
2 *supporting the need for the extension and a plan for development*
3 *of the property. The department shall solicit comments from known*
4 *or expected parties interested in the petition and consider*
5 *comments from these and any other parties. The department shall*
6 *establish a schedule of fees to cover but not exceed its costs under*
7 *this subparagraph, and at the time the petition is submitted the*
8 *agency shall pay the fees with funds other than those required to*
9 *be set aside or used for low- and moderate-income housing*
10 *pursuant to this part or otherwise designated for affordable*
11 *housing.*

12 *(b) At any time, in addition to proceeds from the sale or*
13 *transfer, the agency shall deposit into the Low and Moderate*
14 *Income Housing Fund from agency revenues other than those*
15 *required to be deposited in the Low and Moderate Income Housing*
16 *Fund an amount equal to 50 percent of the fair market value of*
17 *the property at the time it is sold or transferred or, if the property*
18 *is not sold or transferred, of the fair market value of the land at*
19 *the time a building permit is issued for the property. This*
20 *subdivision shall apply only under either of the following*
21 *conditions:*

22 *(1) A real property acquired using moneys from the Low and*
23 *Moderate Income Housing Fund is sold or transferred for a*
24 *purpose other than housing affordable to persons and families of*
25 *low and moderate income.*

26 *(2) A real property acquired using moneys from the Low and*
27 *Moderate Income Housing Fund is developed such that less than*
28 *50 percent of the floor area, or a percentage of the floor area equal*
29 *to the proportion that moneys from the Low and Moderate Income*
30 *Housing Fund represent to the total acquisition cost, whichever*
31 *is less, is housing affordable to persons and families of low and*
32 *moderate income.*

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

35 33413. (a) Whenever dwelling units affordable to or occupied
36 by persons and families of low or moderate income are destroyed
37 or removed from the low- and moderate-income housing market
38 as part of a redevelopment project that is subject to a written
39 agreement with the agency or where financial assistance has been
40 provided by the agency, the agency shall, within four years of the

1 destruction or removal, construct, or cause to be constructed, for
2 rental or sale to persons and families of low or moderate income,
3 an equal number of replacement dwelling units that have an equal
4 or greater number of bedrooms as those destroyed or removed
5 units at affordable housing costs within the ~~project area~~ *territorial*
6 *jurisdiction of the agency, provided that if the units are provided*
7 *outside the project area the agency shall provide two units for*
8 *each unit the agency is obligated to replace.* The replacement
9 obligation shall apply to all units affordable to low- or
10 moderate-income persons or families at the time of initiation of
11 negotiations of a written agreement with or financial assistance
12 from the agency. For purposes of this section, ~~the rehabilitation~~
13 ~~of an existing nonresidential structure, at least 50 percent of the~~
14 ~~floor area ratio of which will be used for residential purposes~~ *the*
15 *inclusion of residential units in the rehabilitation of an existing*
16 *nonresidential structure shall constitute construction.*

17 (1) When dwelling units are destroyed or removed after
18 September 1, 1989, 75 percent of the replacement dwelling units
19 ~~shall replace dwelling units available at affordable housing cost~~
20 ~~shall be available at affordable housing cost to, and occupied by,~~
21 *persons and families* in the same or a lower income level of very
22 low income households, lower income households, and persons
23 and families of low and moderate income, as the persons *and*
24 *families* displaced from those destroyed or removed units.

25 (2) When dwelling units are destroyed or removed on or after
26 January 1, 2002, 100 percent of the replacement dwelling units
27 shall be available at affordable housing cost to ~~persons, and~~
28 ~~occupied by, persons and families~~ in the same or a lower income
29 category (extremely low, very low, low, or moderate), as the
30 persons *and families* displaced from those destroyed or removed
31 units. This paragraph is declaratory of existing law.

32 (3) On or after January 1, 2012, in the case where the agency
33 is obligated to replace vacant units, those replacement units shall
34 be available at ~~housing costs~~ *affordable housing costs to, and*
35 *occupied by, persons and families* in the same or lower income
36 category (extremely low, very low, low, or moderate) in the same
37 proportion as the units occupied or last occupied by low- and
38 moderate-income households in the property.

1 (4) Up to 25 percent of the replacement obligation incurred
 2 during a five-year implementation plan may be satisfied ~~with units~~
 3 *in either of the following ways:*

4 (A) *With units* that have been rehabilitated such that
 5 after-rehabilitation value is increased by 50 percent or more of the
 6 pre-rehabilitation value, as evidenced by pre and post rehabilitation
 7 appraisals and, the rehabilitated units were, at the time the dwelling
 8 units to be replaced were destroyed or removed were either of the
 9 following:

10 ~~(A)~~

11 (i) At risk of demolition or closure due to substandard conditions
 12 and occupied by extremely low or very low income households.

13 ~~(B)~~

14 (ii) Vacant due to substandard conditions as defined in Section
 15 1941.1 of the Civil Code.

