AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 2759

Introduced by Assembly Member Nestande

February 19, 2010

An act to amend Sections 33021, 33334.3, and 33413 of, and to add Section 33334.35 to, the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2759, as amended, Nestande. Redevelopment: pooled housing funds: emergency ~~shelters.~~ *shelters and transitional housing.*

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities in order to address the effects of blight, as defined, in those communities and requires those agencies to prepare, or cause to be prepared, and approve a redevelopment plan for each area. *Existing law also requires that not less than 20% of the tax-increment revenue allocated to a redevelopment agency be used to increase, improve, and preserve the supply of the community's low- and moderate-income housing within the territorial jurisdiction of the agency, and for this purpose, the funds are held in a separate Low and Moderate Income Housing Fund.*

~~The Community Redevelopment Law requires that not less than 20% of the tax-increment revenue allocated to a redevelopment agency be used to increase, improve, and preserve the supply of the community's low- and moderate-income housing within the territorial jurisdiction of the agency, and for this purpose, the funds are held in a separate Low and Moderate Income Housing Fund. Existing law requires that all new or substantially rehabilitated housing units developed or otherwise~~

~~assisted with moneys from the Low and Moderate Income Housing Fund pursuant to an agreement approved by an agency on or after January 1, 1988, remain available at affordable housing cost to, and occupied by, persons and families of low or moderate income, very low income, and extremely low income households for the longest feasible time, but for not less than specified periods of time, except as specified.~~

This bill would redefine the term redevelopment to include improving, increasing, or preserving emergency shelters for homeless persons or households. The bill would authorize ~~contiguousredevelopment~~ *donor* agencies*, as defined,* located within ~~adjoining cities within a single Metropolitan Statistical Area~~ *the same housing region* to create and participate in a joint powers authority *and to enter into an interagency agreement* for the purpose of pooling ~~low- and moderate-income~~ *a permitted portion of* housing funds for ~~funding~~ emergency shelters for homeless persons or households *and transitional housing units*. The bill would authorize the agencies to transfer a portion of their housing funds to a joint powers authority *or to a receiving agency, as defined,* for use by the authority *or agency* pursuant to these provisions. The bill would require that the emergency shelters assisted with low- and moderate-income housing funds remain available at affordable housing cost to specified persons, families, and households for not less than ~~15~~ *55* years*, provided that a certain requirement is met*.

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

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Homelessness is a statewide problem that affects many cities and counties. There are an estimated 360,000 homeless individuals and families in California. In some counties, including the County of Los Angeles, an estimated 254,000 men, women, and children experience homelessness over the course of each year. Some of the causes of homelessness include mental illness, substance abuse, prison release, and a lack of affordable housing.

(b) Homelessness affects people of all races, gender, age, and geographic location. However, the cost and availability of land, geophysical and environmental limitations, community patterns, and the lack of financing make the availability of affordable housing for homeless more difficult in some communities. These factors contribute to the growing need for a regional approach to plan for the location of adequate emergency shelters. A regional approach would allow the expansion of existing facilities, result in more efficient overhead, create more efficient facilities, and avoid fragmenting and duplicating administrative and operating overhead caused by creating multiple smaller facilities in individual communities.

(c) In order to ensure access to services in every housing market area for homeless individuals and families, the cooperation of local redevelopment agencies and the use of pooled funds is necessary to increase available resources and to provide opportunities that would otherwise be unavailable for emergency shelters.

SEC. 2. Section 33021 of the Health and Safety Code is amended to read:

33021. Redevelopment includes any of the following:

(a) The alteration, improvement, modernization, reconstruction, or rehabilitation, or any combination of these, of existing structures in a project area.

(b) Provision for open-space types of use, such as streets and other public grounds and space around buildings, and public or private buildings, structures and improvements, and improvements of public or private recreation areas and other public grounds.

(c) The replanning or redesign or original development of undeveloped areas as to which either of the following conditions exist.

(1) The areas are stagnant or improperly utilized because of defective or inadequate street layout, faulty lot layout in relation to size, shape, accessibility, or usefulness, or for other causes.

(2) The areas require replanning and land assembly for reclamation or development in the interest of the general welfare because of widely scattered ownership, tax delinquency, or other reasons.

