

Assembly Bill No. 269

CHAPTER 869

An act to add and repeal Section 33334.30 of the Health and Safety Code, relating to redevelopment.

[Approved by Governor September 29, 2004. Filed with Secretary of State September 29, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 269, Mullin. Redevelopment: San Mateo County.

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 authorize a redevelopment agency of a community within San Mateo County that has a certified housing element and has met 40% of very low and low-income housing needs to create and participate in a joint powers authority in order to pool low- and moderate-income housing funds. The bill would authorize the joint powers authority to loan, grant, or advance transferred funds to a receiving entity for any eligible housing development on specified property within $\frac{1}{2}$ of a mile of the San Mateo County Transit District, San Mateo County Transportation Authority, or the Peninsula Corridor Joint Powers Authority right-of-way.

The bill would also require that specified conditions be met and described in a mutually binding contract between the joint powers authority and each participating agency and a receiving entity for the use and transfer of pooled housing funds, and that the conditions include, among other things, a determination by the department that the community of each participating agency has adopted housing elements that are in substantial compliance with existing law and that the proposed use of pooled funds by the receiving entity for these purposes is in compliance with these provisions.

The bill would, on or after January 1, 2009, prohibit a participating agency from creating a new joint powers authority or transferring funds to an existing joint powers authority unless a later enacted statute deletes or extends that date.

This bill would repeal these provisions on January 1, 2010.



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

SECTION 1. Section 33334.30 is added to the Health and Safety Code, to read:

33334.30. (a) The Legislature finds and declares all of the following:

(1) The transfer of funds to a joint powers authority and the use of pooled funds within the housing market area of the County of San Mateo, within one-third of a mile of the Peninsula Corridor Joint Powers Authority right-of-way, on property provided by the San Mateo County Transit Authority for the purpose of providing affordable housing that is of benefit to the project area producing the tax increment.

(2) The cooperation of local agencies and the use of pooled funds will result in more resources than would otherwise be available for affordable housing.

(b) Notwithstanding any other provision of law, an agency of a community within San Mateo County that has a housing element certified by the Department of Housing and Community Development and has met 40 percent of its very low and low-income housing needs may create and participate in a joint powers authority for the purpose of pooling low- and moderate-income housing funds for affordable housing uses pursuant to this section. No participating agency may transfer in any fiscal year more than 25 percent of the tax increment that is deposited into the Low and Moderate Income Housing Fund to a joint powers authority for use by the joint powers authority pursuant to this section. The joint powers authority may determine the kinds of housing projects or activities to be assisted, consistent with this section. The joint powers authority may loan, grant, or advance transferred housing funds from participating agencies to a receiving entity for any eligible housing development within the territorial jurisdiction of a participating agency in San Mateo County on property provided by the San Mateo County Transit District, the San Mateo County Transportation Authority, or the Peninsula Corridor Joint Powers Authority and located within one-half of a mile of the San Mateo County Transit District, the San Mateo County Transportation Authority, or the Peninsula Corridor Joint Powers Authority right-of-way, subject to the requirements of this section. In addition, the agreement may authorize the joint powers authority to issue bonds and to use the pooled funds to leverage other funds to assist eligible developments, including loans from private institutions and assistance provided by other governmental agencies.

(c) Each of the following conditions shall be met and described in a mutually binding agreement between the joint powers authority and each participating agency:



(1) The community of each participating agency shall have adopted an up-to-date housing element pursuant to Article 10.6 (commencing with Section 65580) of Division 1 of Title 7 of the Government Code, that has been determined to be in substantial compliance with the law by the Department of Housing and Community Development.

(2) The community of each participating agency shall have met, in its current or previous housing element cycle, 40 percent or more of its share of the region's affordable housing needs, as defined in Section 65584 of the Government Code, in each of the very low and lower income categories of income groups defined in Section 50025.5.

(3) Each participating agency shall hold, at least 45 days prior to the transfer of funds to the joint powers authority, a public hearing, after providing notice pursuant to Section 6062 of the Government Code to solicit public comments on the draft agreement.