16 (B) *With substantially rehabilitated multifamily rental dwelling*
 17 *units, as defined in paragraph (2) of subdivision (b) and evidenced*
 18 *by pre and post rehabilitation appraisals, provided that the agency*
 19 *shall substantially rehabilitate within the project area, two units*
 20 *for each unit the agency is obligated to replace, or outside of the*
 21 *project area, three units for each unit the agency is obligated to*
 22 *replace.*

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

27 (b) (1) Prior to the time limit on the effectiveness of the
 28 redevelopment plan established pursuant to Sections 33333.2,
 29 33333.6, and 33333.10 at least 30 percent of all new and
 30 substantially rehabilitated dwelling units developed by an agency
 31 shall be available at affordable housing cost to, and occupied by,
 32 persons and families of low or moderate income. Not less than 50
 33 percent of the dwelling units required to be available at affordable
 34 housing cost to, and occupied by, persons and families of low or
 35 moderate income shall be available at affordable housing cost to,
 36 and occupied by, very low income households.

37 (2) (A) (i) Prior to the time limit on the effectiveness of the
 38 redevelopment plan established pursuant to Sections 33333.2,
 39 33333.6, and 33333.10 at least 15 percent of all new and
 40 substantially rehabilitated dwelling units developed within a project

1 area under the jurisdiction of an agency by public or private entities
2 or persons other than the agency shall be available at affordable
3 housing cost to, and occupied by, persons and families of low or
4 moderate income. Not less than 40 percent of the dwelling units
5 required to be available at affordable housing cost to, and occupied
6 by, persons and families of low or moderate income shall be
7 available at affordable housing cost to, and occupied by, very low
8 income households.

9 (ii) To satisfy this paragraph, in whole or in part, the agency
10 may cause, by regulation or agreement, to be available, at
11 affordable housing cost, to, and occupied by, persons and families
12 of low or moderate income or to very low income households, as
13 applicable, two units outside a project area for each unit that
14 otherwise would have been required to be available inside a project
15 area.

16 (iii) On or after January 1, 2002, as used in this paragraph and
17 in paragraph (1), “substantially rehabilitated dwelling units” means
18 all units substantially rehabilitated, with agency assistance. Prior
19 to January 1, 2002, “substantially rehabilitated dwelling units”
20 shall mean substantially rehabilitated multifamily rented dwelling
21 units with three or more units regardless of whether there is agency
22 assistance, or substantially rehabilitated, with agency assistance,
23 single-family dwelling units with one or two units.

24 (iv) As used in this paragraph and in paragraph (1), “substantial
25 rehabilitation” means rehabilitation, the value of which constitutes
26 25 percent of the after rehabilitation value of the dwelling, inclusive
27 of the land value.

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

33 (B) To satisfy the requirements of paragraph (1) and
34 subparagraph (A), the agency may purchase, or otherwise acquire
35 or cause by regulation or agreement the purchase or other
36 acquisition of, long-term affordability covenants on multifamily
37 units that restrict the cost of renting or purchasing those units that
38 either: (i) are not presently available at affordable housing cost to
39 persons and families of low or very low income households, as
40 applicable; or (ii) are units that are presently available at affordable

1 housing cost to this same group of persons or families, but are
2 units that the agency finds, based upon substantial evidence, after
3 a public hearing, cannot reasonably be expected to remain
4 affordable to this same group of persons or families.

5 (C) To satisfy the requirements of paragraph (1) and
6 subparagraph (A), the long-term affordability covenants purchased
7 or otherwise acquired pursuant to subparagraph (B) shall be
8 required to be maintained on dwelling units at affordable housing
9 cost to, and occupied by, persons and families of low or very low
10 income, for the longest feasible time but not less than 55 years for
11 rental units and 45 years for owner-occupied units. Not more than
12 50 percent of the units made available pursuant to paragraph (1)
13 and subparagraph (A) may be assisted through the purchase or
14 acquisition of long-term affordability covenants pursuant to
15 subparagraph (B). Not less than 50 percent of the units made
16 available through the purchase or acquisition of long-term
17 affordability covenants pursuant to subparagraph (B) shall be
18 available at affordable housing cost to, and occupied by, very low
19 income households.

20 (D) To satisfy the requirements of paragraph (1) and
21 subparagraph (A), each mutual self-help housing unit, as defined
22 in subparagraph (C) of paragraph (1) of subdivision (f) of Section
23 33334.3, that is subject to a 15-year deed restriction shall count as
24 one-third of a unit.

25 (3) The requirements of this subdivision shall apply
26 independently of the requirements of subdivision (a). The
27 requirements of this subdivision shall apply, in the aggregate, to
28 housing made available pursuant to paragraphs (1) and (2),
29 respectively, and not to each individual case of rehabilitation,
30 development, or construction of dwelling units, unless an agency
31 determines otherwise.

32 (4) Each redevelopment agency, as part of the implementation
33 plan required by Section 33490, shall adopt a plan to comply with
34 the requirements of this subdivision for each project area. The plan
35 shall be consistent with, and may be included within, the
36 community's housing element. The plan shall be reviewed and, if
37 necessary, amended at least every five years in conjunction with
38 the plan implementation cycle. The plan shall ensure that the
39 requirements of this subdivision are met every 10 years. If the
40 requirements of this subdivision are not met by the end of each

1 10-year period, the agency shall meet these goals on an annual
2 basis until the requirements for the 10-year period are met. If the
3 agency has exceeded the requirements within the 10-year period,
4 the agency may count the units that exceed the requirement in
5 order to meet the requirements during the next 10-year period. The
6 plan shall contain the contents required by paragraphs (2), (3), and
7 (4) of subdivision (a) of Section 33490.