(d) Improving, increasing, or preserving emergency shelters ~~for homeless persons or households. The shelters may be located within or outside of established redevelopment project areas.~~ *for homeless persons or households and transitional housing units. The shelters and units may be located within or outside of established redevelopment project areas pursuant to Section 33334.25.* Notwithstanding any other provision of law, these activities may be financed with funds available pursuant to Section 33334.3.

SEC. 3. Section 33334.3 of the Health and Safety Code is amended to read:

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

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

(c) The moneys in the Low and Moderate Income Housing Fund shall be used to increase, improve, and preserve the supply of low- and moderate-income housing within the territorial jurisdiction of the agency*, except as authorized by this part*.

(d) It is the intent of the Legislature that the Low and Moderate Income Housing Fund be used to the maximum extent possible to defray the costs of production, improvement, and preservation of low- and moderate-income housing and that the amount of money spent for planning and general administrative activities associated with the development, improvement, and preservation of that housing not be disproportionate to the amount actually spent for the costs of production, improvement, or preservation of that housing. The agency shall determine annually that the planning and administrative expenses are necessary for the production, improvement, or preservation of low- and moderate-income housing.

(e) (1) Planning and general administrative costs which may be paid with moneys from the Low and Moderate Income Housing Fund are those expenses incurred by the agency which are directly related to the programs and activities authorized under subdivision (e) of Section 33334.2 *and Section 33334.35* and are limited to the following:

(A) Costs incurred for salaries, wages, and related costs of the agency's staff or for services provided through interagency agreements, and agreements with contractors, including usual indirect costs related thereto.

(B) Costs incurred by a nonprofit corporation which are not directly attributable to a specific project.

(2) Legal, architectural, and engineering costs and other salaries, wages, and costs directly related to the planning and execution of a specific project that are authorized under subdivision (e) of Section 33334.2 *and Section 33334.35* and that are incurred by a nonprofit housing sponsor are not planning and administrative costs for the purposes of this section, but are instead project costs.

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

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

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

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

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

~~(D) Fifteen years for emergency shelters for homeless persons or households that are occupied by and affordable to very low and extremely low-income persons and households. However, the agency may permit sales of mutual self-help housing units prior to expiration of the 15-year period for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program that (i) protects the agency's investment of moneys from~~

~~the Low and Moderate Income Housing Fund, including, but not limited to, an equity sharing program that establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds based on the length of occupancy; and (ii) ensures through a recorded regulatory agreement, deed of trust, or similar recorded instrument that if an emergency shelter is sold at any time after expiration of the 15-year period and prior to 45 years after the date of recording of the covenants or restrictions required pursuant to paragraph (2), the agency recovers, at a minimum, its original principal from the Low and Moderate Income Housing Fund from the proceeds of the sale and deposits those funds into the fund. The remainder of the excess proceeds of the sale not retained by the seller shall be allocated to the agency and deposited in the Low and Moderate Income Housing Fund.~~

(D) Fifty-five years for emergency shelters for homeless persons or households and for transitional housing units for eligible persons that are occupied by and affordable to very low and extremely low income persons and households, provided, however, that the covenants or restrictions recorded pursuant to paragraph (3) shall require that if an emergency shelter or transitional housing development is converted to another use prior to the expiration of the fifty-five year covenant period, the agency shall receive from the owner an amount equal to the agency's original expenditure of funds from its Low and Moderate Income Housing Fund plus an equity sharing amount based on a schedule of equity sharing set forth in the recorded covenant that requires payment to the agency of an amount based on length of owner's compliance with the recorded covenant, unless this payment requirement is waived by the agency in its sole and absolute discretion. Proceeds received by the agency pursuant to this subparagraph shall be deposited by the agency in its Low and Moderate Income Housing Fund but those deposits shall not be included for purposes of calculating excess surplus pursuant to Section 33334.12. For the purposes of this subparagraph, "emergency shelter" means a facility with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person or household as defined in *subdivision (e) of* Section 50801. ~~Nothing in this subparagraph precludes the agency and the developer of the emergency shelter from agreeing to 45-year deed restrictions.~~ *For the purposes of this subparagraph, "transitional*

housing" means housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons and may include self-sufficiency development services, as defined in subdivision (i) of Section 50801.

