

AMENDED IN ASSEMBLY AUGUST 6, 2013

AMENDED IN ASSEMBLY JUNE 10, 2013

SENATE BILL

No. 133

Introduced by Senator DeSaulnier

January 28, 2013

An act to amend Sections 33080, 33080.1, 33080.2, 33080.8, 33334.2, 33334.3, 33334.4, 33334.12, 33413, 33413.5, 33418, 33487, and 33490 of, to add Sections 33080.9, 33080.11, 33080.12, 33506, and 50464.5 to, to add Article 13 (commencing with Section 33460) to Chapter 4 of Part 1 of Division 24 of, and to repeal and add Section 33334.16 of, the Health and Safety Code, relating to ~~redevelopment~~: *redevelopment*.

LEGISLATIVE COUNSEL'S DIGEST

SB 133, as amended, DeSaulnier. 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 bill would require the Controller 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 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 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.

~~(7) This bill would become operative contingent upon the enactment of SB 341 of the 2012–13 Regular Session.~~

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

1 a copy of the report required by Section 33080.1. In addition, each
2 redevelopment agency shall file with the department a copy of the
3 audit report required by subdivision (a) of Section 33080.1. The
4 reports shall be made in the time, format, and manner prescribed
5 by the Controller after consultation with the department.

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

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

16 33080.1. Every redevelopment agency shall submit the final
17 report of any audit undertaken by any other local, state, or federal
18 government entity to its legislative body within 30 days of receipt
19 of that audit report. In addition, every redevelopment agency shall
20 present an annual report to its legislative body at a public hearing
21 and make the report available on its Internet Web site, or if the
22 agency does not have an Internet Web site, on the community's
23 Internet Web site, within six months of the end of the agency's
24 fiscal year. The annual report shall contain all of the following:

25 (a) (1) An independent financial audit report for the previous
26 fiscal year. "Audit report" means an examination of, and opinion
27 on, the financial statements of the agency which present the results
28 of the operations and financial position of the agency, including
29 all financial activities with moneys required to be held in a separate
30 Low and Moderate Income Housing Fund pursuant to Section
31 33334.3. This audit shall be conducted by a certified public
32 accountant or public accountant, licensed by the State of California,
33 in accordance with Government Auditing Standards adopted by
34 the Comptroller General of the United States. The audit report
35 shall meet, at a minimum, the audit guidelines prescribed by the
36 Controller's office pursuant to Section 33080.3 and also include
37 a report on the agency's compliance with laws, regulations, and
38 administrative requirements governing activities of the agency,
39 and a calculation of the excess surplus in the Low and Moderate
40 Income Housing Fund as defined in subdivision (g) of Section

1 33334.12. The audit report shall include a statement from the
2 auditor as to whether or not the agency has any major audit
3 violations, as defined in subdivision (j) of Section 33080.8.

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

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

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

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

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

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

25 (f) A description of the total number and nature of the properties
26 that the agency owns and those properties the agency has acquired
27 in the previous fiscal year.

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

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

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

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

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

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

1 (1) The amount and percentage of funds deposited into the Low
2 and Moderate Income Housing Fund, exclusive of debt proceeds,
3 expended for planning and general administrative costs described
4 in subparagraphs (A), (C), (D), and (E) of paragraph (1) of
5 subdivision (d) of Section 33334.3.

6 (2) The amount and percentage of funds deposited into the Low
7 and Moderate Income Housing Fund, exclusive of debt proceeds,
8 expended for planning and general administrative costs described
9 in subparagraph (B) of paragraph (1) of subdivision (d) of Section
10 33334.3.

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

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

31 (5) A list of any overhead costs that are paid directly or
32 indirectly from the Low and Moderate Income Housing Fund, an
33 identification by title and department of any other employees with
34 whom the overhead costs are shared, and a description of the total
35 cost of the shared overhead costs.

36 (i) A statement of the amount and percentage of funds deposited
37 into the Low and Moderate Income Housing Fund, exclusive of
38 debt proceeds, expended for planning and general administration
39 in each of the preceding five fiscal years that begin after December

1 31, 2011, broken down by the categories described in paragraph
2 (1) of subdivision (d) of Section 33334.3.

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

11 (k) A list of the redevelopment projects that have caused a
12 replacement obligation pursuant to subdivision (a) of Section
13 33413, the respective number of units the agency is obligated to
14 replace as a result of each project, and the location and status of
15 the replacement units. This list shall cover each fiscal year from
16 the agency's last adopted implementation plan.

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

23 (m) For each housing project for which the agency has
24 designated funds, encumbered funds, or amended an existing
25 designation or encumbrance of funds during the fiscal year, and
26 where the agency's financing constitutes more than 50 percent of
27 the total cost of the low- and moderate-income housing units in
28 the project, the project name, location, number of affordable units,
29 affordability level, amount of agency financing, and the total cost
30 of the low- and moderate-income units.

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

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

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

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

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

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

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

29 33080.8. (a) On or before April 1 of each year, the Controller
30 shall compile a list of agencies that appear to have major audit
31 violations as defined in this section, based on the independent
32 financial audit reports filed with the Controller pursuant to Section
33 33080, and make the list available on the Controller's Internet
34 Web site.

35 (b) On or before June 1 of each year, for each major audit
36 violation of each agency identified pursuant to subdivision (a), the
37 Controller shall determine if the agency has corrected the major
38 audit violation. Before making this determination, the Controller
39 shall consult with each affected agency and may consult with
40 affected local community groups. In making this determination,

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

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

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

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

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

38 (3) If the court determines that there is good cause for believing
39 that the agency has a major audit violation and has not corrected

1 that major audit violation, the court shall immediately issue an
2 order that prohibits the agency from doing any of the following:

3 (A) Encumbering any funds or expending any money derived
4 from any source except to pay the obligations designated in
5 subparagraphs (A) to (F), inclusive, of paragraph (1) of subdivision
6 (e) of Section 33334.12, or to pay amounts for the operation and
7 administration of the agency in accordance with the agency's most
8 recently adopted budget.

9 (B) Adopting a redevelopment plan.

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

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

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

23 (F) Exercising the power of eminent domain.

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

27 (g) If, on the basis of that subsequent hearing, the court
28 determines that the agency has a major audit violation and has not
29 corrected that violation, the court shall order the agency to comply
30 with this part within 30 days, and order the agency to forfeit to the
31 state a monetary sanction commensurate with the violation. The
32 sanction shall not be paid from the agency's Low and Moderate
33 Income Housing Fund or any other city, county, or agency special
34 fund related to housing.