8 (c) (1) The agency shall require that the aggregate number of
9 replacement dwelling units and other dwelling units rehabilitated,
10 developed, constructed, or price restricted pursuant to subdivision
11 (a) or (b) remain available at affordable housing cost to, and
12 occupied by, persons and families of—~~low-income,~~
13 ~~moderate-income, and very low income households, respectively,~~
14 *extremely low income, very low income, low income, and moderate*
15 *income, respectively*, for the longest feasible time, but for not less
16 than 55 years for rental units, 45 years for home ownership units,
17 and 15 years for mutual self-help housing units, as defined in
18 subparagraph (C) of paragraph (1) of subdivision (f) of Section
19 33334.3, except as set forth in paragraph (2). Nothing in this
20 paragraph precludes the agency and the developer of the mutual
21 self-help housing units from agreeing to 45-year deed restrictions.

22 (2) Notwithstanding paragraph (1), the agency may permit sales
23 of owner-occupied units prior to the expiration of the 45-year
24 period, and mutual self-help housing units prior to the expiration
25 of the 15-year period, established by the agency for a price in
26 excess of that otherwise permitted under this subdivision pursuant
27 to an adopted program that protects the agency's investment of
28 moneys from the Low and Moderate Income Housing Fund,
29 including, but not limited to, an equity sharing program that
30 establishes a schedule of equity sharing that permits retention by
31 the seller of a portion of those excess proceeds, based on the length
32 of occupancy. The remainder of the excess proceeds of the sale
33 shall be allocated to the agency, and deposited into the Low and
34 Moderate Income Housing Fund. The agency shall, within three
35 years from the date of sale pursuant to this paragraph of each home
36 ownership or mutual self-help housing unit subject to a 45-year
37 deed restriction, and every third mutual self-help housing unit
38 subject to a 15-year deed restriction, expend funds to make
39 affordable an equal number of units at the same or lowest income
40 level as the unit or units sold pursuant to this paragraph, for a

1 period not less than the duration of the original deed restrictions.
2 Only the units originally assisted by the agency shall be counted
3 towards the agency's obligations under Section 33413.

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

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

11 (5) For each unit counted towards the requirements of
12 ~~subdivisions (a) and (b)~~ *or*, the agency shall require the recording
13 in the office of the county recorder of covenants or restrictions
14 that ensure compliance with this subdivision. With respect to
15 covenants or restrictions that are recorded on or after January 1,
16 2008, the agency shall comply with the requirements of paragraphs
17 (3) and (4) of subdivision (f) of Section 33334.3.

18 (d) (1) This section applies only to redevelopment projects for
19 which a final redevelopment plan is adopted pursuant to Article 5
20 (commencing with Section 33360) on or after January 1, 1976,
21 and to areas that are added to a project area by amendment to a
22 final redevelopment plan adopted on or after January 1, 1976. In
23 addition, subdivision (a) shall apply to any other redevelopment
24 project with respect to dwelling units destroyed or removed from
25 the low- and moderate-income housing market on or after January
26 1, 1996, irrespective of the date of adoption of a final
27 redevelopment plan or an amendment to a final redevelopment
28 plan adding areas to a project area. Additionally, any agency may,
29 by resolution, elect to make all or part of the requirements of this
30 section applicable to any redevelopment project of the agency for
31 which the final redevelopment plan was adopted prior to January
32 1, 1976. In addition, subdivision (b) shall apply to redevelopment
33 plans adopted prior to January 1, 1976, for which an amendment
34 is adopted pursuant to Section 33333.10, except that subdivision
35 (b) shall apply to those redevelopment plans prospectively only
36 so that the requirements of subdivision (b) shall apply only to new
37 and substantially rehabilitated dwelling units for which the building
38 permits are issued on or after the date that the ordinance adopting
39 the amendment pursuant to Section 33333.10 becomes effective.

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

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

11 (f) Notwithstanding subdivision (a), the agency may replace
12 destroyed or removed dwelling units with a fewer number of
13 replacement dwelling units if the replacement dwelling units meet
14 both of the following criteria:

15 (1) The total number of bedrooms in the replacement dwelling
16 units equals or exceeds the number of bedrooms in the destroyed
17 or removed units. Destroyed or removed units having one or no
18 bedroom are deemed for this purpose to have one bedroom.

19 (2) The replacement units are affordable to and occupied by the
20 same income level of households as the destroyed or removed
21 units.

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

24 (h) If a court finds that an agency has failed to comply with the
25 requirements of this section, the court, at a minimum, shall issue
26 an order that prohibits the agency from issuing any debt for any
27 project area, except debt from which all the proceeds will be
28 deposited into the Low and Moderate Income Housing Fund or
29 otherwise used to comply with the requirements of this section,
30 until such time as the court finds that the agency has fully complied
31 with the requirements of this section.

