

AMENDED IN ASSEMBLY SEPTEMBER 2, 2011

AMENDED IN ASSEMBLY AUGUST 15, 2011

AMENDED IN ASSEMBLY JUNE 20, 2011

AMENDED IN SENATE APRIL 11, 2011

AMENDED IN SENATE MARCH 29, 2011

**SENATE BILL**

**No. 450**

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

February 16, 2011

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An act to amend Sections 33080, 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, 33080.11, 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 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.

(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 *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 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 2 additional years.

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

(6) ~~Existing~~—*Existing* law provides that 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:

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

10 (b) The redevelopment agency shall provide a copy of the report  
11 required by Section 33080.1, upon the written request of any person  
12 or any taxing agency. If the report does not include detailed  
13 information regarding administrative costs, professional services,  
14 or other expenditures required under Section 33080.1, the person  
15 or taxing agency may request, and the redevelopment agency shall  
16 provide, that information, upon payment of fees covering the direct  
17 costs of duplication.

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

20 33080.1. Every redevelopment agency shall submit the final  
21 report of any audit undertaken by any other local, state, or federal  
22 government entity to its legislative body within 30 days of receipt  
23 of that audit report. In addition, every redevelopment agency shall  
24 present an annual report to its legislative body at a public hearing  
25 and make the report available on its Internet Web site, or if the  
26 agency does not have an Internet Web site, on the community’s  
27 Internet Web site, within six months of the end of the agency’s  
28 fiscal year. The annual report shall contain all of the following:

29 (a) (1) An independent financial audit report for the previous  
30 fiscal year. “Audit report” means an examination of, and opinion  
31 on, the financial statements of the agency which present the results  
32 of the operations and financial position of the agency, including  
33 all financial activities with moneys required to be held in a separate  
34 Low and Moderate Income Housing Fund pursuant to Section  
35 33334.3. This audit shall be conducted by a certified public  
36 accountant or public accountant, licensed by the State of California,  
37 in accordance with Government Auditing Standards adopted by  
38 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) All of the following relating to the agency’s planning and  
6 general administrative expenses for the most recently completed  
7 fiscal year paid from the Low and Moderate Income Housing Fund:
- 8 (1) The amount and percentage of funds deposited into the Low  
9 and Moderate Income Housing Fund, exclusive of debt proceeds,  
10 expended for planning and general administrative costs described  
11 in subparagraphs (A), (C), (D), and (E) of paragraph (1) of  
12 subdivision (d) of Section 33334.3.
- 13 (2) The amount and percentage of funds deposited into the Low  
14 and Moderate Income Housing Fund, exclusive of debt proceeds,  
15 expended for planning and general administrative costs described  
16 in subparagraph (B) of paragraph (1) of subdivision (d) of Section  
17 33334.3.
- 18 (3) Consistent with the categories described in paragraph (1) of  
19 subdivision (d) of Section 33334.3, an itemization of each category  
20 of planning and general administration expenditures from the Low  
21 and Moderate Income Housing Fund and an explicit description  
22 of how the expenditures are necessary for the production,  
23 improvement, or preservation of low- and moderate-income  
24 housing.
- 25 (4) A list of the title of any agency, city, or county employees  
26 for whom any portion of his or her salary, wages, benefits, or  
27 nonpersonnel costs is paid from the Low and Moderate Income  
28 Housing Fund, the nature of the employee’s activities eligible to  
29 be paid from the Low and Moderate Income Housing Fund, the  
30 percentage of time the employee spends on activities eligible to  
31 be paid from the Low and Moderate Income Housing Fund, the  
32 percentage of time the employee spends on activities that are  
33 directly and necessarily associated with a specific eligible housing  
34 development project or to the direct administration of programs,  
35 and the percentage of the employee’s salary, wages, benefits, and  
36 nonpersonnel costs paid from the Low and Moderate Income  
37 Housing Fund.
- 38 (5) A list of any overhead costs that are paid directly or  
39 indirectly from the Low and Moderate Income Housing Fund, an  
40 identification by title and department of any other employees with

1 whom the overhead costs are shared, and a description of the total  
2 cost of the shared overhead costs.

3 (i) A statement of the amount and percentage of funds deposited  
4 into the Low and Moderate Income Housing Fund, exclusive of  
5 debt proceeds, expended for planning and general administration  
6 in each of the preceding five fiscal years that begin after December  
7 31, 2011, broken down by the categories described in paragraph  
8 (1) of subdivision (d) of Section 33334.3.

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

17 (k) A list of the redevelopment projects that have caused a  
18 replacement obligation pursuant to subdivision (a) of Section  
19 33413, the respective number of units the agency is obligated to  
20 replace as a result of each project, and the location and status of  
21 the replacement units. This list shall cover each fiscal year from  
22 the agency's last adopted implementation plan.

23 (l) A separate list of the development projects that have caused  
24 a production obligation pursuant to subdivision (b) of Section  
25 33413, the respective number of units the agency is obligated to  
26 produce as a result of each project, and the location and status of  
27 the production units. This list shall cover each fiscal year from the  
28 agency's last adopted implementation plan.

29 ~~(m) For each housing project in which the agency provided  
30 more than five hundred thousand dollars (\$500,000) in financing  
31 during the fiscal year, the amount of agency financing in  
32 comparison to the source and amount of each nonagency funding  
33 source, including other public financing, tax credit equity, and  
34 private financing.~~

35 *(m) For each housing project for which the agency has  
36 designated funds, encumbered funds, or amended an existing  
37 designation or encumbrance of funds during the fiscal year, and  
38 where the agency's financing constitutes more than 50 percent of  
39 the total cost of the low- and moderate-income housing units in  
40 the project, the project name, location, number of affordable units,*

1 *affordability level, amount of agency financing, and the total cost*  
2 *of the low- and moderate-income units.*

3 (n) An agency that has deposited less than one hundred thousand  
4 dollars (\$100,000) into its Low and Moderate Income Housing  
5 Fund during the fiscal year is not required to provide in its annual  
6 report the information described in subdivisions (h) to (m),  
7 inclusive.

8 (o) Any other information that the agency believes useful to  
9 explain its programs, including, but not limited to, the number of  
10 jobs created and lost in the previous fiscal year as a result of its  
11 activities.