35 (h) The order issued by the court pursuant to paragraph (3) of
36 subdivision (e) shall continue in effect until the court determines
37 that the agency has corrected the major audit violation. If the court
38 determines that the agency has corrected the major audit violation,
39 the court may dissolve its order issued pursuant to paragraph (3)
40 of subdivision (e) at any time.

1 (i) An action filed pursuant to this section to compel an agency
2 to comply with this part is in addition to any other remedy, and is
3 not an exclusive means to compel compliance. This section shall
4 not be construed to preclude an action to compel compliance with
5 this article by any other interested party or resident of the
6 jurisdiction.

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

9 (1) File an independent financial audit report that substantially
10 conforms with the requirements of subdivision (a) of Section
11 33080.1.

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

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

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

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

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

24 (7) Comply with subdivisions (d) and (e) of Section 33334.3,
25 governing eligible expenditures for planning and general
26 administration from the Low and Moderate Income Housing Fund
27 and adopt the resolution required by subdivision (b) of Section
28 33080.2.

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

32 (9) Adopt an implementation plan, as required by Section
33 33490.

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

36 33080.9. (a) (1) The department shall forward to the Attorney
37 General and the Controller a copy of any audit or investigation of
38 a redevelopment agency conducted pursuant to Section 50464.5.

39 (2) On or before April 1 of each year, the department shall
40 determine for all audits and investigations conducted the previous

1 year, including those audits and investigations conducted pursuant
2 to Section 50464.5, whether an audit or investigation contains
3 major audit violations, as defined in subdivision (j) of Section
4 33080.8. The department shall make the information available on
5 its Internet Web site.

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (B) Schedule the appeal for a hearing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (5) Construct buildings or structures.

33 (6) Acquire buildings or structures.

34 (7) Rehabilitate buildings or structures.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (j) (1) (A) An action to compel compliance with the
6 requirement of Section 33334.3 to deposit not less than 20 percent
7 of all taxes that are allocated to the agency pursuant to Section
8 33670 or other revenue in the Low and Moderate Income Housing
9 Fund shall be commenced within 10 years of the alleged violation.

10 A cause of action for a violation accrues on the last day of the
11 fiscal year in which the funds were required to be deposited in the
12 Low and Moderate Income Housing Fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (3) An agency that suspends revenue pursuant to paragraph (1)
37 and fails to repay or have repaid on its behalf the amount of revenue
38 suspended pursuant to paragraph (2) shall, commencing July 1,
39 2015, be required to allocate an additional 5 percent of all taxes
40 that are allocated to that agency pursuant to Section 33670 for low-

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

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

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

16 33334.3. (a) The funds that are required by Section 33334.2
17 or 33334.6 to be used for the purposes of increasing, improving,
18 and preserving the community's supply of low- and
19 moderate-income housing shall be held in a separate Low and
20 Moderate Income Housing Fund until used.

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

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

31 (d) (1) It is the intent of the Legislature that the Low and
32 Moderate Income Housing Fund be used to the maximum extent
33 possible to defray the actual cost of producing, improving, or
34 preserving low- and moderate-income housing and to restrict the
35 use of Low and Moderate Income Housing Fund moneys for
36 planning and general administrative costs to those which are
37 necessary for and directly related to lawful use of the Low and
38 Moderate Income Housing Fund. All of the following categories
39 of costs paid from the Low and Moderate Income Housing Fund

1 shall be considered planning and general administrative costs that
2 are subject to the restrictions set forth in paragraph (2):

3 (A) Employee compensation costs, including salaries, wages,
4 and benefits, and related nonpersonnel costs, including, but not
5 limited to, travel, training, publications, and conferences, paid to
6 or on behalf of any agency, city, or county employee whose duties
7 include activities authorized under subdivision (e) of Section
8 33334.2, except for those activities that are necessary for and
9 directly related to the development of a specific eligible housing
10 development project or the deliverance of eligible programs serving
11 low- and moderate-income households. If the employee spends
12 any time on matters other than those authorized under subdivision
13 (e) of Section 33334.2, Low and Moderate Income Housing Fund
14 moneys may only be used to pay for employee compensation and
15 related nonpersonnel costs in proportion to the actual time that the
16 employee spends on activities authorized under subdivision (e) of
17 Section 33334.2.

18 (B) Employee compensation costs, including salaries, wages,
19 and benefits, and related nonpersonnel costs, including, but not
20 limited to, travel, training, publications, and conferences, paid to
21 or on behalf of any agency, city, or county employee for activities
22 authorized under subdivision (e) of Section 33334.2 that are
23 necessary for and directly related to the development of a specific
24 eligible housing development project or the deliverance of eligible
25 programs that serve low- and moderate-income households. Those
26 activities shall include negotiation and project management of
27 disposition and development agreements, land leases, loan
28 agreements, and similar affordable housing agreements;
29 redevelopment agency work on entitlements for eligible affordable
30 housing developments; loan processing and servicing; inspection
31 of new and rehabilitated units; construction monitoring of an
32 eligible housing development; and monitoring of affordable
33 housing units. If the employee spends any time on matters other
34 than those authorized under subdivision (e) of Section 33334.2,
35 Low and Moderate Income Housing Fund moneys may only be
36 used to pay for employee compensation and related nonpersonnel
37 costs in proportion to the actual time that the employee spends on
38 activities authorized under subdivision (e) of Section 33334.2.

39 (C) Employee compensation costs, including salaries, wages,
40 and benefits, paid to or on behalf of any agency, city, or county

1 employee who supervises or manages the work of an employee or
2 employees specified in subparagraph (A) or (B) or who provides
3 general administrative services, including, but not limited to,
4 finance, legal, human resources, information technology, and other
5 administrative services, that indirectly support activities authorized
6 under subdivision (e) of Section 33334.2 and nonpersonnel costs,
7 including, but not limited to, travel, training, publications, and
8 conferences, for those employees that are directly related to those
9 activities. Employee compensation costs shall (i) be justified by
10 an independent cost allocation study no more than six years old,
11 and (ii) not represent a greater proportion of the employee's total
12 compensation than the proportion of employees working directly
13 and exclusively on activities authorized under subdivision (e) of
14 Section 33334.2 in comparison to the total number of employees
15 supervised, managed, or indirectly supported by that employee.