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

34 33413.5. Not less than 30 days prior to the execution of an
35 agreement for acquisition of real property, ~~or~~ the execution of an
36 agreement for the disposition and development of property, the
37 execution of an owner participation agreement, ~~which agreement~~
38 *or other agreement or assistance that* would lead to the destruction
39 or removal of dwelling units from the low- and moderate-income
40 housing market, the agency shall adopt by resolution a replacement

1 housing plan. For a reasonable time prior to adopting a replacement
2 housing plan by resolution, the agency shall make available a draft
3 of the proposed replacement housing plan for review and comment
4 by the *tenants to be displaced*, the project area committee, other
5 public agencies, and the general public.

6 The replacement housing plan shall include (1) the general
7 location of housing to be rehabilitated or constructed pursuant to
8 Section 33413, (2) a description of the occupancy and affordability
9 restrictions to be imposed on the replacement dwelling units, (3)
10 substantial evidence supporting a finding that the replacement
11 dwelling units will meet the needs of *households in the income*
12 *categories* of the households displaced from the dwelling units
13 that the replacement units are intended to replace, (4) a declaration
14 of whether the agency intends to rehabilitate existing dwelling
15 units pursuant to paragraph (5) of subdivision (a) of Section 33413,
16 (5) an adequate means of financing such rehabilitation or
17 construction, (6) a finding that the replacement housing does not
18 require the approval of the voters pursuant to Article XXXIV of
19 the California Constitution, or that such approval has been
20 obtained, (7) the number of dwelling units housing persons and
21 families of low or moderate income planned for construction or
22 rehabilitation, and (8) the timetable for meeting the plan's
23 relocation, rehabilitation, and replacement housing objectives. A
24 dwelling unit whose replacement is required by Section 33413 but
25 for which no replacement housing plan has been prepared, shall
26 not be destroyed or removed from the low- and moderate-income
27 housing market until the agency has by resolution adopted a
28 replacement housing plan.

29 Nothing in this section shall prevent an agency from destroying
30 or removing from the low- and moderate-income housing market
31 a dwelling unit which the agency owns and which is an immediate
32 danger to health and safety. The agency shall, as soon as
33 practicable, adopt by resolution a replacement housing plan with
34 respect to such dwelling unit.

35 *SEC. 14.5. Section 33418 of the Health and Safety Code is*
36 *amended to read:*

37 33418. (a) An agency shall monitor, on an ongoing basis, any
38 housing affordable to persons and families of low or moderate
39 income developed or otherwise made available pursuant to any
40 provisions of this part. As part of this monitoring, an agency shall

1 require owners or managers of the housing to submit an annual
2 report to the agency. The annual reports shall include for each
3 rental unit the rental rate and the income and family size of the
4 occupants, and for each owner-occupied unit whether there was a
5 change in ownership from the prior year and, if so, the income and
6 family size of the new owners. The income information required
7 by this section shall be supplied by the tenant in a certified
8 statement on a form provided by the agency.

9 (b) The data specified in subdivision (a) shall be obtained by
10 the agency from owners and managers of the housing specified
11 therein and current data shall be included in any reports required
12 by law to be submitted to the Department of Housing and
13 Community Development or the Controller. The information on
14 income and family size that is required to be reported by the owner
15 or manager shall be supplied by the tenant and shall be the only
16 information on income or family size that the owner or manager
17 shall be required to submit on his or her annual report to the
18 agency.

19 (c) (1) The agency shall compile and maintain a database of
20 existing, new and substantially rehabilitated, housing units
21 developed or otherwise assisted with moneys from the Low and
22 Moderate Income Housing Fund, or otherwise counted towards
23 the requirements of subdivision (a) or (b) of Section 33413. The
24 database shall be made available to the public on the Internet and
25 updated on an annual basis and shall include the date the database
26 was last updated. The database shall require all of the following
27 information for each owner-occupied unit or rental unit, or for
28 each group of units, if more than one unit is subject to the same
29 covenant:

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

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

33 (C) The year in which the construction or substantial
34 rehabilitation of the unit was completed.

35 (D) The date of recordation and document number of the
36 affordability covenants or restrictions required under subdivision
37 (f) of Section 33334.3.

38 (E) The date on which the covenants or restrictions expire.

39 (F) For owner-occupied units that have changed ownership
40 during the reporting year, as described in subdivision (a), the date

1 and document number of the new affordability covenants or other
2 documents recorded to assure that the affordability restriction is
3 enforceable and continues to run with the land.

4 (G) Whether occupancy in the unit or units is restricted to any
5 special population, including senior citizens.

6 *(H) The affordability level of each unit.*

7 *(I) Whether the unit is a rental or ownership unit.*

8 *(J) Whether the unit is being counted towards a replacement*
9 *obligation pursuant to subdivision (a) of Section 33413 or towards*
10 *a production obligation pursuant to subdivision (b) of Section*
11 *33413.*

12 *(K) The project type, including, but not limited to, new*
13 *construction, substantial rehabilitation, preservation, or the*
14 *purchase of long-term affordability covenants.*

15 (2) Notwithstanding subparagraphs (A) and (D) of paragraph
16 (1), the database shall omit any property used to confidentially
17 house victims of domestic violence.