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

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

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

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

(i) A recitation of the affordability covenants or restrictions. If the document recorded under this subparagraph is recorded concurrently with the covenants or restrictions recorded under subparagraph (A), the recitation of the affordability covenants or restrictions shall also reference the concurrently recorded document. If the document recorded under this subparagraph is not recorded concurrently with the covenants or restrictions recorded under subparagraph (A), the recitation of the affordability covenants or restrictions shall also reference the recorder's identification number of the document recorded under subparagraph (A).

(ii) The date the covenants or restrictions expire.

(iii) The street address of the property, including, if applicable, the unit number.

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

(v) The legal description of the property.

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

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

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

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

(A) The agency.

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

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

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

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

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

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

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

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

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

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

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

(g) "Housing," as used in this section, includes residential hotels, as defined in subdivision (k) of Section 37912, *emergency shelters for homeless persons or households, and transitional housing in* *accordance with Section 33334.35*. The definitions of "lower income households," "very low income households," and "extremely low income households" in Sections 50079.5, 50105, and 50106 shall apply to this section. "Longest feasible time," as used in this section, includes, but is not limited to, unlimited duration.

(h) "Increasing, improving, and preserving the community's supply of low- and moderate-income housing," as used in this ~~section and in Section 33334.2, includes the increase, improvement, and preservation of emergency shelters for homeless persons or households in accordance with Section 33334.35 and the~~ *section and in Section 33334.2, includes the* preservation of rental housing units assisted by federal, state, or local government on the condition that units remain affordable to, and occupied by, low- and moderate-income households, including extremely low and very low income households, for the longest feasible time, but not less than 55 years, beyond the date the subsidies and use restrictions could be terminated and the assisted housing units converted to market rate rentals. In preserving these units the agency shall require that the units remain affordable to, and occupied by, persons and families of low- and moderate-income and extremely low and very low income households for the longest feasible time but not less than 55 years. However, the agency may replace rental units with equally affordable and comparable rental units in another location within the community if (1) the replacement units in another location are available for occupancy prior to the displacement of any persons and families of low or moderate income residing in the units to be replaced and (2) the comparable replacement units are not developed with moneys from the Low and Moderate Income Housing Fund.

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

(j) Funds from the Low and Moderate Income Housing Fund shall not be used to the extent that other reasonable means of private or commercial financing of the new or substantially rehabilitated units at the same level of affordability and quantity are reasonably available to the agency or to the owner of the units. Prior to the expenditure of funds from the Low and Moderate Income Housing Fund for new or substantially rehabilitated housing units, where those funds will exceed 50 percent of the cost of producing the units, the agency shall find, based on substantial evidence, that the use of the funds is necessary because the agency or owner of the units has made a good faith attempt but been unable to obtain commercial or private means of financing the units at the same level of affordability and quantity.

SEC. 4. Section 33334.35 is added to the Health and Safety Code, to read:

33334.35. (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 participating agencies for the purpose of providing emergency shelters for homeless persons or households is of benefit to the project area producing the tax increment.~~

(1) The use of housing funds pursuant to this section is of benefit to the project area that funds projects authorized by this section.

(2) The cost and availability of land, geophysical and environmental limitations, community patterns, and the lack of financing make the availability of affordable housing for homeless persons or households more difficult in some communities.

(3) The cooperation of local agencies ~~and~~, *including* the use of pooled funds, will result in more resources and more opportunities than would otherwise be available for affordable housing for homeless persons or households *and transitional housing*.

(b) As used in this section, the following terms shall have the following meanings:

(1) "Donor agency" means an agency that funds emergency shelters or transitional housing, as authorized by this section.

~~(1)~~

(2) "Emergency shelter" shall have the same meaning as described in subdivision (e) of Section 50801.

~~(2)~~

(3) "Housing funds" mean funds in or from the Low and Moderate Income Housing Fund established by an agency pursuant to Section 33334.3.

(4) "Housing region" means the region consisting of a donor agency's community and all of the communities whose nearest border to the border of the donor agency's community is not greater than 40 miles.

(5) "Interagency agreement" means an agreement between two or more agencies providing for the pooling of housing funds for the purpose of funding an emergency shelter or transitional housing pursuant to this section.

~~(3)~~

(6) "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.