16 (D) Overhead costs, including, but not limited to, rent or
17 mortgage payments, equipment, and office supplies. If the overhead
18 costs are shared with departments or employees whose duties
19 include activities other than those authorized under subdivision
20 (e) of Section 33334.2, the proportion of the overhead costs paid
21 from the Low and Moderate Income Housing Fund shall not exceed
22 the proportion of employees working directly and exclusively on
23 activities authorized under subdivision (e) of Section 33334.2
24 represented in comparison to the total number of employees sharing
25 the space, equipment, or office supplies.

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

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

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

38 (B) Except as provided in subparagraph (C), an agency in any
39 fiscal year shall not expend more than 10 percent of the money
40 deposited into the Low and Moderate Income Housing Fund,

1 exclusive of debt proceeds, for planning and general administrative
2 costs described in subparagraph (B) of paragraph (1), except that
3 an agency may additionally expend for these purposes any
4 difference between the cap described in subparagraph (A) and
5 actual expenditures for those planning and general administrative
6 costs.

7 (C) Subparagraphs (A) and (B) shall not apply to a project
8 area-specific Low and Moderate Income Housing Fund during the
9 first five fiscal years after adoption of that specific project area.
10 Subparagraphs (A) and (B) shall apply to a new or amended project
11 area if tax increment for that new or amended project area is
12 deposited into an aggregate Low and Moderate Income Housing
13 Fund covering more than one project area.

14 (3) In a challenge related to the proportionality of costs, as
15 required by subparagraphs (A), (B), (C), and (D) of paragraph (1),
16 the agency shall bear the burden of proof to demonstrate that the
17 costs are proportionate. In a challenge related to compliance with
18 the requirements of paragraph (2), the agency shall bear the burden
19 of proof to demonstrate that costs are appropriately allocated to
20 subparagraph (B) of paragraph (1).

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

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

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

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

39 (2) An agency may expend up to 2 percent of the moneys
40 deposited into the Low and Moderate Income Housing Fund,

1 exclusive of debt proceeds, for code enforcement activities within
2 a project area that improve the housing opportunities of low- or
3 moderate-income households. However, if code enforcement
4 activities result, directly or indirectly, in the displacement of tenants
5 or the removal from the market of units affordable to or occupied
6 by low- or moderate-income households, the agency shall be
7 subject to the relocation and replacement obligations imposed by
8 this part and the requirements of Chapter 16 (commencing with
9 Section 7260) of Division 7 of Title 1 of the Government Code,
10 except that Section 7265.3 of the Government Code shall not apply.

11 (f) (1) The requirements of this subdivision apply to all new or
12 substantially rehabilitated housing units developed or otherwise
13 assisted with moneys from the Low and Moderate Income Housing
14 Fund, pursuant to an agreement approved by an agency on or after
15 January 1, 1988. Except to the extent that a longer period of time
16 may be required by other provisions of law, the agency shall require
17 that housing units subject to this subdivision shall remain available
18 at affordable housing cost to, and occupied by, persons and families
19 of low or moderate income and very low income and extremely
20 low income households for the longest feasible time, but for not
21 less than the following periods of time:

22 (A) Fifty-five years for rental units. However, the agency may
23 replace rental units with equally affordable and comparable rental
24 units in another location within the community if (i) the
25 replacement units are available for occupancy prior to the
26 displacement of any persons and families of low or moderate
27 income residing in the units to be replaced and (ii) the comparable
28 replacement units are not developed with moneys from the Low
29 and Moderate Income Housing Fund.

30 (B) Forty-five years for owner-occupied units. However, the
31 agency may permit sales of owner-occupied units prior to the
32 expiration of the 45-year period for a price in excess of that
33 otherwise permitted under this subdivision pursuant to an adopted
34 program which protects the agency's investment of moneys from
35 the Low and Moderate Income Housing Fund, including, but not
36 limited to, an equity sharing program which establishes a schedule
37 of equity sharing that permits retention by the seller of a portion
38 of those excess proceeds based on the length of occupancy. The
39 remainder of the excess proceeds of the sale shall be allocated to
40 the agency and deposited in the Low and Moderate Income

1 Housing Fund. Only the units originally assisted by the agency
2 shall be counted towards the agency's obligations under Section
3 33413.

4 (C) Fifteen years for mutual self-help housing units that are
5 occupied by and affordable to very low and low-income
6 households. However, the agency may permit sales of mutual
7 self-help housing units prior to expiration of the 15-year period
8 for a price in excess of that otherwise permitted under this
9 subdivision pursuant to an adopted program that (i) protects the
10 agency's investment of moneys from the Low and Moderate
11 Income Housing Fund, including, but not limited to, an equity
12 sharing program that establishes a schedule of equity sharing that
13 permits retention by the seller of a portion of those excess proceeds
14 based on the length of occupancy; and (ii) ensures through a
15 recorded regulatory agreement, deed of trust, or similar recorded
16 instrument that if a mutual self-help housing unit is sold at any
17 time after expiration of the 15-year period and prior to 45 years
18 after the date of recording of the covenants or restrictions required
19 pursuant to paragraph (2), the agency recovers, at a minimum, its
20 original principal from the Low and Moderate Income Housing
21 Fund from the proceeds of the sale and deposits those funds into
22 the Low and Moderate Income Housing Fund. The remainder of
23 the excess proceeds of the sale not retained by the seller shall be
24 allocated to the agency and deposited in the Low and Moderate
25 Income Housing Fund. For the purposes of this subparagraph,
26 "mutual self-help housing unit" means an owner-occupied housing
27 unit for which persons and families of very low and low income
28 contribute no fewer than 500 hours of their own labor in individual
29 or group efforts to provide a decent, safe, and sanitary ownership
30 housing unit for themselves, their families, and others authorized
31 to occupy that unit. Nothing in this subparagraph precludes the
32 agency and the developer of the mutual self-help housing units
33 from agreeing to 45-year deed restrictions.

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

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

39 (A) The covenants or restrictions implementing this subdivision
40 for each parcel or unit of real property subject to this subdivision.

1 The agency shall obtain and maintain a copy of the recorded
2 covenants or restrictions for not less than the life of the covenant
3 or restriction.

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

10 (i) A recitation of the affordability covenants or restrictions. If
11 the document recorded under this subparagraph is recorded
12 concurrently with the covenants or restrictions recorded under
13 subparagraph (A), the recitation of the affordability covenants or
14 restrictions shall also reference the concurrently recorded
15 document. If the document recorded under this subparagraph is
16 not recorded concurrently with the covenants or restrictions
17 recorded under subparagraph (A), the recitation of the affordability
18 covenants or restrictions shall also reference the recorder’s
19 identification number of the document recorded under subparagraph
20 (A).

