

**ASSEMBLY BILL**

**No. 2174**

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**Introduced by Assembly Member Ackerman**

February 23, 2000

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An act to amend Section 33334.2 of the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2174, as introduced, Ackerman. Redevelopment: project area.

The Community Redevelopment Law requires redevelopment agencies to use not less than 20% of taxes allocated to the agency for low- and moderate-income housing, as specified. These funds may be used outside of the project area upon a finding by the agency and the legislative body of the community that it will benefit the project area.

This bill would expressly authorize the Development Agency of the County of Orange to use these funds outside of a project area adopted by county ordinance, anywhere within county boundaries, including within cities in the county, upon a finding by the agency and the board of supervisors that it will benefit the project area.

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

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

- 1 SECTION 1. Section 33334.2 of the Health and Safety
- 2 Code is amended to read:

1 33334.2. (a) Not less than 20 percent of all taxes  
2 which are allocated to the agency pursuant to Section  
3 33670 shall be used by the agency for the purposes of  
4 increasing, improving, and preserving the community's  
5 supply of low- and moderate-income housing available at  
6 affordable housing cost, as defined by Section 50052.5, to  
7 persons and families of low or moderate income, as  
8 defined in Section 50093, and very low income  
9 households, as defined in Section 50105, unless one of the  
10 following findings is made annually by resolution:

11 (1) (A) That no need exists in the community to  
12 improve, increase, or preserve the supply of low- and  
13 moderate-income housing, including housing for very  
14 low income households in a manner which would benefit  
15 the project area and that this finding is consistent with the  
16 housing element of the community's general plan  
17 required by Article 10.6 (commencing with Section  
18 65580) of Chapter 3 of Division 1 of Title 7 of the  
19 Government Code, including its share of the regional  
20 housing needs of very low income households and persons  
21 and families of low or moderate income.

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

38 (2) (A) That some stated percentage less than 20  
39 percent of the taxes which are allocated to the agency  
40 pursuant to Section 33670 is sufficient to meet the housing



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

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

25 (C) For purposes of making the findings specified in  
26 this paragraph and paragraph (1), the housing element  
27 of the general plan of a city or county shall be current,  
28 shall have been submitted to the Department of Housing  
29 and Community Development within the applicable  
30 time period, and shall be in compliance with Article 10.6  
31 (commencing with Section 65580) of Chapter 3 of  
32 Division 1 of Title 7 of the Government Code.

33 (3) (A) That the community is making a substantial  
34 effort to meet its existing and projected housing needs,  
35 including its share of the regional housing needs, with  
36 respect to persons and families of low and moderate  
37 income, particularly very low income households, as  
38 identified in the housing element of the community's  
39 general plan required by Article 10.6 (commencing with  
40 Section 65580) of Chapter 3 of Division 1 of Title 7 of the



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

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

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



1 under this paragraph in order to provide sufficient  
2 revenues to pay off the indebtedness.

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

28 (c) In any litigation to challenge or attack a finding  
29 made under paragraph (1), (2), or (3) of subdivision (a),  
30 the burden shall be upon the agency to establish that the  
31 finding is supported by substantial evidence in light of the  
32 entire record before the agency. If an agency is  
33 determined by a court to have knowingly misrepresented  
34 any material facts regarding the community's share of its  
35 regional housing need for low- and moderate-income  
36 housing, including very low income households, or the  
37 community's production record in meeting its share of  
38 the regional housing need pursuant to the report  
39 required by subdivision (b) of Section 65400 of the  
40 Government Code, the agency shall be liable for all court



1 costs and plaintiff’s attorney’s fees, and shall be required  
2 to allocate not less than 25 percent of the agency’s tax  
3 increment revenues to its Low and Moderate Income  
4 Housing Fund in each year thereafter.

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

10 (e) In carrying out the purposes of this section, the  
11 agency may exercise any or all of its powers, including the  
12 following:

13 (1) Acquire real property or building sites subject to  
14 Section 33334.16.

15 (2) Improve real property or building sites with onsite  
16 or offsite improvements, but only if either (A) the  
17 improvements are made as part of a program which  
18 results in the new construction or rehabilitation of  
19 affordable housing units for low- or moderate-income  
20 persons that are directly benefited by the improvements  
21 or (B) the agency finds that the improvements are  
22 necessary to eliminate a specific condition that  
23 jeopardizes the health or safety of existing low- or  
24 moderate-income residents.

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

27 (4) Finance insurance premiums pursuant to Section  
28 33136.

29 (5) Construct buildings or structures.

30 (6) Acquire buildings or structures.

31 (7) Rehabilitate buildings or structures.

32 (8) Provide subsidies to, or for the benefit of, very low  
33 income households, as defined by Section 50105, lower  
34 income households, as defined by Section 50079.5, or  
35 persons and families of low or moderate income, as  
36 defined by Section 50093, to the extent those households  
37 cannot obtain housing at affordable costs on the open  
38 market. Housing units available on the open market are  
39 those units developed without direct government  
40 subsidies.



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

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

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

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

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

30 (2) *The Development Agency of the County of*  
31 *Orange may use these funds inside or outside of a project*  
32 *area adopted by ordinance of the Board of Supervisors of*  
33 *the County of Orange, anywhere within the county*  
34 *boundaries, including within the incorporated cities in*  
35 *the county. If the funds are used outside a project area,*  
36 *the development agency and the board of supervisors*  
37 *shall make a finding that use of these funds outside the*  
38 *project area will be of benefit to the project area.*

39 (h) The Legislature finds and declares that  
40 expenditures or obligations incurred by the agency



1 pursuant to this section shall constitute an indebtedness  
2 of the project.

3 (i) The requirements of this section shall only apply to  
4 taxes allocated to a redevelopment agency for which a  
5 final redevelopment plan is adopted on or after January  
6 1, 1977, or for any area which is added to a project by an  
7 amendment to a redevelopment plan, which amendment  
8 is adopted on or after the effective date of this section. An  
9 agency may, by resolution, elect to make all or part of the  
10 requirements of this section applicable to any  
11 redevelopment project for which a redevelopment plan  
12 was adopted prior to January 1, 1977, subject to any  
13 indebtedness incurred prior to the election.