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

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

23 (b) At the time the agency presents the annual report to the  
24 legislative body pursuant to Section 33080.1, the legislative body  
25 shall adopt a separate written resolution making a finding, based  
26 on substantial evidence in the record, that the actual planning and  
27 general administrative expenses for the most recently completed  
28 fiscal year paid from the Low and Moderate Income Housing Fund  
29 did not exceed the limits established in subparagraphs (A) and (B)  
30 of paragraph (2) of subdivision (d) of Section 33334.3 or that the  
31 exception in subparagraph (C) of paragraph (2) of subdivision (d)  
32 of Section 33334.3 applies.

33 (c) The legislative body shall review any report submitted  
34 pursuant to Section 33080.1 and take any action it deems  
35 appropriate on that report no later than the first meeting of the  
36 legislative body occurring more than 21 days from the receipt of  
37 the report.

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



1 33080.8. (a) On or before April 1 of each year, the Controller  
2 shall compile a list of agencies that appear to have major audit  
3 violations as defined in this section, based on the independent  
4 financial audit reports filed with the Controller pursuant to Section  
5 33080, and make the list available on the Controller's Internet  
6 Web site.

7 (b) On or before June 1 of each year, for each major audit  
8 violation of each agency identified pursuant to subdivision (a), the  
9 Controller shall determine if the agency has corrected the major  
10 audit violation. Before making this determination, the Controller  
11 shall consult with each affected agency and may consult with  
12 affected local community groups. In making this determination,  
13 the Controller may request and shall receive the prompt assistance  
14 of public officials and public agencies, including, but not limited  
15 to, the affected agencies, counties, and cities. If the Controller  
16 determines that an agency has not corrected the major audit  
17 violation, the Controller shall send a list of those agencies, their  
18 major violations, all relevant documents, and the affidavits required  
19 pursuant to subdivision (d) to the Attorney General for action  
20 pursuant to this section.

21 (c) For each agency that the Controller refers to the Attorney  
22 General pursuant to subdivision (b), the Controller shall notify the  
23 agency and the legislative body that the agency was on the list sent  
24 to the Attorney General. The Controller's notice shall inform the  
25 agency and the legislative body of the duties imposed by Section  
26 33080.2.

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

1 The agency shall file a response to any action filed by the Attorney  
2 General pursuant to this section within 15 days of service.

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

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

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

15 (A) Encumbering any funds or expending any money derived  
16 from any source except to pay the obligations designated in  
17 subparagraphs (A) to (F), inclusive, of paragraph (1) of subdivision  
18 (e) of Section 33334.12, or to pay amounts for the operation and  
19 administration of the agency in accordance with the agency's most  
20 recently adopted budget.

21 (B) Adopting a redevelopment plan.

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

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

30 (E) Incurring any indebtedness, except to increase, improve,  
31 preserve, or assist in the construction or rehabilitation of, housing  
32 units that will be occupied by and affordable to persons or families  
33 of extremely low, very low, low, or moderate income, in  
34 accordance with this part.

35 (F) Exercising the power of eminent domain.

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

39 (g) If, on the basis of that subsequent hearing, the court  
40 determines that the agency has a major audit violation and has not

1 corrected that violation, the court shall order the agency to comply  
2 with this part within 30 days, and order the agency to forfeit to the  
3 state a monetary sanction commensurate with the violation. The  
4 sanction shall not be paid from the agency’s Low and Moderate  
5 Income Housing Fund or any other city, county, or agency special  
6 fund related to housing.

7 (h) The order issued by the court pursuant to paragraph (3) of  
8 subdivision (e) shall continue in effect until the court determines  
9 that the agency has corrected the major audit violation. If the court  
10 determines that the agency has corrected the major audit violation,  
11 the court may dissolve its order issued pursuant to paragraph (3)  
12 of subdivision (e) at any time.

13 (i) An action filed pursuant to this section to compel an agency  
14 to comply with this part is in addition to any other remedy, and is  
15 not an exclusive means to compel compliance. This section shall  
16 not be construed to preclude an action to compel compliance with  
17 this article by any other interested party or resident of the  
18 jurisdiction.

19 (j) As used in this section, “major audit violation” means that,  
20 for the fiscal year in question, an agency did not:

21 (1) File an independent financial audit report that substantially  
22 conforms with the requirements of subdivision (a) of Section  
23 33080.1.

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

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

27 (4) Deposit all required tax increment revenues and all other  
28 funds required to be deposited into the fund directly into the Low  
29 and Moderate Income Housing Fund upon receipt, as required by  
30 Section 33334.3, 33334.6, 33487, or 33492.16.

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

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

36 (7) Comply with subdivisions (d) and (e) of Section 33334.3,  
37 governing eligible expenditures for planning and general  
38 administration from the Low and Moderate Income Housing Fund,  
39 and adopt the resolution required by subdivision (b) of Section  
40 33080.2.

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

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

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

7 33080.9. (a) (1) The department shall forward to the Attorney  
8 General and the Controller a copy of any audit or investigation of  
9 a redevelopment agency conducted pursuant to Section 50464.5.

10 (2) On or before April 1 of each year, the department shall  
11 determine for all audits and investigations conducted the previous  
12 year, including those audits and investigations conducted pursuant  
13 to Section 50464.5, whether an audit or investigation contains  
14 major audit violations, as defined in subdivision (j) of Section  
15 33080.8. The department shall make the information available on  
16 its Internet Web site.

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

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

37 (d) For each agency the department refers to the Attorney  
38 General pursuant to subdivision (b), the provisions of subdivisions  
39 (d) to (i), inclusive, of Section 33080.8 shall apply, except that

1 references to the Controller in those subdivisions shall be deemed  
2 to refer to the department.

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

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

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

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

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

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

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

39 (3) If an appeal is filed with the California Board of  
40 Accountancy, the board shall complete an investigation of the

1 appeal. On the basis of the investigation, the board may do either  
2 of the following:

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

5 (B) Schedule the appeal for a hearing.

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

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

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

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

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

37 (1) (A) That no need exists in the community to improve,  
38 increase, or preserve the supply of low- and moderate-income  
39 housing, including housing for very low income households in a  
40 manner that would benefit the project area and that this finding is

1 consistent with the housing element of the community’s general  
2 plan required by Article 10.6 (commencing with Section 65580)  
3 of Chapter 3 of Division 1 of Title 7 of the Government Code,  
4 including its share of the regional housing needs of very low  
5 income households and persons and families of low or moderate  
6 income.