18 (3) Upon establishment of a database under this section, the
19 agency shall provide reasonable notice to the community regarding
20 the existence of the database.

21 (d) The agency shall adequately fund its monitoring activities
22 as needed to insure compliance of applicable laws and agreements
23 in relation to affordable units. For purposes of defraying the cost
24 of complying with the requirements of this section and the changes
25 in reporting requirements of Section 33080.4 enacted by the act
26 enacting this section, an agency may establish and impose fees
27 upon owners of properties monitored pursuant to this section.

28 *(e) The agency shall continue to monitor and enforce the*
29 *covenants covered by this section for the entire period of the*
30 *covenant. In the event the agency ceases its activities prior to the*
31 *entire period of the covenants, then its designated successor agency*
32 *shall monitor and enforce the covenants for the remaining period*
33 *of the covenant. If a successor agency is not designated at the time*
34 *the agency ceases its activities, then the community shall monitor*
35 *and enforce the covenants for the remaining period of the covenant.*

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

1 Article 13. Accountability Audits

2
3 33460. (a) The Legislature hereby finds and declares both of
4 the following:

5 (1) Past department audits of redevelopment agencies have
6 uncovered errors, omissions, and violations that have resulted in
7 significant repayments to agencies' Low and Moderate Income
8 Housing Fund, thereby providing additional resources for
9 increasing, improving, and preserving the supply of low- and
10 moderate-income housing available at affordable housing cost.

11 (2) Providing funding for future department audits of
12 redevelopment agencies will ensure that tax increment, interest,
13 and debt proceeds are appropriately deposited into the Low and
14 Moderate Income Housing Fund and that agencies make only legal
15 expenditures from the fund, thereby providing additional resources
16 for increasing, improving, and preserving the supply of low- and
17 moderate-income housing available at affordable housing cost. As
18 a result, the deposits required by this section are permissible
19 pursuant to paragraph (7) of subdivision (a) of Section 25.5 of
20 Article XIII of the California Constitution.

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

27 SEC. 16. Section 33487 of the Health and Safety Code is
28 amended to read:

29 33487. (a) Subject to subdivisions (a) and (b) of Section 33486,
30 not less than 20 percent of all taxes that are allocated to the
31 redevelopment agency pursuant to Section 33670 for
32 redevelopment projects merged pursuant to this article, irrespective
33 of the date of adoption of the final redevelopment plans, shall be
34 deposited by the agency in the Low and Moderate Income Housing
35 Fund established pursuant to Section 33334.3, or which shall be
36 established for purposes of this section. The agency shall use the
37 moneys in this fund to assist in the construction or rehabilitation
38 of housing units that will be available to, or occupied by, persons
39 and families of low or moderate income, as defined in Section
40 50093, and very low income households, as defined in Section

1 50105, at an affordable housing cost for the longest feasible time
2 period but not less than 55 years for rental units and 45 years for
3 owner-occupied units. For the purposes of this subdivision,
4 “construction and rehabilitation” shall include acquisition of land,
5 improvements to land; the acquisition, rehabilitation, or
6 construction of structures; or the provision of subsidies necessary
7 to provide housing for persons and families of low or moderate
8 income, as defined in Section 50093, and very low income
9 households, as defined in Section 50105.

10 (b) The agency may use the funds set aside by subdivision (a)
11 inside or outside the project area. However, the agency may only
12 use these funds outside the project area upon a resolution of the
13 agency and the legislative body that the use will be of benefit to
14 the project. This determination by the agency and the legislative
15 body shall be final and conclusive as to the issue of benefit to the
16 project area. The Legislature finds and declares that the provision
17 of replacement housing pursuant to Section 33413 is of benefit to
18 a project.

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

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

37 (d) Notwithstanding subdivision (d) of Section 33413, any
38 agency that merges its redevelopment project areas pursuant to
39 this article shall be subject to subdivisions (a) and (c) of Section
40 33413.

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

3 33490. (a) (1) (A) On or before December 31, 1994, and each
4 five years thereafter, each agency that has adopted a redevelopment
5 plan prior to December 31, 1993, shall adopt, after a public hearing,
6 an implementation plan that shall contain the specific goals and
7 objectives of the agency for the project area, the specific programs,
8 including potential projects, and estimated expenditures proposed
9 to be made during the next five years, and an explanation of how
10 the goals and objectives, programs, and expenditures will eliminate
11 blight within the project area and implement the requirements of
12 Section 33333.10, if applicable, and Sections 33334.2, 33334.4,
13 33334.6, and 33413. After adoption of the first implementation
14 plan, the parts of the implementation plan that address Section
15 33333.10, if applicable, and Sections 33334.2, 33334.4, 33334.6,
16 and 33413 shall be adopted every five years either in conjunction
17 with ~~the housing element cycle or the implementation plan cycle~~
18 and shall be made available to the public on the Internet. The
19 agency may amend the implementation plan after conducting a
20 public hearing on the proposed amendment. If an action attacking
21 the adoption, approval, or validity of a redevelopment plan adopted
22 prior to January 1, 1994, has been brought pursuant to Chapter 5
23 (commencing with Section 33500), the first implementation plan
24 required pursuant to this section shall be adopted within six months
25 after a final judgment or order has been entered. Subsequent
26 implementation plans required pursuant to this section shall be
27 adopted pursuant to the terms of this section, and as if the first
28 implementation plan had been adopted on or before December 31,
29 1994.