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

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

25 (iv) The assessor’s parcel number for the property.

26 (v) The legal description of the property.

27 (4) The agency shall require the recording of the document
28 required under subparagraph (B) of paragraph (3) not more than
29 30 days after the date of recordation of the covenants or restrictions
30 required under subparagraph (A) of paragraph (3).

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

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

37 (7) Notwithstanding any other provision of law, the covenants
38 or restrictions implementing this subdivision shall run with the
39 land and shall be enforceable against any owner who violates a

- 1 covenant or restriction and each successor in interest who continues
2 the violation, by any of the following:
- 3 (A) The agency.
 - 4 (B) The community, as defined in Section 33002.
 - 5 (C) A resident of a unit subject to this subdivision.
 - 6 (D) A residents' association with members who reside in units
7 subject to this subdivision.
 - 8 (E) A former resident of a unit subject to this subdivision who
9 last resided in that unit.
 - 10 (F) An applicant seeking to enforce the covenants or restrictions
11 for a particular unit that is subject to this subdivision, if the
12 applicant conforms to all of the following:
 - 13 (i) Is of low or moderate income, as defined in Section 50093.
 - 14 (ii) Is able and willing to occupy that particular unit.
 - 15 (iii) Was denied occupancy of that particular unit due to an
16 alleged breach of a covenant or restriction implementing this
17 subdivision.
 - 18 (G) A person on an affordable housing waiting list who is of
19 low or moderate income, as defined in Section 50093, and who is
20 able and willing to occupy a unit subject to this subdivision.
 - 21 (8) A dwelling unit shall not be counted as satisfying the
22 affordable housing requirements of this part, unless covenants for
23 that dwelling unit are recorded in compliance with subparagraph
24 (A) of paragraph (3).
 - 25 (9) Failure to comply with the requirements of subparagraph
26 (B) of paragraph (3) shall not invalidate any covenants or
27 restrictions recorded pursuant to subparagraph (A) of paragraph
28 (3).
 - 29 (g) "Housing," as used in this section, includes residential hotels,
30 as defined in subdivision (k) of Section 37912. The definitions of
31 "lower income households," "very low income households," and
32 "extremely low income households" in Sections 50079.5, 50105,
33 and 50106 shall apply to this section. "Longest feasible time," as
34 used in this section, includes, but is not limited to, unlimited
35 duration.
 - 36 (h) "Increasing, improving, and preserving the community's
37 supply of low- and moderate-income housing," as used in this
38 section and in Section 33334.2, includes the preservation of rental
39 housing units assisted by federal, state, or local government on the
40 condition that units remain affordable to, and occupied by, low-

1 and moderate-income households, including extremely low and
2 very low income households, for the longest feasible time, but not
3 less than 55 years, beyond the date the subsidies and use restrictions
4 could be terminated and the assisted housing units converted to
5 market rate rentals. In preserving these units the agency shall
6 require that the units remain affordable to, and occupied by, persons
7 and families of low- and moderate-income and extremely low and
8 very low income households for the longest feasible time but not
9 less than 55 years. However, the agency may replace rental units
10 with equally affordable and comparable rental units in another
11 location within the community if (1) the replacement units in
12 another location are available for occupancy prior to the
13 displacement of any persons and families of low or moderate
14 income residing in the units to be replaced and (2) the comparable
15 replacement units are not developed with moneys from the Low
16 and Moderate Income Housing Fund.

17 (i) Agencies that have more than one project area may satisfy
18 the requirements of Sections 33334.2 and 33334.6 and of this
19 section by allocating, in any fiscal year, less than 20 percent in
20 one project area, if the difference between the amount allocated
21 and the 20 percent required is instead allocated, in that same fiscal
22 year, to the Low and Moderate Income Housing Fund from tax
23 increment revenues from other project areas. Prior to allocating
24 funds pursuant to this subdivision, the agency shall make the
25 finding required by subdivision (g) of Section 33334.2.

26 (j) Funds from the Low and Moderate Income Housing Fund
27 shall not be used to the extent that other reasonable means of
28 public, private, or commercial financing for the new ~~or~~
29 construction, acquisition, or substantial rehabilitation of units at
30 the same level of affordability and quantity are reasonably available
31 to the agency or to the owner of the units. Prior to the expenditure
32 of funds from the Low and Moderate Income Housing Fund for
33 the new construction, acquisition, or substantial rehabilitation of
34 housing units, where those funds will exceed 50 percent of the
35 cost of producing the units, the agency shall find, based on
36 substantial evidence, that the use of the funds is necessary because
37 the agency or owner of the units has made a good faith attempt
38 but been unable to obtain other public, private, or commercial
39 financing of the units at the same level of affordability and quantity.

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

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

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

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

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

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

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

37 (4) An agency shall satisfy the requirements of paragraph (2)
38 by demonstrating in each implementation plan that as of the end
39 of the immediately preceding 5-year implementation planning
40 period, the agency's aggregate expenditures from the Low and

1 Moderate Income Housing Fund, exclusive of debt service
2 payments, between the end of the last 10-year implementation
3 period referenced in paragraph (1) and the end of the immediately
4 preceding 5-year implementation planning period satisfy the
5 proportionality requirements set forth in paragraph (2).

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

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

17 (b) Each agency shall expend over the duration of each
18 redevelopment implementation plan, the moneys in the Low and
19 Moderate Income Housing Fund to assist housing that is available
20 to all persons regardless of age in at least the same proportion as
21 the number of low-income households with a member under age
22 65 years *of age* bears to the total number of low-income households
23 of the community as reported in the most recent census of the
24 United States Census Bureau.

25 (c) (1) An agency that has deposited an aggregate amount that
26 is less than two million dollars (\$2,000,000) in the Low and
27 Moderate Income Housing Fund over the first 5-year
28 implementation planning period following the last 10-year
29 implementation planning period referenced in paragraph (1) of
30 subdivision (a) shall have 10 years following the last 10-year
31 implementation planning period referenced in paragraph (1) of
32 subdivision (a) to meet the requirements of paragraph (2) of
33 subdivision (a).

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

39 (d) For the purposes of this section only, funds may be deemed
40 expended if the agency has contractually obligated the funds to an

1 entity that is independent of the agency or its community for the
2 development of a specific eligible housing development, provided
3 that if the contract is terminated prior to expenditure of the funds,
4 the funds shall be discounted from the calculations required in
5 subdivisions (a) and (b) and the provisions of subdivision (e) shall
6 apply.