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (A) Employee compensation costs, including salaries, wages,  
15 and benefits, and related nonpersonnel costs, including, but not  
16 limited to, travel, training, publications, and conferences, paid to  
17 or on behalf of any agency, city, or county employee whose duties  
18 include activities authorized under subdivision (e) of Section  
19 33334.2, except for those activities that are necessary for and  
20 directly related to the development of a specific eligible housing  
21 development project or the deliverance of eligible programs serving  
22 low- and moderate-income households. If the employee spends  
23 any time on matters other than those authorized under subdivision  
24 (e) of Section 33334.2, Low and Moderate Income Housing Fund  
25 moneys may only be used to pay for employee compensation and  
26 related nonpersonnel costs in proportion to the actual time that the  
27 employee spends on activities authorized under subdivision (e) of  
28 Section 33334.2.

29 (B) Employee compensation costs, including salaries, wages,  
30 and benefits, and related nonpersonnel costs, including, but not  
31 limited to, travel, training, publications, and conferences, paid to  
32 or on behalf of any agency, city, or county employee for activities  
33 authorized under subdivision (e) of Section 33334.2 that are  
34 necessary for and directly related to the development of a specific  
35 eligible housing development project or the deliverance of eligible  
36 programs that serve low- and moderate-income households. Those  
37 activities shall include negotiation and project management of  
38 disposition and development agreements, land leases, loan  
39 agreements, and similar affordable housing agreements;  
40 redevelopment agency work on entitlements for eligible affordable



1 housing developments; loan processing and servicing; inspection  
2 of new and rehabilitated units; construction monitoring of an  
3 eligible housing development; and monitoring of affordable  
4 housing units. If the employee spends any time on matters other  
5 than those authorized under subdivision (e) of Section 33334.2,  
6 Low and Moderate Income Housing Fund moneys may only be  
7 used to pay for employee compensation and related nonpersonnel  
8 costs in proportion to the actual time that the employee spends on  
9 activities authorized under subdivision (e) of Section 33334.2.

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

27 (D) Overhead costs, including, but not limited to, rent or  
28 mortgage payments, equipment, and office supplies. If the overhead  
29 costs are shared with departments or employees whose duties  
30 include activities other than those authorized under subdivision  
31 (e) of Section 33334.2, the proportion of the overhead costs paid  
32 from the Low and Moderate Income Housing Fund shall not exceed  
33 the proportion of employees working directly and exclusively on  
34 activities authorized under subdivision (e) of Section 33334.2  
35 represented in comparison to the total number of employees sharing  
36 the space, equipment, or office supplies.

37 (E) The total value of any contracts for agency planning or  
38 administrative services that are related to activities authorized  
39 under subdivision (e) of Section 33334.2.

1 (F) Any other costs for planning and general administrative  
2 activities that are related to activities authorized under subdivision  
3 (e) of Section 33334.2.

4 (2) (A) Except as provided in subparagraph (C), an agency in  
5 any fiscal year shall not expend more than 10 percent of the money  
6 deposited into the Low and Moderate Income Housing Fund,  
7 exclusive of debt proceeds, for planning and general administrative  
8 costs described in subparagraphs (A), (C), (D), (E), and (F) of  
9 paragraph (1).

10 (B) Except as provided in subparagraph (C), an agency in any  
11 fiscal year shall not expend more than 10 percent of the money  
12 deposited into the Low and Moderate Income Housing Fund,  
13 exclusive of debt proceeds, for planning and general administrative  
14 costs described in subparagraph (B) of paragraph (1), except that  
15 an agency may additionally expend for these purposes any  
16 difference between the cap described in subparagraph (A) and  
17 actual expenditures for those planning and general administrative  
18 costs.

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

26 (3) In a challenge related to the proportionality of costs, as  
27 required by subparagraphs (A), (B), (C), and (D) of paragraph (1),  
28 the agency shall bear the burden of proof to demonstrate that the  
29 costs are proportionate. In a challenge related to compliance with  
30 the requirements of paragraph (2), the agency shall bear the burden  
31 of proof to demonstrate that costs are appropriately allocated to  
32 subparagraph (B) of paragraph (1).

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

36 ~~(1) Code enforcement.~~

37 ~~(2)~~

38 (A) Land use planning or related activities of a planning  
39 department, including development or revision of the general plan  
40 housing element, except for the payment of normal project-related

1 planning fees applicable to all similar development projects. This  
2 limitation shall not preclude an agency from expending moneys  
3 from the Low and Moderate Income Housing Fund toward the  
4 cost of agency staff participation in the development of the general  
5 plan housing element provided that those costs are counted towards  
6 the cap described in subparagraph (A) of paragraph (2) of  
7 subdivision (d).

8 ~~(3)~~

9 (B) Lobbying. The Legislature finds and declares that this  
10 ~~paragraph~~ *subparagraph* is declaratory of existing law.

11 ~~(4)~~

12 (C) Administration of nonredevelopment activities unrelated to  
13 activities allowed pursuant to this section, and Sections 33334.2,  
14 33334.6, and 33487.

15 (2) *An agency may expend up to 2 percent of the moneys*  
16 *deposited into the Low and Moderate Income Housing Fund,*  
17 *exclusive of debt proceeds, for code enforcement activities within*  
18 *a project area that improve the housing opportunities of low- or*  
19 *moderate-income households. However, if code enforcement*  
20 *activities result, directly or indirectly, in the displacement of*  
21 *tenants or the removal from the market of units affordable to or*  
22 *occupied by low- or moderate-income households, the agency shall*  
23 *be subject to the relocation and replacement obligations imposed*  
24 *by this part and the requirements of Chapter 16 (commencing with*  
25 *Section 7260) of Division 7 of Title 1 of the Government Code,*  
26 *except that Section 7265.3 of the Government Code shall not apply.*

27 (f) (1) The requirements of this subdivision apply to all new or  
28 substantially rehabilitated housing units developed or otherwise  
29 assisted with moneys from the Low and Moderate Income Housing  
30 Fund, pursuant to an agreement approved by an agency on or after  
31 January 1, 1988. Except to the extent that a longer period of time  
32 may be required by other provisions of law, the agency shall require  
33 that housing units subject to this subdivision shall remain available  
34 at affordable housing cost to, and occupied by, persons and families  
35 of low or moderate income and very low income and extremely  
36 low income households for the longest feasible time, but for not  
37 less than the following periods of time:

38 (A) Fifty-five years for rental units. However, the agency may  
39 replace rental units with equally affordable and comparable rental  
40 units in another location within the community if (i) the

1 replacement units are available for occupancy prior to the  
2 displacement of any persons and families of low or moderate  
3 income residing in the units to be replaced and (ii) the comparable  
4 replacement units are not developed with moneys from the Low  
5 and Moderate Income Housing Fund.