(7) "Participating agency" means an agency participating in a joint powers agreement or an interagency agreement pursuant to this section.

(8) "Permitted portion of housing funds" means in any fiscal year not more than 5 percent of a donor agency's accumulated housing fund.

~~(4) "Receiving~~

(9) "Provider entity" means any person, partnership, joint venture, corporation, governmental body, or other organization receiving housing funds from *a donor agency or* a joint powers authority for the purpose of providing housing *for homeless persons or households or persons eligible for transitional housing,* pursuant to this section.

(10) "Receiving agency" means an agency that receives housing funds from a donor agency.

(11) "Transitional housing" means housing with supportive services for up to 24 months that is exclusively designated and targeted for recently homeless persons and may include self-sufficiency development services, as defined in subdivision (i) of Section 50801.

~~(c) Notwithstanding any other provision of law, contiguous agencies located within adjoining cities within a single Metropolitan Statistical Area (MSA) may create and participate~~

(c) Notwithstanding any other provision of law, donor agencies located within the same housing region may create and participate in a joint powers authority for the purpose of pooling their ~~low- and moderate-income~~ *permitted portion of* housing funds for funding emergency shelters for homeless persons or households *and transitional housing for eligible persons and households*. Agencies may transfer a portion of their housing funds 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 *emergency shelter or transitional* housing projects or activities to be assisted, consistent with this section. The joint powers authority may issue loans or grants, or advance transferred housing funds from participating agencies to a ~~receiving~~ *provider* entity for any eligible emergency shelter *or transitional housing* project within the territorial jurisdiction of any of the participating agencies, subject to the requirements of this section. In addition, the *joint powers* 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.

(d) Notwithstanding any other provision of law, donor agencies in communities within the same housing region may enter into an interagency agreement for the purpose of pooling their respective permitted portion of housing funds for funding the development or rehabilitation of emergency shelters for homeless persons or households and transitional housing for eligible persons or households. A donor agency may transfer its permitted portion of housing funds to a receiving agency for use by the receiving agency pursuant to this section. The emergency shelter project or the transitional housing project to be assisted shall be defined in the interagency agreement. The receiving agency may issue loans or grants, or advance transferred housing funds received from the donor agencies to a provider entity for any eligible emergency shelter project or transitional housing project within the territorial jurisdiction of the receiving agency, subject to the requirements of this section. The receiving agency may issue bonds and use the pooled funds to leverage other funds to assist eligible emergency shelter or transitional housing developments, including loans from

private institutions and assistance provided by other governmental agencies.

~~(d)~~

(e) All of the following conditions shall be met and described in a mutually binding agreement between the joint powers authority and each participating agency *and in the interagency agreement, as applicable*:

~~(1) 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.~~

~~(2) No housing funds shall be transferred from a project area that has an indebtedness to its low- and moderate-income housing fund pursuant to Section 33334.6.~~

~~(3) The agreement shall require compliance by the joint powers authority with the provisions of this section.~~

(1) Each participating agency, after providing notice pursuant to Section 6062 of the Government Code, shall hold a public hearing at least 45 days prior to entering into an agreement with the joint powers authority or entering into an interagency agreement.

(2) The agreement shall require compliance by the joint powers authority or the receiving agency, as applicable, with the provisions of this section.

~~(4) The joint powers authority~~

(3) The joint powers authority or the receiving agency, as applicable, shall ensure that the funds it receives are used in accordance with the requirements of this section.

~~(5)~~

(4) 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~~ *joint powers authority or receiving agency within five* years of the transfer. Transferred funds not expended or encumbered by the joint powers authority ~~within two~~ *or the receiving agency, as applicable, within five* 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.~~

~~(e) Both of the following requirements shall be met and described in a mutually binding contract between the joint powers authority and a receiving entity:~~ *the transfer shall be returned to the donor agency unless the donor agency and joint powers authority, or the donor agency and receiving agency, as applicable, each adopt a resolution extending the period for up to an additional five years. Any transferred funds returned by the joint powers authority or receiving agency to the donor agency shall be deposited in the donor agency's Low and Moderate Income Housing Fund, but shall not be included in the calculation of the donor agency's "excess surplus" pursuant to Section 33334.12.*

~~(1)~~

(5) Pooled housing funds may only be used to pay for the direct costs of constructing, substantially rehabilitating, or preserving the affordability of emergency shelters for homeless persons or households *and transitional housing for eligible persons* that are affordable to very low or extremely low income households. Emergency shelters *and transitional housing* assisted with pooled funds shall remain available at affordable housing costs in accordance with *subparagraph (D) of paragraph (1) of* 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 an emergency shelter 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.~~

(f) The permitted portion of housing funds transferred pursuant to this section may be used for planning and general administrative costs in the same manner as, and subject to the same requirements of, subdivision (d) of Section 33334.3.