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

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

20 (f) Agencies are encouraged to expend moneys in the Low and
21 Moderate Income Housing Fund to assist special housing needs
22 identified in the community's housing element pursuant to
23 paragraph (7) of subdivision (a) of Section 65583 of the
24 Government Code.

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

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

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

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

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

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

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

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

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

3 (D) Obligations incurred pursuant to Section 33445.

4 (E) Indebtedness incurred pursuant to Section 33334.2 or
5 33334.6.

6 (F) Obligations incurred pursuant to Section 33401.

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

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

16 (f) For purposes of this section:

17 (1) “Excess surplus” means any unexpended and unencumbered
18 amount in an agency’s Low and Moderate Income Housing Fund
19 that exceeds the greater of one million dollars (\$1,000,000) or the
20 aggregate amount deposited into the Low and Moderate Income
21 Housing Fund pursuant to Sections 33334.2 and 33334.6 during
22 the agency’s preceding four fiscal years. The first fiscal year to be
23 included in this computation is the 1989–90 fiscal year, and the
24 first date on which an excess surplus may exist is July 1, 1994.

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

28 (3) (A) For purposes of determining whether an excess surplus
29 exists, it is the intent of the Legislature to give credit to agencies
30 which convey land for less than fair market value, on which low-
31 and moderate-income housing is built or is to be built if at least
32 49 percent of the units developed on the land are available at
33 affordable housing cost to lower income households for at least
34 the time specified in subdivision (e) of Section 33334.3, and
35 otherwise comply with all of the provisions of this division
36 applicable to expenditures of moneys from a low- and
37 moderate-income housing fund established pursuant to Section
38 33334.3. Therefore, for the sole purpose of determining the amount,
39 if any, of an excess surplus, an agency may make the following
40 calculation: if an agency sells, leases, or grants land acquired with

1 moneys from the Low and Moderate Income Housing Fund,
2 established pursuant to Section 33334.3, for an amount which is
3 below fair market value, and if at least 49 percent of the units
4 constructed or rehabilitated on the land are affordable to lower
5 income households, as defined in Section 50079.5, the difference
6 between the fair market value of the land and the amount the
7 agency receives may be subtracted from the amount of moneys in
8 an agency's Low and Moderate Income Housing Fund.

9 (B) If taxes that are deposited in the Low and Moderate Income
10 Housing Fund are used as security for bonds or other indebtedness,
11 the proceeds of the bonds or other indebtedness, and income and
12 expenditures related to those proceeds, shall not be counted in
13 determining whether an excess surplus exists. The unspent portion
14 of the proceeds of bonds or other indebtedness, and income related
15 thereto, shall be excluded from the calculation of the unexpended
16 and unencumbered amount in the Low and Moderate Income
17 Housing Fund when determining whether an excess surplus exists.

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

22 (D) The department shall develop and periodically revise the
23 methodology to be used in the calculation of excess surplus as
24 required by this section. The director shall appoint an advisory
25 committee to advise in the development of this methodology. The
26 advisory committee shall include department staff, affordable
27 housing advocates, and representatives of the California
28 Redevelopment Association, the California Society of Certified
29 Public Accountants, the Controller, and any other authorities or
30 persons interested in the field that the director deems necessary
31 and appropriate.

32 (g) Communities in which an agency has disbursed excess
33 surplus funds pursuant to this section shall not disapprove a low-
34 or moderate-income housing project funded in whole or in part by
35 the excess surplus funds if the project is consistent with applicable
36 building codes and the land use designation specified in any
37 element of the general plan as it existed on the date the application
38 was deemed complete. A local agency may require compliance
39 with local development standards and policies appropriate to and
40 consistent with meeting the quantified objectives relative to the

1 development of housing, as required in housing elements of the
2 community pursuant to subdivision (b) of Section 65583 of the
3 Government Code.

4 (h) Notwithstanding subdivision (a), any agency that has funds
5 that become excess surplus on July 1, 1994, shall have, pursuant
6 to subdivision (a), until January 1, 1995, to decide to transfer the
7 funds to a housing authority or other public agency, or until January
8 1, 1997, to expend or encumber those funds, or face sanctions
9 pursuant to subdivision (e).

10 SEC. 12. Section 33334.16 of the Health and Safety Code is
11 repealed.

12 SEC. 13. Section 33334.16 is added to the Health and Safety
13 Code, to read:

14 33334.16. (a) (1) For each interest in real property acquired
15 using moneys from the Low and Moderate Income Housing Fund,
16 the agency shall, within five years from the date of acquisition,
17 complete at least one of the following activities:

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

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

24 (C) Submit a remedial action plan for the real property to the
25 appropriate oversight agency, including, but not limited to, the
26 Department of Toxic Substances Control, a California regional
27 water quality control board, or the Office of Human ~~Health Risk~~
28 ~~Assessment and Ecological Risk~~, for the cleanup of contamination.

29 (2) On or after January 1, 2013, if none of the activities
30 described in paragraph (1) has been completed within five years,
31 or if less than 10 percent of the dwelling units or floor area of a
32 project is developed within 10 years from the date the agency
33 originally acquired the property, the agency shall reimburse the
34 Low and Moderate Income Housing Fund 150 percent of the
35 amount expended to acquire and maintain the property or of the
36 current fair market value of the property, whichever amount is
37 greater.

38 (3) If the agency owns two or more adjacent parcels of real
39 property that comprise a single redevelopment project for which
40 the parcels are described in the implementation plan, the date of

1 acquisition for all such parcels shall be the date of acquisition of
2 the last acquired parcel, provided that this date shall not be later
3 than five years after the acquisition of the first parcel.

4 (4) An agency may adopt a resolution to petition the department
5 for, and the department may grant, a single extension for up to five
6 years of the deadlines established in paragraphs (1) and (2) if the
7 department makes a finding that the failure to complete the required
8 activities is due to circumstances beyond the agency's or
9 community's control and that the agency has a feasible plan for
10 the development of housing affordable to persons and families of
11 low and moderate income on the real property within the period
12 of the extension. The agency shall provide information supporting
13 the need for the extension and a plan for development of the
14 property. The department shall solicit comments from known or
15 expected parties interested in the petition and consider comments
16 from these and any other parties. The department shall establish
17 a schedule of fees to cover but not exceed its costs under this
18 ~~subparagraph~~ *paragraph*, and at the time the petition is submitted
19 the agency shall pay the fees with funds other than those required
20 to be set aside or used for low- and moderate-income housing
21 pursuant to this part or otherwise designated for affordable housing.