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

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

1 Income Housing Fund. For the purposes of this subparagraph,  
2 “mutual self-help housing unit” means an owner-occupied housing  
3 unit for which persons and families of very low and low income  
4 contribute no fewer than 500 hours of their own labor in individual  
5 or group efforts to provide a decent, safe, and sanitary ownership  
6 housing unit for themselves, their families, and others authorized  
7 to occupy that unit. Nothing in this subparagraph precludes the  
8 agency and the developer of the mutual self-help housing units  
9 from agreeing to 45-year deed restrictions.

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

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

15 (A) The covenants or restrictions implementing this subdivision  
16 for each parcel or unit of real property subject to this subdivision.  
17 The agency shall obtain and maintain a copy of the recorded  
18 covenants or restrictions for not less than the life of the covenant  
19 or restriction.

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

26 (i) A recitation of the affordability covenants or restrictions. If  
27 the document recorded under this subparagraph is recorded  
28 concurrently with the covenants or restrictions recorded under  
29 subparagraph (A), the recitation of the affordability covenants or  
30 restrictions shall also reference the concurrently recorded  
31 document. If the document recorded under this subparagraph is  
32 not recorded concurrently with the covenants or restrictions  
33 recorded under subparagraph (A), the recitation of the affordability  
34 covenants or restrictions shall also reference the recorder’s  
35 identification number of the document recorded under subparagraph  
36 (A).

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

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

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

2 (v) The legal description of the property.

3 (4) The agency shall require the recording of the document  
4 required under subparagraph (B) of paragraph (3) not more than  
5 30 days after the date of recordation of the covenants or restrictions  
6 required under subparagraph (A) of paragraph (3).

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

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

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

18 (A) The agency.

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

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

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

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

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

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

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

30 (iii) Was denied occupancy of that particular unit due to an  
31 alleged breach of a covenant or restriction implementing this  
32 subdivision.

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

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

1 (9) Failure to comply with the requirements of subparagraph  
2 (B) of paragraph (3) shall not invalidate any covenants or  
3 restrictions recorded pursuant to subparagraph (A) of paragraph  
4 (3).

5 (g) “Housing,” as used in this section, includes residential hotels,  
6 as defined in subdivision (k) of Section 37912. The definitions of  
7 “lower income households,” “very low income households,” and  
8 “extremely low income households” in Sections 50079.5, 50105,  
9 and 50106 shall apply to this section. “Longest feasible time,” as  
10 used in this section, includes, but is not limited to, unlimited  
11 duration.

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

33 (i) Agencies that have more than one project area may satisfy  
34 the requirements of Sections 33334.2 and 33334.6 and of this  
35 section by allocating, in any fiscal year, less than 20 percent in  
36 one project area, if the difference between the amount allocated  
37 and the 20 percent required is instead allocated, in that same fiscal  
38 year, to the Low and Moderate Income Housing Fund from tax  
39 increment revenues from other project areas. Prior to allocating

1 funds pursuant to this subdivision, the agency shall make the  
2 finding required by subdivision (g) of Section 33334.2.

3 (j) Funds from the Low and Moderate Income Housing Fund  
4 shall not be used to the extent that other reasonable means of  
5 public, private, or commercial financing for the new construction,  
6 acquisition, or substantial rehabilitation of units at the same level  
7 of affordability and quantity are reasonably available to the agency  
8 or to the owner of the units. Prior to the expenditure of funds from  
9 the Low and Moderate Income Housing Fund for the new  
10 construction, acquisition, or substantial rehabilitation of housing  
11 units, where those funds will exceed 50 percent of the cost of  
12 producing the units, the agency shall find, based on substantial  
13 evidence, that the use of the funds is necessary because the agency  
14 or owner of the units has made a good faith attempt but been unable  
15 to obtain other public, private, or commercial financing of the units  
16 at the same level of affordability and quantity.

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

19 33334.4. (a) (1) Over each 10-year implementation planning  
20 period, as specified in clause (iii) of subparagraph (A) of paragraph  
21 (2) of subdivision (a) of Section 33490, that begins before January  
22 1, 2010, each agency shall expend the moneys in the Low and  
23 Moderate Income Housing Fund to assist housing for persons of  
24 low income and housing for persons of very low income in at least  
25 the same proportion as the total number of housing units needed  
26 for each of those income groups bears to the total number of units  
27 needed for persons of moderate, low, and very low income within  
28 the community, as those needs have been determined for the  
29 community pursuant to Section 65584 of the Government Code.

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

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

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



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

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

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

15 (4) An agency shall satisfy the requirements of paragraph (2)  
16 by demonstrating in each implementation plan that as of the end  
17 of the immediately preceding 5-year implementation planning  
18 period, the agency’s aggregate expenditures from the Low and  
19 Moderate Income Housing Fund, exclusive of debt service  
20 payments, between the end of the last 10-year implementation  
21 period referenced in paragraph (1) and the end of the immediately  
22 preceding 5-year implementation planning period satisfy the  
23 proportionality requirements set forth in paragraph (2).

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

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

35 (b) Each agency shall expend over the duration of each  
36 redevelopment implementation plan, the moneys in the Low and  
37 Moderate Income Housing Fund to assist housing that is available  
38 to all persons regardless of age in at least the same proportion as  
39 the number of low-income households with a member under age  
40 65 years bears to the total number of low-income households of

1 the community as reported in the most recent census of the United  
2 States Census Bureau.

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

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

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

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

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

38 (f) Agencies are encouraged to expend moneys in the Low and  
39 Moderate Income Housing Fund to assist special housing needs  
40 identified in the community's housing element pursuant to

1 paragraph (7) of subdivision (a) of Section 65583 of the  
2 Government Code.

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

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

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

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

33 (d) For disbursements or expenditures of excess surplus made  
34 prior to January 1, 2012, the amount of excess surplus that shall  
35 be transferred to the housing authority or other public agency  
36 because of a failure of the redevelopment agency to expend or  
37 encumber excess surplus within one year shall be the amount of  
38 the excess surplus that is not so expended or encumbered. The  
39 housing authority or other public agency to which the moneys are  
40 transferred shall expend or encumber these moneys for authorized

1 purposes not later than three years after the date these moneys  
2 were transferred from the Low and Moderate Income Housing  
3 Fund.

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

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

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

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

21 (D) Obligations incurred pursuant to Section 33445.