30 (B) Adoption of an implementation plan shall not constitute an
31 approval of any specific program, project, or expenditure and shall
32 not change the need to obtain any required approval of a specific
33 program, project, or expenditure from the agency or community.
34 The adoption of an implementation plan shall not constitute a
35 project within the meaning of Section 21000 of the Public
36 Resources Code. However, the inclusion of a specific program,
37 potential project, or expenditure in an implementation plan
38 prepared pursuant to subdivision (c) of Section 33352 in
39 conjunction with a redevelopment plan adoption shall not eliminate
40 analysis of those programs, potential projects, and expenditures

1 in the environmental impact report prepared pursuant to subdivision
2 (k) of Section 33352 to the extent that it would be otherwise
3 required. In addition, the inclusion of programs, potential projects,
4 and expenditures in an implementation plan shall not eliminate
5 review pursuant to the California Environmental Quality Act
6 (Division 13 (commencing with Section 21000) of the Public
7 Resources Code), at the time of the approval of the program,
8 project, or expenditure, to the extent that it would be otherwise
9 required.

10 (2) (A) A portion of the implementation plan shall address the
11 agency housing responsibilities and shall contain a section
12 addressing Section 33333.10, if applicable, and Sections 33334.2,
13 33334.4, and 33334.6, the Low and Moderate Income Housing
14 Fund, and, if subdivision (b) of Section 33413 applies, a section
15 addressing agency developed and project area housing. The section
16 addressing the Low and Moderate Income Housing Fund shall
17 contain:

18 (i) The amount available in the Low and Moderate Income
19 Housing Fund and the estimated amounts which will be deposited
20 in the Low and Moderate Income Housing Fund during each of
21 the next five years.

22 (ii) A housing program with estimates of the number of new,
23 rehabilitated, or price restricted units to be assisted during each of
24 the five years and estimates of the expenditures of moneys from
25 the Low and Moderate Income Housing Fund during each of the
26 five years.

27 (iii) A description of how the housing program will implement
28 the requirement for expenditures of moneys in the Low and
29 Moderate Income Housing Fund over a 10-year period *or five-year*
30 *period, as applicable*, for various groups as required by Section
31 33334.4. For project areas to which subdivision (b) of Section
32 33413 applies, the 10-year period within which Section 33334.4
33 is required to be implemented shall be the same 10-year period
34 within which subdivision (b) of Section 33413 which subdivision
35 (b) of Section 33413 is required to be implemented shall coincide
36 with the 10-year period or with two five-year periods, as
37 applicable, within which Section 33334.4 is required to be
38 implemented. Notwithstanding the first sentence of Section 33334.4
39 and the first sentence of this clause, in order to allow these two
40 10-year time periods to coincide for the first time period, the time

1 to implement the requirements of Section 33334.4 shall be extended
2 two years, and project areas in existence on December 31, 1993,
3 shall implement the requirements of Section 33334.4 on or before
4 December 31, 2014, ~~and each 10 years thereafter~~ rather than
5 December 31, 2012. For project areas to which subdivision (b) of
6 Section 33413 does not apply, the requirements of Section 33334.4
7 shall be implemented on or before December 31, 2014, ~~and each~~
8 ~~10 years thereafter~~.

9 (iv) This requirement to include a description of how the housing
10 program will implement Section 33334.4 in the implementation
11 plan shall apply to implementation plans adopted pursuant to
12 subdivision (a) on or after December 31, 2002.

13 (B) For each project area to which subdivision (b) of Section
14 33413 applies, the section addressing the agency developed and
15 project area housing shall contain:

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

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

25 (iii) A statement of the number of units of very low, low-, and
26 moderate-income households which have been developed over the
27 life of the plan within one or more project areas which meet the
28 requirements of subdivision (b) of Section 33413.

29 (iv) Estimates of the number of agency developed residential
30 units which will be developed during the next five years, if any,
31 which will be governed by paragraph (1) of subdivision (b) of
32 Section 33413.

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

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

39 ~~(i) The number of housing units needed for very low income~~
40 ~~persons, low-income persons, and moderate-income persons as~~

1 ~~each of those needs have been identified in the most recent~~
2 ~~determination pursuant to Section 65584 of the Government Code,~~
3 ~~and the proposed amount of expenditures from the Low and~~
4 ~~Moderate Income Housing Fund for each income group during~~

5 *(i) The proposed amount of expenditures from the Low and*
6 *Moderate Income Housing Fund for the new construction,*
7 *acquisition and substantial rehabilitation, or preservation of*
8 *housing for persons of extremely low, very low, or low income*
9 *during each year of the implementation plan period.*

10 *(ii) The total population of the community and the population*
11 *under 65 years of age as reported in the most recent census of the*
12 *United States Census Bureau.*