22 (b) At any time, in addition to proceeds from the sale or transfer,
23 the agency shall deposit into the Low and Moderate Income
24 Housing Fund from agency revenues other than those required to
25 be deposited in the Low and Moderate Income Housing Fund an
26 amount equal to 50 percent of the fair market value of the property
27 at the time it is sold or transferred or, if the property is not sold or
28 transferred, of the fair market value of the land at the time a
29 building permit is issued for the property. This subdivision shall
30 apply only under either of the following conditions:

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

35 (2) A real property acquired using moneys from the Low and
36 Moderate Income Housing Fund is developed such that less than
37 50 percent of the floor area, or a percentage of the floor area equal
38 to the proportion that moneys from the Low and Moderate Income
39 Housing Fund represent to the total acquisition cost, whichever is

1 less, is housing affordable to persons and families of low and
2 moderate income.

3 SEC. 14. Section 33413 of the Health and Safety Code is
4 amended to read:

5 33413. (a) Whenever dwelling units affordable to or occupied
6 by persons and families of low or moderate income are destroyed
7 or removed from the low- and moderate-income housing market
8 as part of a redevelopment project that is subject to a written
9 agreement with the agency or where financial assistance has been
10 provided by the agency, the agency shall, within four years of the
11 destruction or removal, construct, or cause to *be* constructed, for
12 rental or sale to persons and families of low or moderate income,
13 an equal number of replacement dwelling units that have an equal
14 or greater number of bedrooms as those destroyed or removed
15 units at affordable housing costs within the territorial jurisdiction
16 of the agency, provided that if the units are provided outside the
17 project area the agency shall provide two units for each unit the
18 agency is obligated to replace. The replacement obligation shall
19 apply to all units affordable to low- or moderate-income persons
20 or families at the time of initiation of negotiations of a written
21 agreement with or financial assistance from the agency. For
22 purposes of this section, the inclusion of residential units in the
23 rehabilitation of an existing nonresidential structure shall constitute
24 construction.

25 (1) When dwelling units are destroyed or removed after
26 September 1, 1989, 75 percent of the replacement dwelling units
27 shall be available at affordable housing cost to, and occupied by,
28 persons and families in the same or a lower income level of very
29 low income households, lower income households, and persons
30 and families of low and moderate income, as the persons and
31 families displaced from those destroyed or removed units.

32 (2) When dwelling units are destroyed or removed on or after
33 January 1, 2002, 100 percent of the replacement dwelling units
34 shall be available at affordable housing cost to, and occupied by,
35 persons and families in the same or a lower income category
36 (extremely low, very low, low, or moderate), as the persons and
37 families displaced from those destroyed or removed units. This
38 paragraph is declaratory of existing law.

39 (3) On or after January 1, 2012, in the case where the agency
40 is obligated to replace vacant units, those replacement units shall

1 be available at affordable housing costs to, and occupied by,
2 persons and families in the same or lower income category
3 (extremely low, very low, low, or moderate) in the same proportion
4 as the units occupied or last occupied by low- and moderate-income
5 households in the property.

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

9 (A) With units that have been rehabilitated such that
10 after-rehabilitation value is increased by 50 percent or more of the
11 prerehabilitation value, as evidenced by pre and post rehabilitation
12 appraisals and, the rehabilitated units were, at the time the dwelling
13 units to be replaced were destroyed or removed were either of the
14 following:

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

17 (ii) Vacant due to substandard conditions as defined in Section
18 1941.1 of the Civil Code.

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

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

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

1 (2) (A) (i) Prior to the time limit on the effectiveness of the
2 redevelopment plan established pursuant to Sections 33333.2,
3 33333.6, and 33333.10 at least 15 percent of all new and
4 substantially rehabilitated dwelling units developed within a project
5 area under the jurisdiction of an agency by public or private entities
6 or persons other than the agency shall be available at affordable
7 housing cost to, and occupied by, persons and families of low or
8 moderate income. Not less than 40 percent of the dwelling units
9 required to be available at affordable housing cost to, and occupied
10 by, persons and families of low or moderate income shall be
11 available at affordable housing cost to, and occupied by, very low
12 income households.

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

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

28 (iv) As used in this paragraph and in paragraph (1), “substantial
29 rehabilitation” means rehabilitation, the value of which constitutes
30 25 percent of the after-rehabilitation value of the dwelling,
31 inclusive of the land value.

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

37 (B) To satisfy the requirements of paragraph (1) and
38 subparagraph (A), the agency may purchase, or otherwise acquire
39 or cause by regulation or agreement the purchase or other
40 acquisition of, long-term affordability covenants on multifamily

1 units that restrict the cost of renting or purchasing those units that
2 either: (i) are not presently available at affordable housing cost to
3 persons and families of low or very low income households, as
4 applicable; or (ii) are units that are presently available at affordable
5 housing cost to this same group of persons or families, but are
6 units that the agency finds, based upon substantial evidence, after
7 a public hearing, cannot reasonably be expected to remain
8 affordable to this same group of persons or families.

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

24 (D) To satisfy the requirements of paragraph (1) and
25 subparagraph (A), each mutual self-help housing unit, as defined
26 in subparagraph (C) of paragraph (1) of subdivision (f) of Section
27 33334.3, that is subject to a 15-year deed restriction shall count as
28 one-third of a unit.

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

36 (4) Each redevelopment agency, as part of the implementation
37 plan required by Section 33490, shall adopt a plan to comply with
38 the requirements of this subdivision for each project area. The plan
39 shall be consistent with, and may be included within, the
40 community's housing element. The plan shall be reviewed and, if

1 necessary, amended at least every five years in conjunction with
2 the plan implementation cycle. The plan shall ensure that the
3 requirements of this subdivision are met every 10 years. If the
4 requirements of this subdivision are not met by the end of each
5 10-year period, the agency shall meet these goals on an annual
6 basis until the requirements for the 10-year period are met. If the
7 agency has exceeded the requirements within the 10-year period,
8 the agency may count the units that exceed the requirement in
9 order to meet the requirements during the next 10-year period. The
10 plan shall contain the contents required by paragraphs (2), (3), and
11 (4) of subdivision (a) of Section 33490.

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

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

1 subject to a 15-year deed restriction, expend funds to make
2 affordable an equal number of units at the same or lowest income
3 level as the unit or units sold pursuant to this paragraph, for a
4 period not less than the duration of the original deed restrictions.
5 Only the units originally assisted by the agency shall be counted
6 towards the agency's obligations under Section 33413.