22 (E) Indebtedness incurred pursuant to Section 33334.2 or  
23 33334.6.

24 (F) Obligations incurred pursuant to Section 33401.

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

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

34 (f) For purposes of this section:

35 (1) "Excess surplus" means any unexpended and unencumbered  
36 amount in an agency's Low and Moderate Income Housing Fund  
37 that exceeds the greater of one million dollars (\$1,000,000) or the  
38 aggregate amount deposited into the Low and Moderate Income  
39 Housing Fund pursuant to Sections 33334.2 and 33334.6 during  
40 the agency's preceding four fiscal years. The first fiscal year to be

1 included in this computation is the 1989–90 fiscal year, and the  
2 first date on which an excess surplus may exist is July 1, 1994.

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

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

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

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

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

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

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

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

31 33334.16. (a) (1) For each interest in real property acquired  
32 using moneys from the Low and Moderate Income Housing Fund,  
33 the agency shall, within five years from the date of acquisition,  
34 complete at least one of the following activities:

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

38 (B) Obtain final land use entitlements and secure full financing  
39 for agency development of housing affordable to persons and  
40 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, a California regional  
4 water quality control board, or the Office of Human Health Risk  
5 Assessment, for the cleanup of contamination.

6 (2) On or after January 1, 2013, if none of the activities  
7 described in paragraph (1) has been completed within five years,  
8 or if less than 10 percent of the dwelling units or floor area of a  
9 project is developed within 10 years from the date the agency  
10 originally acquired the property, the agency shall reimburse the  
11 Low and Moderate Income Housing Fund 150 percent of the  
12 amount expended to acquire and maintain the property or of the  
13 current fair market value of the property, whichever amount is  
14 greater.

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

21 (4) An agency may adopt a resolution to petition the department  
22 for, and the department may grant, a single extension for up to five  
23 years of the deadlines established in paragraphs (1) and (2) if the  
24 department makes a finding that the failure to complete the required  
25 activities is due to circumstances beyond the agency's or  
26 community's control and that the agency has a feasible plan for  
27 the development of housing affordable to persons and families of  
28 low and moderate income on the real property within the period  
29 of the extension. The agency shall provide information supporting  
30 the need for the extension and a plan for development of the  
31 property. The department shall solicit comments from known or  
32 expected parties interested in the petition and consider comments  
33 from these and any other parties. The department shall establish  
34 a schedule of fees to cover but not exceed its costs under this  
35 subparagraph, and at the time the petition is submitted the agency  
36 shall pay the fees with funds other than those required to be set  
37 aside or used for low- and moderate-income housing pursuant to  
38 this part or otherwise designated for affordable housing.

39 (b) At any time, in addition to proceeds from the sale or transfer,  
40 the agency shall deposit into the Low and Moderate Income

1 Housing Fund from agency revenues other than those required to  
2 be deposited in the Low and Moderate Income Housing Fund an  
3 amount equal to 50 percent of the fair market value of the property  
4 at the time it is sold or transferred or, if the property is not sold or  
5 transferred, of the fair market value of the land at the time a  
6 building permit is issued for the property. This subdivision shall  
7 apply only under either of the following conditions:

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

12 (2) A real property acquired using moneys from the Low and  
13 Moderate Income Housing Fund is developed such that less than  
14 50 percent of the floor area, or a percentage of the floor area equal  
15 to the proportion that moneys from the Low and Moderate Income  
16 Housing Fund represent to the total acquisition cost, whichever is  
17 less, is housing affordable to persons and families of low and  
18 moderate income.

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

21 33413. (a) Whenever dwelling units affordable to or occupied  
22 by persons and families of low or moderate income are destroyed  
23 or removed from the low- and moderate-income housing market  
24 as part of a redevelopment project that is subject to a written  
25 agreement with the agency or where financial assistance has been  
26 provided by the agency, the agency shall, within four years of the  
27 destruction or removal, construct, or cause to be constructed, for  
28 rental or sale to persons and families of low or moderate income,  
29 an equal number of replacement dwelling units that have an equal  
30 or greater number of bedrooms as those destroyed or removed  
31 units at affordable housing costs within the territorial jurisdiction  
32 of the agency, provided that if the units are provided outside the  
33 project area the agency shall provide two units for each unit the  
34 agency is obligated to replace. The replacement obligation shall  
35 apply to all units affordable to low- or moderate-income persons  
36 or families at the time of initiation of negotiations of a written  
37 agreement with or financial assistance from the agency. For  
38 purposes of this section, the inclusion of residential units in the  
39 rehabilitation of an existing nonresidential structure shall constitute  
40 construction.



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

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

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

22 (4) Up to 25 percent of the replacement obligation incurred  
23 during a five-year implementation plan may be satisfied in either  
24 of the following ways:

25 (A) With units that have been rehabilitated such that  
26 after-rehabilitation value is increased by 50 percent or more of the  
27 pre-rehabilitation value, as evidenced by pre and post rehabilitation  
28 appraisals and, the rehabilitated units were, at the time the dwelling  
29 units to be replaced were destroyed or removed were either of the  
30 following:

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

33 (ii) Vacant due to substandard conditions as defined in Section  
34 1941.1 of the Civil Code.

35 (B) With substantially rehabilitated multifamily rental dwelling  
36 units, as defined in paragraph (2) of subdivision (b) and evidenced  
37 by pre and post rehabilitation appraisals, provided that the agency  
38 shall substantially rehabilitate within the project area, two units  
39 for each unit the agency is obligated to replace, or outside of the

1 project area, three units for each unit the agency is obligated to  
2 replace.

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

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

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

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

36 (iii) On or after January 1, 2002, as used in this paragraph and  
37 in paragraph (1), “substantially rehabilitated dwelling units” means  
38 all units substantially rehabilitated, with agency assistance. Prior  
39 to January 1, 2002, “substantially rehabilitated dwelling units”  
40 shall mean substantially rehabilitated multifamily rented dwelling

1 units with three or more units regardless of whether there is agency  
2 assistance, or substantially rehabilitated, with agency assistance,  
3 single-family dwelling units with one or two units.

4 (iv) As used in this paragraph and in paragraph (1), “substantial  
5 rehabilitation” means rehabilitation, the value of which constitutes  
6 25 percent of the after-rehabilitation value of the dwelling,  
7 inclusive of the land value.