13 *(iii) A housing program that provides a detailed schedule of*
14 *actions the agency is undertaking or intends to undertake to ensure*
15 *expenditure of the Low and Moderate Income Housing Fund in*
16 *the proportions required by Section 33333.10, if applicable,*
17 ~~*purchasing multiple parcels pursuant to subparagraph (A) of*~~
18 ~~*paragraph (3) of subdivision (a) of Section 33334.16, if applicable,*~~
19 ~~*and Section 33334.4.*~~

20 ~~*(iv) For the previous implementation plan period, the amounts*~~
21 ~~*of Low and Moderate Income Housing Fund moneys utilized to*~~
22 ~~*assist units affordable to, and occupied by, extremely low income*~~
23 ~~*households, very low income households, and low-income*~~
24 ~~*households; the number, the location, and level of affordability of*~~
25 ~~*units newly constructed with other locally controlled government*~~
26 ~~*assistance and and Section 33334.4.*~~

27 *(iv) For the previous implementation plan period, the number,*
28 *the location, and level of affordability of units newly constructed*
29 *without agency assistance and that are required to be affordable*
30 *to, and occupied by, persons of low, very low, or extremely low*
31 *income for at least 55 years for rental housing or 45 years for home*
32 *ownership housing, and the amount of Low and Moderate Income*
33 *Housing Fund moneys utilized to assist housing units available to*
34 *families with children, and the number, location, and level of*
35 *affordability of those units.*

36 *(v) A demonstration, based on substantial evidence in the plan,*
37 *that as of the end of the immediately preceding five-year*
38 *implementation planning period, the agency's aggregate*
39 *expenditures from the Low and Moderate Income Housing Fund,*
40 *exclusive of debt service payments, between the end of the last*

1 10-year implementation period referenced in paragraph (1) of
2 subdivision (a) of Section 33334.4 and the end of the immediately
3 preceding five-year implementation planning period satisfy the
4 proportionality requirements set forth in paragraph (2) of
5 subdivision (a) of Section 33334.4.

6 (3) If the implementation plan contains a project that will result
7 in the destruction or removal of dwelling units that will have to
8 be replaced pursuant to subdivision (a) of Section 33413, the
9 implementation plan shall identify proposed locations suitable for
10 those replacement dwelling units. If the implementation plan
11 contains a project that has resulted in the destruction or removal
12 of dwelling units that must be replaced pursuant to subdivision (a)
13 of Section 33413, the implementation plan shall identify either of
14 the following:

15 (A) The replacement dwelling units that satisfy each replacement
16 housing obligation.

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

20 (4) The implementation plan shall include a complete accounting
21 for compliance with ~~its~~ *the agency's* affordable housing obligations
22 over the life of the plan, including the total number of units the
23 agency is obligated to replace pursuant to subdivision (a) of Section
24 33413, the number of units the agency is obligated to produce
25 pursuant to subdivision (b) of Section 33413, and the number of
26 dwelling units that satisfy these obligations. ~~For~~

27 (A) ~~For~~ each owner-occupied unit or rental unit counted towards
28 meeting the agency obligations *under subdivision (a) or (b) of*
29 *Section 33413 and required to be included in the database required*
30 *pursuant to subdivision (c) of Section 33418*, or for each group of
31 such units, if more than one unit is subject to the same covenant,
32 the implementation plan shall identify all of the following:

33 ~~(A) The street address and assessor's parcel number of the~~
34 ~~property.~~

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

36 ~~(C) The housing cost of each unit, according to the categories~~
37 ~~required by Section 33413.~~

38 ~~(D) The year in which the construction or substantial~~
39 ~~rehabilitation of the unit was completed.~~

- 1 ~~(E) The date of recordation and document number of the~~
2 ~~affordability covenants or restrictions required under subdivision~~
3 ~~(f) of Section 33334.3 or subdivision (c) of Section 33413.~~
4 ~~(F) The date on which the covenants or restrictions expire.~~
5 ~~(G) For the projects developed prior to January 1, 2002, a~~
6 ~~statement of the effective period of the land use controls established~~
7 ~~in the plan at the time each unit was developed.~~
8 ~~(H) For owner-occupied units that have changed ownership~~
9 ~~during the reporting year, as described in subdivision (a), the date~~
10 ~~and document number of the new affordability covenants or other~~
11 ~~documents recorded to assure that the affordability restriction is~~
12 ~~enforceable and continues to run with the land.~~
13 *(i) The street address and assessor's parcel number of the*
14 *property and, for properties where units are listed as a group, the*
15 *number of units.*
16 *(ii) The size of each unit, measured by the number of bedrooms.*
17 *(iii) The affordability level of each unit, according to the*
18 *categories required by Section 33413.*
19 *(iv) The year in which the construction or substantial*
20 *rehabilitation of the unit was completed.*
21 *(v) The date of recordation and document number of the*
22 *affordability covenants or restrictions required under subdivision*
23 *(f) of Section 33334.3 or subdivision (c) of Section 33413.*
24 *(vi) The date on which the covenants or restrictions expire.*
25 *(vii) For the projects developed prior to January 1, 2002, a*
26 *statement of the effective period of the land use controls established*
27 *in the plan at the time each unit was developed.*
28 *(viii) For owner-occupied units that have changed ownership*
29 *during the previous implementation plan period, the date and*
30 *document number of the new affordability covenants or other*
31 *documents recorded to ensure that the affordability restriction is*
32 *enforceable and continues to run with the land.*
33 *(ix) Whether the unit counts towards a replacement obligation*
34 *pursuant to subdivision (a) of Section 33413 or towards a*
35 *production obligation pursuant to subdivision (b) of Section 33413.*
36 *Units counted towards a replacement obligation shall reference*
37 *the destroyed units they are replacing.*
38 *(B) For each owner-occupied unit or rental unit counted towards*
39 *meeting the agency obligations under subdivision (a) or (b) of*
40 *Section 33413 and not required to be included in the database*