(g) Notwithstanding any other provision of law, a donor agency may enter into an agreement with a provider entity to fund that

provider entity's development or rehabilitation of an emergency shelter or transitional housing project in another community within the donor agency's housing region provided that all of the following requirements are met:

(1) The donor agency provides not less than 60 days prior written notice to the city manager and city clerk of the other community of the donor agency's intent to enter into an agreement with the provider entity.

(2) The donor agency shall not enter into the agreement with the provider entity if, prior to the expiration of the 60-day period set forth in paragraph 1, the community receiving notice pursuant to paragraph 1 objects in writing to the donor agency.

(3) If no written objection is timely given to the donor agency, the land use requirements of the community in which the development is proposed to be located shall control and that community shall timely process all land use applications for the proposed development including determinations as may be required under the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(h) Notwithstanding any other provision of law, the donor agency, the receiving agency, the participating agency, the joint powers authority, and the provider entity shall not be subject to the replacement housing requirements set forth in subdivision (a) of Section 33413, nor shall be required to provide relocation assistance or benefits pursuant to Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code or Subchapter 1 of Chapter 6 of Division 1 (commencing with Section 6000) of Title 25 of the California Code of Regulations.

~~(f)~~

(i) For the purposes of the housing credit authorized by subparagraph (E) of paragraph (2) of subdivision (b) of Section 33413, each ~~participating~~ *donor* agency shall be allocated a share of the unit credits in the same proportion as the percentage each *donor* agency contributed to the ~~pooled funds~~ *project funding provided by all donor agencies*.

(j) The permitted portion of the housing funds transferred by a donor agency to a joint powers authority, transferred by a donor agency to a receiving agency pursuant to an interagency agreement, or provided directly by a donor agency to a provider entity, for a project in another community within the donor

agency's housing region shall not be used for transitional housing unless all of the following requirements are met:

(1) A transitional housing program, as defined in subdivision (g) of Section 50582, is operated with respect to the transitional housing units.

(2) The transitional housing is located on the same parcel as an emergency shelter or on a parcel adjoining an emergency shelter, or on a parcel that is not more than one-quarter mile from the parcel on which an emergency shelter is located.

(3) The transitional housing, and the transitional housing program for that housing, are managed by the same provider entity as the emergency shelter specified in paragraph (2).

SEC. 5. Section 33413 of the Health and Safety Code is amended to read:

33413. (a) Whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project that is subject to a written agreement with the agency or where financial assistance has been provided by the agency, the agency shall, within four years of the destruction or removal, rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or constructed, for rental or sale to persons and families of low or moderate income, an equal number of replacement dwelling units that have an equal or greater number of bedrooms as those destroyed or removed units at affordable housing costs within the territorial jurisdiction of the agency. When dwelling units are destroyed or removed after September 1, 1989, 75 percent of the replacement dwelling units shall replace dwelling units available at affordable housing cost in the same or a lower income level of very low income households, lower income households, and persons and families of low and moderate income, as the persons displaced from those destroyed or removed units. When dwelling units are destroyed or removed on or after January 1, 2002, 100 percent of the replacement dwelling units shall be available at affordable housing cost to persons in the same or a lower income category (low, very low, or moderate), as the persons displaced from those destroyed or removed units.

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

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

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

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

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

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

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

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

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

(E) To satisfy the requirements of paragraph (1) and subparagraph (A), each bed in an emergency shelter, as defined in subparagraph (D) of paragraph (1) of subdivision (f) of Section 33334.3, that is subject to a ~~15-year deed restriction~~ *55-year covenant or deed restriction* shall count as one-half of a unit*, and* *each transitional housing unit that is subject to a 55-year convenant or deed restriction shall count as a full unit in the same manner as a rental housing unit.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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