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

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

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

1 (D) To satisfy the requirements of paragraph (1) and  
2 subparagraph (A), each mutual self-help housing unit, as defined  
3 in subparagraph (C) of paragraph (1) of subdivision (f) of Section  
4 33334.3, that is subject to a 15-year deed restriction shall count as  
5 one-third of a unit.

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

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

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

1 the developer of the mutual self-help housing units from agreeing  
2 to 45-year deed restrictions.

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

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

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

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

39 (d) (1) This section applies only to redevelopment projects for  
40 which a final redevelopment plan is adopted pursuant to Article 5

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

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

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

31 (f) Notwithstanding subdivision (a), the agency may replace  
32 destroyed or removed dwelling units with a fewer number of  
33 replacement dwelling units if the replacement dwelling units meet  
34 both of the following criteria:

35 (1) The total number of bedrooms in the replacement dwelling  
36 units equals or exceeds the number of bedrooms in the destroyed  
37 or removed units. Destroyed or removed units having one or no  
38 bedroom are deemed for this purpose to have one bedroom.

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

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

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

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

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

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

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

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

17 SEC. 14.5. Section 33418 of the Health and Safety Code is  
18 amended to read:

19 33418. (a) An agency shall monitor, on an ongoing basis, any  
20 housing affordable to persons and families of low or moderate  
21 income developed or otherwise made available pursuant to any  
22 provisions of this part. As part of this monitoring, an agency shall  
23 require owners or managers of the housing to submit an annual  
24 report to the agency. The annual reports shall include for each  
25 rental unit the rental rate and the income and family size of the  
26 occupants, and for each owner-occupied unit whether there was a  
27 change in ownership from the prior year and, if so, the income and  
28 family size of the new owners. The income information required  
29 by this section shall be supplied by the tenant in a certified  
30 statement on a form provided by the agency.

31 (b) The data specified in subdivision (a) shall be obtained by  
32 the agency from owners and managers of the housing specified  
33 therein and current data shall be included in any reports required  
34 by law to be submitted to the Department of Housing and  
35 Community Development or the Controller. The information on  
36 income and family size that is required to be reported by the owner  
37 or manager shall be supplied by the tenant and shall be the only  
38 information on income or family size that the owner or manager  
39 shall be required to submit on his or her annual report to the  
40 agency.



1 (c) (1) The agency shall compile and maintain a database of  
2 existing, new and substantially rehabilitated, housing units  
3 developed or otherwise assisted with moneys from the Low and  
4 Moderate Income Housing Fund, or otherwise counted towards  
5 the requirements of subdivision (a) or (b) of Section 33413. The  
6 database shall be made available to the public on the Internet and  
7 updated on an annual basis and shall include the date the database  
8 was last updated. The database shall require all of the following  
9 information for each owner-occupied unit or rental unit, or for  
10 each group of units, if more than one unit is subject to the same  
11 covenant:

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

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

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

17 (D) The date of recordation and document number of the  
18 affordability covenants or restrictions required under subdivision  
19 (f) of Section 33334.3.

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

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

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

28 (H) The affordability level of each unit.

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

30 (J) Whether the unit is being counted towards a replacement  
31 obligation pursuant to subdivision (a) of Section 33413 or towards  
32 a production obligation pursuant to subdivision (b) of Section  
33 33413.

34 (K) The project type, including, but not limited to, new  
35 construction, substantial rehabilitation, preservation, or the  
36 purchase of long-term affordability covenants.

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

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

4 (d) The agency shall adequately fund its monitoring activities  
 5 as needed to insure compliance of applicable laws and agreements  
 6 in relation to affordable units. For purposes of defraying the cost  
 7 of complying with the requirements of this section and the changes  
 8 in reporting requirements of Section 33080.4 enacted by the act  
 9 enacting this section, an agency may establish and impose fees  
 10 upon owners of properties monitored pursuant to this section.

11 (e) The agency shall continue to monitor and enforce the  
 12 covenants covered by this section for the entire period of the  
 13 covenant. In the event the agency ceases its activities prior to the  
 14 entire period of the covenants, then its designated successor agency  
 15 shall monitor and enforce the covenants for the remaining period  
 16 of the covenant. If a successor agency is not designated at the time  
 17 the agency ceases its activities, then the community shall monitor  
 18 and enforce the covenants for the remaining period of the covenant.

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

22

23 Article 13. Accountability Audits

24

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

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

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

1 pursuant to paragraph (7) of subdivision (a) of Section 25.5 of  
2 Article XIII of the California Constitution.

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

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

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

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

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

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

19 (d) Notwithstanding subdivision (d) of Section 33413, any  
20 agency that merges its redevelopment project areas pursuant to  
21 this article shall be subject to subdivisions (a) and (c) of Section  
22 33413.

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

25 33490. (a) (1) (A) On or before December 31, 1994, and each  
26 five years thereafter, each agency that has adopted a redevelopment  
27 plan prior to December 31, 1993, shall adopt, after a public hearing,  
28 an implementation plan that shall contain the specific goals and  
29 objectives of the agency for the project area, the specific programs,  
30 including potential projects, and estimated expenditures proposed  
31 to be made during the next five years, and an explanation of how  
32 the goals and objectives, programs, and expenditures will eliminate  
33 blight within the project area and implement the requirements of  
34 Section 33333.10, if applicable, and Sections 33334.2, 33334.4,  
35 33334.6, 33413, and 33487. After adoption of the first  
36 implementation plan, the parts of the implementation plan that  
37 address Section 33333.10, if applicable, and Sections 33334.2,  
38 33334.4, 33334.6, ~~and 33413~~ 33413, ~~and 33487~~ shall be adopted  
39 every five years in conjunction with the implementation plan cycle  
40 and shall be made available to the public on the Internet. The

1 agency may amend the implementation plan after conducting a  
2 public hearing on the proposed amendment. If an action attacking  
3 the adoption, approval, or validity of a redevelopment plan adopted  
4 prior to January 1, 1994, has been brought pursuant to Chapter 5  
5 (commencing with Section 33500), the first implementation plan  
6 required pursuant to this section shall be adopted within six months  
7 after a final judgment or order has been entered. Subsequent  
8 implementation plans required pursuant to this section shall be  
9 adopted pursuant to the terms of this section, and as if the first  
10 implementation plan had been adopted on or before December 31,  
11 1994.