1 *required pursuant to subdivision (c) of Section 33418, or for each*
2 *group of such units, if more than one unit is subject to the same*
3 *covenant, the implementation plan shall identify all of the*
4 *following:*

5 *(i) The street address and, if available, assessor's parcel number*
6 *of the property.*

7 *(ii) For properties where units are listed as a group, the number*
8 *of units.*

9 *(iii) The affordability level of each unit, according to the*
10 *categories required by Section 33413.*

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

13 *(v) The date of recordation and document number of the*
14 *affordability covenants or restrictions required under subdivision*

15 *(f) of Section 33334.3 or subdivision (c) of Section 33413.*

16 *(vi) The date on which the covenants or restrictions expired.*

17 *(vii) Whether the unit counts towards a replacement obligation*
18 *pursuant to subdivision (a) of Section 33413 or towards a*
19 *production obligation pursuant to subdivision (b) of Section 33413.*

20 *Units counted towards a replacement obligation shall reference*
21 *the destroyed units they are replacing.*

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

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

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

38 (A) The time limit for the commencement for eminent domain
39 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 six years from~~
3 ~~the time limit of the effectiveness of the plan established pursuant~~
4 ~~to Sections 33333.2, 33333.6, and 33333.10, 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 encumber excess surplus funds~~
18 ~~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 housing pursuant to subdivision~~
27 ~~(b) of Section 33413 and other similar and related provisions of~~
28 ~~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~~
38 ~~the 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 (e) ~~This section applies to actions pending on and after January~~
2 ~~1, 2012.~~

3 33506. (a) A failure to meet any of the following obligations
4 shall be an ongoing violation until the agency has fully met the
5 obligation:

6 (1) The obligation to eliminate project deficits pursuant to
7 Sections 33334.6, 33487, 33492.16, and other similar and related
8 provisions of law.

9 (2) The obligation to expend or encumber excess surplus funds
10 pursuant to Section 33334.12 and other similar and related
11 provisions of law.

12 (3) The obligation to provide relocation assistance pursuant to
13 Article 9 (commencing with Section 33410), Section 7260 of the
14 Government Code, or other applicable relocation laws.

15 (4) The obligation to provide replacement housing pursuant to
16 subdivision (a) of Section 33413, Article 9 (commencing with
17 Section 33410), and other similar and related provisions of law.

18 (5) The obligation to provide housing pursuant to subdivision
19 (b) of Section 33413 and other similar and related provisions of
20 law.

21 (6) The obligation to monitor and enforce affordability
22 covenants required pursuant to Section 33418.

23 (7) The obligation to continue the project past the effectiveness
24 date of the redevelopment plan pursuant to Section 33333.8.

25 (8) The obligation to expend funds proportionately to assist
26 housing for persons of extremely low, very low, or low income or
27 to assist housing available to all persons regardless of age
28 pursuant to Section 33334.4.

29 (9) The obligations to record covenants that run with the land
30 pursuant to subdivision (f) of Section 33334.3 and subdivision (c)
31 of Section 33413(c).

32 (b) This section is declaratory of existing law.

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

35 50464.5. (a) The Redevelopment Agency Accountability Fund
36 is hereby created in the State Treasury and is available, upon
37 appropriation, to the department for the purposes of subdivision
38 (b). Notwithstanding Section 16305.7 of the Government Code,
39 any moneys received by the department pursuant to Section 33460,
40 and any other sources, repayments, interest, or new appropriations,

1 shall be deposited in the fund. Moneys in the fund shall not be
 2 subject to transfer to any other fund pursuant to any provision of
 3 Part 2 (commencing with Section 16300) of Division 4 of Title 2
 4 of the Government Code, except the Surplus Money Investment
 5 Fund. The department may require the transfer of moneys in the
 6 fund to the Surplus Money Investment Fund for investment
 7 pursuant to Article 4 (commencing with Section 16470) of Chapter
 8 3 of Part 2 of Division 4 of Title 2 of the Government Code.
 9 Notwithstanding Section 16305.7 of the Government Code, all
 10 interest, dividends, and pecuniary gains from the investments shall
 11 accrue to the fund.

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

33
 34 _____
 35 **CORRECTIONS:**
 36 **Digest—Page 2.**
 37 **Text—Pages 7, 26, 45, 55, and 66.**
 38 _____

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