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

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

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

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

1 permits are issued on or after the date that the ordinance adopting
2 the amendment pursuant to Section 33333.10 becomes effective.

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

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

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

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

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

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

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

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

36 33413.5. Not less than 30 days prior to the execution of an
37 agreement for acquisition of real property, the execution of an
38 agreement for the disposition and development of property, the
39 execution of an owner participation agreement, or other agreement
40 or assistance that would lead to the destruction or removal of

1 dwelling units from the low- and moderate-income housing market,
2 the agency shall adopt by resolution a replacement housing plan.
3 For a reasonable time prior to adopting a replacement housing plan
4 by resolution, the agency shall make available a draft of the
5 proposed replacement housing plan for review and comment by
6 the project area committee, other public agencies, and the general
7 public.

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

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

37 SEC. 16. Section 33418 of the Health and Safety Code is
38 amended to read:

39 33418. (a) An agency shall monitor, on an ongoing basis, any
40 housing affordable to persons and families of low or moderate

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

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

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

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

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

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

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

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

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

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

8 (H) The affordability level of each unit.

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

10 (J) Whether the unit is being counted towards a replacement
11 obligation pursuant to subdivision (a) of Section 33413 or towards
12 a production obligation pursuant to subdivision (b) of Section
13 33413.

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

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

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

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

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

38 SEC. 17. Article 13 (commencing with Section 33460) is added
39 to Chapter 4 of Part 1 of Division 24 of the Health and Safety
40 Code, to read:

Article 13. Accountability Audits

1
2
3 33460. (a) The Legislature hereby finds and declares both of
4 the following:

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

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

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

27 SEC. 18. Section 33487 of the Health and Safety Code is
28 amended to read:

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

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

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

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

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

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

1 SEC. 19. Section 33490 of the Health and Safety Code is
2 amended to read:

3 33490. (a) (1) (A) On or before December 31, 1994, and each
4 five years thereafter, each agency that has adopted a redevelopment
5 plan prior to December 31, 1993, shall adopt, after a public hearing,
6 an implementation plan that shall contain the specific goals and
7 objectives of the agency for the project area, the specific programs,
8 including potential projects, and estimated expenditures proposed
9 to be made during the next five years, and an explanation of how
10 the goals and objectives, programs, and expenditures will eliminate
11 blight within the project area and implement the requirements of
12 Section 33333.10, if applicable, and Sections 33334.2, 33334.4,
13 33334.6, 33413, and 33487. After adoption of the first
14 implementation plan, the parts of the implementation plan that
15 address Section 33333.10, if applicable, and Sections 33334.2,
16 33334.4, 33334.6, 33413, and 33487 shall be adopted every five
17 years in conjunction with the implementation plan cycle and shall
18 be made available to the public on the Internet. The agency may
19 amend the implementation plan after conducting a public hearing
20 on the proposed amendment. If an action attacking the adoption,
21 approval, or validity of a redevelopment plan adopted prior to
22 January 1, 1994, has been brought pursuant to Chapter 5
23 (commencing with Section 33500), the first implementation plan
24 required pursuant to this section shall be adopted within six months
25 after a final judgment or order has been entered. Subsequent
26 implementation plans required pursuant to this section shall be
27 adopted pursuant to the terms of this section, and as if the first
28 implementation plan had been adopted on or before December 31,
29 1994.

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

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

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

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

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

27 (iii) A description of how the housing program will implement
28 the requirement for expenditures of moneys in the Low and
29 Moderate Income Housing Fund over a 10-year period or 5-year
30 period, as applicable, for various groups as required by Section
31 33334.4. For project areas to which subdivision (b) of Section
32 33413 applies, the 10-year period within which subdivision (b) of
33 Section 33413 is required to be implemented shall coincide with
34 the 10-year period or within two 5-year periods, as applicable,
35 within which Section 33334.4 is required to be implemented.
36 Notwithstanding the first sentence of Section 33334.4 and the first
37 sentence of this clause, in order to allow these two 10-year time
38 periods to coincide for the first time period, the time to implement
39 the requirements of Section 33334.4 shall be extended two years,
40 and project areas in existence on December 31, 1993, shall

1 implement the requirements of Section 33334.4 on or before
2 December 31, 2014, rather than December 31, 2012. For project
3 areas to which subdivision (b) of Section 33413 does not apply,
4 the requirements of Section 33334.4 shall be implemented on or
5 before December 31, 2014.

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

10 (B) For each project area to which subdivision (b) of Section
11 33413 applies, the section addressing the agency developed and
12 project area housing shall contain:

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

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

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

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

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

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

36 (i) The proposed amount of expenditures from the Low and
37 Moderate Income Housing Fund for the new construction,
38 acquisition and substantial rehabilitation, or preservation of housing
39 for persons of extremely low, very low, or low income during each
40 year of the implementation plan period.

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

4 (iii) A housing program that provides a detailed schedule of
5 actions the agency is undertaking or intends to undertake to ensure
6 expenditure of the Low and Moderate Income Housing Fund in
7 the proportions required by Section 33333.10, if applicable, and
8 Section 33334.4.

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

18 (v) A demonstration, based on substantial evidence in the plan,
19 that as of the end of the immediately preceding 5-year
20 implementation planning period, the agency's aggregate
21 expenditures from the Low and Moderate Income Housing Fund,
22 exclusive of debt service payments, between the end of the last
23 10-year implementation period referenced in paragraph (1) of
24 subdivision (a) of Section 33334.4 and the end of the immediately
25 preceding 5-year implementation planning period satisfy the
26 proportionality requirements set forth in paragraph (2) of
27 subdivision (a) of Section 33334.4.

28 (3) If the implementation plan contains a project that will result
29 in the destruction or removal of dwelling units that will have to
30 be replaced pursuant to subdivision (a) of Section 33413, the
31 implementation plan shall identify proposed locations suitable for
32 those replacement dwelling units.

33 If the implementation plan contains a project that has resulted
34 in the destruction or removal of dwelling units that must be
35 replaced pursuant to subdivision (a) of Section 33413, the
36 implementation plan shall identify either of the following:

37 (A) The replacement dwelling units that satisfy each replacement
38 housing obligation.