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

32 (2) (A) A portion of the implementation plan shall address the  
33 agency housing responsibilities and shall contain a section  
34 addressing Section 33333.10, if applicable, and Sections 33334.2,  
35 33334.4, 33334.6, and 33487, the Low and Moderate Income  
36 Housing Fund, and, if subdivision (b) of Section 33413 applies, a  
37 section addressing agency developed and project area housing.  
38 The section addressing the Low and Moderate Income Housing  
39 Fund shall contain:

1 (i) The amount available in the Low and Moderate Income  
2 Housing Fund and the estimated amounts which will be deposited  
3 in the Low and Moderate Income Housing Fund during each of  
4 the next five years.

5 (ii) A housing program with estimates of the number of new,  
6 rehabilitated, or price restricted units to be assisted during each of  
7 the five years and estimates of the expenditures of moneys from  
8 the Low and Moderate Income Housing Fund during each of the  
9 five years.

10 (iii) A description of how the housing program will implement  
11 the requirement for expenditures of moneys in the Low and  
12 Moderate Income Housing Fund over a 10-year period or 5-year  
13 period, as applicable, for various groups as required by Section  
14 33334.4. For project areas to which subdivision (b) of Section  
15 33413 applies, the 10-year period within which subdivision (b) of  
16 Section 33413 is required to be implemented shall coincide with  
17 the 10-year period or with two 5-year periods, as applicable, within  
18 which Section 33334.4 is required to be implemented.  
19 Notwithstanding the first sentence of Section 33334.4 and the first  
20 sentence of this clause, in order to allow these two 10-year time  
21 periods to coincide for the first time period, the time to implement  
22 the requirements of Section 33334.4 shall be extended two years,  
23 and project areas in existence on December 31, 1993, shall  
24 implement the requirements of Section 33334.4 on or before  
25 December 31, 2014, rather than December 31, 2012. For project  
26 areas to which subdivision (b) of Section 33413 does not apply,  
27 the requirements of Section 33334.4 shall be implemented on or  
28 before December 31, 2014.

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

33 (B) For each project area to which subdivision (b) of Section  
34 33413 applies, the section addressing the agency developed and  
35 project area housing shall contain:

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

- 1 (ii) Estimates of the number of units of very low, low-, and  
2 moderate-income households required to be developed within one  
3 or more project areas in order to meet the requirements of  
4 paragraph (2) of subdivision (b) of Section 33413, both over the  
5 life of the plan and during the next 10 years.
- 6 (iii) A statement of the number of units of very low, low-, and  
7 moderate-income households which have been developed over the  
8 life of the plan within one or more project areas which meet the  
9 requirements of subdivision (b) of Section 33413.
- 10 (iv) Estimates of the number of agency developed residential  
11 units which will be developed during the next five years, if any,  
12 which will be governed by paragraph (1) of subdivision (b) of  
13 Section 33413.
- 14 (v) Estimates of the number of agency developed units for very  
15 low, low-, and moderate-income households which will be  
16 developed by the agency during the next five years to meet the  
17 requirements of paragraph (1) of subdivision (b) of Section 33413.
- 18 (C) The section addressing Section 33333.10, if applicable, and  
19 Section 33334.4 shall contain all of the following:
- 20 (i) The proposed amount of expenditures from the Low and  
21 Moderate Income Housing Fund for the new construction,  
22 acquisition and substantial rehabilitation, or preservation of housing  
23 for persons of extremely low, very low, or low income during each  
24 year of the implementation plan period.
- 25 (ii) The total population of the community and the population  
26 under 65 years of age as reported in the most recent census of the  
27 United States Census Bureau.
- 28 (iii) A housing program that provides a detailed schedule of  
29 actions the agency is undertaking or intends to undertake to ensure  
30 expenditure of the Low and Moderate Income Housing Fund in  
31 the proportions required by Section 33333.10, if applicable, and  
32 Section 33334.4.
- 33 (iv) For the previous implementation plan period, the number,  
34 the location, and level of affordability of units newly constructed  
35 without agency assistance and that are required to be affordable  
36 to, and occupied by, persons of low, very low, or extremely low  
37 income for at least 55 years for rental housing or 45 years for home  
38 ownership housing, and the amount of Low and Moderate Income  
39 Housing Fund moneys utilized to assist housing units available to

1 families with children, and the number, location, and level of  
2 affordability of those units.

3 (v) A demonstration, based on substantial evidence in the plan,  
4 that as of the end of the immediately preceding 5-year  
5 implementation planning period, the agency’s aggregate  
6 expenditures from the Low and Moderate Income Housing Fund,  
7 exclusive of debt service payments, between the end of the last  
8 10-year implementation period referenced in paragraph (1) of  
9 subdivision (a) of Section 33334.4 and the end of the immediately  
10 preceding 5-year implementation planning period satisfy the  
11 proportionality requirements set forth in paragraph (2) of  
12 subdivision (a) of Section 33334.4.

13 (3) If the implementation plan contains a project that will result  
14 in the destruction or removal of dwelling units that will have to  
15 be replaced pursuant to subdivision (a) of Section 33413, the  
16 implementation plan shall identify proposed locations suitable for  
17 those replacement dwelling units. If the implementation plan  
18 contains a project that has resulted in the destruction or removal  
19 of dwelling units that must be replaced pursuant to subdivision (a)  
20 of Section 33413, the implementation plan shall identify either of  
21 the following:

22 (A) The replacement dwelling units that satisfy each replacement  
23 housing obligation.

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

27 (4) The implementation plan shall include a complete accounting  
28 for compliance with the agency’s affordable housing obligations  
29 over the life of the plan, including the total number of units the  
30 agency is obligated to replace pursuant to subdivision (a) of Section  
31 33413, the number of units the agency is obligated to produce  
32 pursuant to subdivision (b) of Section 33413, and the number of  
33 dwelling units that satisfy these obligations.