(4) No housing funds shall be transferred from a project area that has indebtedness to its Low and Moderate Income Housing Fund pursuant to Section 33334.6.

(5) No housing funds shall be transferred from an agency that has not met its need for replacement housing pursuant to Section 33413, unless the agency has encumbered and contractually committed sufficient funds to meet those requirements.

(6) Pooled funds shall be used within the territorial jurisdiction of a participating agency within the County of San Mateo, within one-half of a mile of the San Mateo County Transit District, the San Mateo County Transportation Authority, or the Peninsula Corridor Joint Powers Authority right-of-way on property provided by any of these entities.

(7) The agreement shall require compliance by the joint powers authority with the provisions of this section.

(8) The joint powers authority shall ensure that the funds it receives are used in accordance with this section.

(9) Funds transferred by an agency to a joint powers authority pursuant to this section shall be expended or encumbered by the joint powers authority for the purposes of this section within two years of the transfer. Transferred funds not so expended or encumbered by the joint powers authority within two years after the transfer shall be returned to the original agency and shall be deemed excess surplus funds as provided in, and subject to, the requirements of Sections 33334.10 and 33334.12. Excess surplus funds held by an agency may not be transferred to a joint powers authority.

(10) The joint powers authority shall prepare and submit an annual report to the department that documents the amount of housing funds



received and expended or allocated for specific housing assistance activities consistent with Section 33080.4.

(d) Each of the following conditions shall be met and described in a mutually binding contract between the joint powers authority and a receiving entity:

(1) Pooled housing funds may only be used to pay for the direct costs of constructing, substantially rehabilitating, or preserving the affordability of housing units that are affordable to very low or low-income households. Units assisted with pooled funds shall remain available at affordable housing costs in accordance with subdivision (f) of Section 33334.3.

(2) Except as provided in this section, pooled housing funds may not be used in any way that is inconsistent with the requirements of Section 33334.3. Pooled housing funds may not be used to pay for planning and administrative costs, offsite improvements associated with a housing project, or fees or exactions levied solely for development projects constructed, substantially rehabilitated, or preserved with pooled funds. The receiving entity shall be subject to the same replacement requirements provided in Section 33413 and any relocation requirements applicable pursuant to Section 7260 of the Government Code.

(3) Pooled housing funds may not be used to construct a development in a census tract that currently has more than 50 percent of its population comprised of racial minorities or low-income families.

(4) The Department of Housing and Community Development has evaluated each proposed use of pooled funds to construct, substantially rehabilitate, or preserve the affordability of housing and determined that the proposed use is in compliance with this section. In considering whether a proposed use of funds will exacerbate racial or economic segregation, the department shall consider all of the following:

(A) The record of participating jurisdictions in meeting their share of the regional need for very low and low-income households allocated to the jurisdiction pursuant to Section 65584 of the Government Code.

(B) The distance of the proposed housing from a redevelopment area from which pooled funds originated.

(C) The income and ethnicity of the residents of the census tract from which the pooled funds originated and in which the housing will be located.

(D) The housing need and availability of sufficient sites for housing within jurisdictions from which pooled funds originated.

(e) As used in this section, the following terms shall apply:



(1) “Housing funds” mean funds in or from the low- and moderate-income housing fund established by an agency pursuant to Section 33334.3.

(2) “Joint powers authority” means a joint powers authority created pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code for the purposes of receiving and using housing funds pursuant to this section.

(3) “Receiving entity” means any person, partnership, joint venture, corporation, governmental body, or other organization receiving housing funds from a joint powers authority for the purpose of providing housing pursuant to this section.

(f) On or after January 1, 2009, no participating agency shall create a new joint powers authority or transfer funds to an existing joint powers authority pursuant to this section, unless a later enacted statute, which is enacted before January 1, 2009, deletes or extends that date.

(g) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2010, deletes or extends that date.