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

4 (4) The implementation plan shall include a complete accounting
5 for compliance with the agency's affordable housing obligations
6 over the life of the plan, including the total number of units the
7 agency is obligated to replace pursuant to subdivision (a) of Section
8 33413, the number of units the agency is obligated to produce
9 pursuant to subdivision (b) of Section 33413, and the number of
10 dwelling units that satisfy these obligations.

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

17 (i) The street address and assessor's parcel number of the
18 property and, for properties where units are listed as a group, the
19 number of units.

20 (ii) The size of each unit, measured by the number of bedrooms.

21 (iii) The affordability level of each unit, according to the
22 categories required by Section 33413.

23 (iv) The year in which the construction or substantial
24 rehabilitation of the unit was completed.

25 (v) The date of recordation and document number of the
26 affordability covenants or restrictions required under subdivision
27 (f) of Section 33334.3 or subdivision (c) of Section 33413.

28 (vi) The date on which the covenants or restrictions expire.

29 (vii) For the projects developed prior to January 1, 2002, a
30 statement of the effective period of the land use controls established
31 in the plan at the time each unit was developed, in order to
32 demonstrate that the duration of the covenants or restrictions
33 extends for a period not less than the applicable period of land use
34 controls, in accordance with then applicable law.

35 (viii) For owner-occupied units that have changed ownership
36 during the previous implementation plan period, the date and
37 document number of the new affordability covenants or other
38 documents recorded to ensure that the affordability restriction is
39 enforceable and continues to run with the land.

1 (ix) Whether the unit counts towards a replacement obligation
2 pursuant to subdivision (a) of Section 33413 or towards a
3 production obligation pursuant to subdivision (b) of Section 33413.
4 Units counted towards a replacement obligation shall reference
5 the destroyed units they are replacing.

6 (B) For each owner-occupied unit or rental unit counted towards
7 meeting the agency obligations under subdivision (a) or (b) of
8 Section 33413 and not required to be included in the database
9 required pursuant to subdivision (c) of Section 33418, or for each
10 group of such units, if more than one unit is subject to the same
11 covenant, the implementation plan shall identify all of the
12 following:

13 (i) The street address and, if available, assessor's parcel number
14 of the property.

15 (ii) For properties where units are listed as a group, the number
16 of units.

17 (iii) The affordability level of each unit, according to the
18 categories required by Section 33413.

19 (iv) The year in which the construction or substantial
20 rehabilitation of the unit was completed.

21 (v) The date of recordation and document number of the
22 affordability covenants or restrictions required under subdivision
23 (f) of Section 33334.3 or subdivision (c) of Section 33413.

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

25 (vii) Whether the unit counts towards a replacement obligation
26 pursuant to subdivision (a) of Section 33413 or towards a
27 production obligation pursuant to subdivision (b) of Section 33413.
28 Units counted towards a replacement obligation shall reference
29 the destroyed units they are replacing.

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

33 (6) For a project area that is within six years of the time limit
34 on the effectiveness of the redevelopment plan established pursuant
35 to Section 33333.2, 33333.6, 33333.7, or 33333.10, the portion of
36 the implementation plan addressing the housing responsibilities
37 shall specifically address the ability of the agency to comply, prior
38 to the time limit on the effectiveness of the redevelopment plan,
39 with subdivision (a) of Section 33333.8, subdivision (a) of Section
40 33413 with respect to replacement dwelling units, subdivision (b)

1 of Section 33413 with respect to project area housing, and the
2 disposition of the remaining moneys in the Low and Moderate
3 Income Housing Fund.

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

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

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

10 (C) The time limit for the effectiveness of the redevelopment
11 plan.

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

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

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

37 (d) Notice of public hearings conducted pursuant to this section
38 shall be published pursuant to Section 6063 of the Government
39 Code, mailed at least three weeks in advance to all persons and
40 agencies that have requested notice, and posted in at least four

1 permanent places within the project area for a period of three
2 weeks. Publication, mailing, and posting shall be completed not
3 less than 10 days prior to the date set for hearing.

4 SEC. 20. Section 33506 is added to the Health and Safety Code,
5 to read:

6 33506. (a) A failure to meet any of the following obligations
7 shall be an ongoing violation until the agency has fully met the
8 obligation:

9 (1) The obligation to eliminate project deficits pursuant to
10 Sections 33334.6, 33487, 33492.16, and other similar and related
11 provisions of law.

12 (2) The obligation to expend or encumber excess surplus funds
13 pursuant to Section 33334.12 and other similar and related
14 provisions of law.

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

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

21 (5) The obligation to provide housing pursuant to subdivision
22 (b) of Section 33413 and other similar and related provisions of
23 law.

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

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

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

32 (9) The obligations to record covenants that run with the land
33 pursuant to subdivision (f) of Section 33334.3 and subdivision (c)
34 of Section ~~33413(e)~~ 33413.

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

36 SEC. 21. Section 50464.5 is added to the Health and Safety
37 Code, to read:

38 50464.5. (a) The Redevelopment Agency Accountability Fund
39 is hereby created in the State Treasury and is available, upon
40 appropriation, to the department for the purposes of subdivision

1 (b). Notwithstanding Section 16305.7 of the Government Code,
2 any moneys received by the department pursuant to Section 33460,
3 and any other sources, repayments, interest, or new appropriations,
4 shall be deposited in the fund. Moneys in the fund shall not be
5 subject to transfer to any other fund pursuant to any provision of
6 Part 2 (commencing with Section 16300) of Division 4 of Title 2
7 of the Government Code, except the Surplus Money Investment
8 Fund. The department may require the transfer of moneys in the
9 fund to the Surplus Money Investment Fund for investment
10 pursuant to Article 4 (commencing with Section 16470) of Chapter
11 3 of Part 2 of Division 4 of Title 2 of the Government Code.
12 Notwithstanding Section 16305.7 of the Government Code, all
13 interest, dividends, and pecuniary gains from the investments shall
14 accrue to the fund.

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

36 ~~SEC. 22. This act shall become operative only if Senate Bill~~
37 ~~341 of the 2012-13 Regular Session is enacted and becomes~~
38 ~~operative.~~

39 *SEC. 22. This act shall apply only to an agency or authority*
40 *created on or after January 1, 2014, that is required to comply*

1 *with, or is defined as an agency pursuant to, the Community*
2 *Redevelopment Law (Part 1 (commencing with Section 33000) of*
3 *Division 24 of the Health and Safety Code), and shall not apply*
4 *to an agency that has assumed the housing assets and functions*
5 *of a former redevelopment agency pursuant to Section 34176 of*
6 *the Health and Safety Code.*

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