34 (A) For each owner-occupied unit or rental unit counted towards  
35 meeting the agency obligations under subdivision (a) or (b) of  
36 Section 33413 and required to be included in the database required  
37 pursuant to subdivision (c) of Section 33418, or for each group of  
38 such units, if more than one unit is subject to the same covenant,  
39 the implementation plan shall identify all of the following:



- 1 (i) The street address and assessor's parcel number of the  
2 property and, for properties where units are listed as a group, the  
3 number of units.
- 4 (ii) The size of each unit, measured by the number of bedrooms.
- 5 (iii) The affordability level of each unit, according to the  
6 categories required by Section 33413.
- 7 (iv) The year in which the construction or substantial  
8 rehabilitation of the unit was completed.
- 9 (v) The date of recordation and document number of the  
10 affordability covenants or restrictions required under subdivision  
11 (f) of Section 33334.3 or subdivision (c) of Section 33413.
- 12 (vi) The date on which the covenants or restrictions expire.
- 13 (vii) For the projects developed prior to January 1, 2002, a  
14 statement of the effective period of the land use controls established  
15 in the plan at the time each unit was developed, in order to  
16 demonstrate that the duration of the covenants or restrictions  
17 extends for a period not less than the applicable period of land use  
18 controls, in accordance with then applicable law.
- 19 (viii) For owner-occupied units that have changed ownership  
20 during the previous implementation plan period, the date and  
21 document number of the new affordability covenants or other  
22 documents recorded to ensure that the affordability restriction is  
23 enforceable and continues to run with the land.
- 24 (ix) Whether the unit counts towards a replacement obligation  
25 pursuant to subdivision (a) of Section 33413 or towards a  
26 production obligation pursuant to subdivision (b) of Section 33413.  
27 Units counted towards a replacement obligation shall reference  
28 the destroyed units they are replacing.
- 29 (B) For each owner-occupied unit or rental unit counted towards  
30 meeting the agency obligations under subdivision (a) or (b) of  
31 Section 33413 and not required to be included in the database  
32 required pursuant to subdivision (c) of Section 33418, or for each  
33 group of such units, if more than one unit is subject to the same  
34 covenant, the implementation plan shall identify all of the  
35 following:
  - 36 (i) The street address and, if available, assessor's parcel number  
37 of the property.
  - 38 (ii) For properties where units are listed as a group, the number  
39 of units.

- 1 (iii) The affordability level of each unit, according to the  
2 categories required by Section 33413.
- 3 (iv) The year in which the construction or substantial  
4 rehabilitation of the unit was completed.
- 5 (v) The date of recordation and document number of the  
6 affordability covenants or restrictions required under subdivision  
7 (f) of Section 33334.3 or subdivision (c) of Section 33413.
- 8 (vi) The date on which the covenants or restrictions expired.
- 9 (vii) Whether the unit counts towards a replacement obligation  
10 pursuant to subdivision (a) of Section 33413 or towards a  
11 production obligation pursuant to subdivision (b) of Section 33413.  
12 Units counted towards a replacement obligation shall reference  
13 the destroyed units they are replacing.
- 14 (5) Notwithstanding subparagraphs (A) and (E) of paragraph  
15 (4), the implementation plan shall omit any property used to  
16 confidentially house victims of domestic violence.
- 17 (6) For a project area that is within six years of the time limit  
18 on the effectiveness of the redevelopment plan established pursuant  
19 to Section 33333.2, 33333.6, 33333.7, or 33333.10, the portion of  
20 the implementation plan addressing the housing responsibilities  
21 shall specifically address the ability of the agency to comply, prior  
22 to the time limit on the effectiveness of the redevelopment plan,  
23 with subdivision (a) of Section 33333.8, subdivision (a) of Section  
24 33413 with respect to replacement dwelling units, subdivision (b)  
25 of Section 33413 with respect to project area housing, and the  
26 disposition of the remaining moneys in the Low and Moderate  
27 Income Housing Fund.
- 28 (7) The implementation plan shall identify the fiscal year that  
29 the agency expects each of the following time limits to expire:
- 30 (A) The time limit for the commencement for eminent domain  
31 proceedings to acquire property within the project area.
- 32 (B) The time limit for the establishment of loans, advances, and  
33 indebtedness to finance the redevelopment project.
- 34 (C) The time limit for the effectiveness of the redevelopment  
35 plan.
- 36 (D) The time limit to repay indebtedness with the proceeds of  
37 property taxes.
- 38 (b) For a project area for which a redevelopment plan is adopted  
39 on or after January 1, 1994, the implementation plan prepared  
40 pursuant to subdivision (c) of Section 33352 shall constitute the

1 initial implementation plan and thereafter the agency after a public  
2 hearing shall adopt an implementation plan every five years  
3 commencing with the fifth year after the plan has been adopted.  
4 Agencies may adopt implementation plans that include more than  
5 one project area.

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

21 (d) Notice of public hearings conducted pursuant to this section  
22 shall be published pursuant to Section 6063 of the Government  
23 Code, mailed at least three weeks in advance to all persons and  
24 agencies that have requested notice, and posted in at least four  
25 permanent places within the project area for a period of three weeks  
26 and concurrently posted on the Internet. Publication, mailing, and  
27 posting shall be completed not less than 10 days prior to the date  
28 set for hearing.

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

31 33506. (a) A failure to meet any of the following obligations  
32 shall be an ongoing violation until the agency has fully met the  
33 obligation:

34 (1) The obligation to eliminate project deficits pursuant to  
35 Sections 33334.6, 33487, 33492.16, and other similar and related  
36 provisions of law.

37 (2) The obligation to expend or encumber excess surplus funds  
38 pursuant to Section 33334.12 and other similar and related  
39 provisions of law.

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

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

7 (5) The obligation to provide housing pursuant to subdivision  
8 (b) of Section 33413 and other similar and related provisions of  
9 law.

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

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

14 (8) The obligation to expend funds proportionately to assist  
15 housing for persons of extremely low, very low, or low income or  
16 to assist housing available to all persons regardless of age pursuant  
17 to Section 33334.4.

18 (9) The obligations to record covenants that run with the land  
19 pursuant to subdivision (f) of Section 33334.3 and subdivision (c)  
20 of Section 33413(c).

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

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

24 50464.5. (a) The Redevelopment Agency Accountability Fund  
25 is hereby created in the State Treasury and is available, upon  
26 appropriation, to the department for the purposes of subdivision  
27 (b). Notwithstanding Section 16305.7 of the Government Code,  
28 any moneys received by the department pursuant to Section 33460,  
29 and any other sources, repayments, interest, or new appropriations,  
30 shall be deposited in the fund. Moneys in the fund shall not be  
31 subject to transfer to any other fund pursuant to any provision of  
32 Part 2 (commencing with Section 16300) of Division 4 of Title 2  
33 of the Government Code, except the Surplus Money Investment  
34 Fund. The department may require the transfer of moneys in the  
35 fund to the Surplus Money Investment Fund for investment  
36 pursuant to Article 4 (commencing with Section 16470) of Chapter  
37 3 of Part 2 of Division 4 of Title 2 of the Government Code.  
38 Notwithstanding Section 16305.7 of the Government Code, all  
39 interest, dividends, and pecuniary gains from the investments shall  
40 accrue to the fund.

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

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