

AMENDED IN SENATE APRIL 12, 2010

AMENDED IN SENATE MARCH 22, 2010

**SENATE BILL**

**No. 1112**

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**Introduced by Senator Oropeza**

February 17, 2010

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An act to amend Sections ~~33333.8 and 33333.11~~ 33333.8, 33333.10, 33333.11, and 33413 of, and to add Section 33333.9 to, the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1112, as amended, Oropeza. Redevelopment: plan amendment: brownfield sites.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight in those communities. Existing law requires each agency to prepare or cause to be prepared, and approve, a redevelopment plan for each project area. Existing law requires that a redevelopment plan contain specified time limitations and authorizes the extension of time limitations under specified circumstances.

This bill would authorize an agency to extend the time limitation on the effectiveness of a redevelopment plan and on the payment of indebtedness and receipt of property taxes for not more than 10 years if the agency determines, based on substantial evidence that, among other conditions, at least 25% of the project area is a brownfield site, as defined. The bill would require the agency to include in certain reports specified information relating to the brownfield site *and would make other related and conforming changes*.

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 33333.8 of the Health and Safety Code  
2 is amended to read:

3 33333.8. (a) Every redevelopment agency shall comply with  
4 and fulfill its obligations with regard to the provision of affordable  
5 housing as required by this part prior to the time limit on the  
6 effectiveness of the redevelopment plan established pursuant to  
7 Sections 33333.2, 33333.6, 33333.9, and 33333.10, and before the  
8 agency exceeds a limit on the number of dollars of taxes that may  
9 be divided and allocated to the redevelopment agency if required  
10 by Section 33333.4 or the limit on the number of dollars of taxes  
11 in a redevelopment plan. A legislative body may not adopt an  
12 ordinance terminating a redevelopment project area if the agency  
13 has not complied with its affordable housing obligations.  
14 Notwithstanding any other provision of law, this section shall apply  
15 to each redevelopment agency and each redevelopment project  
16 area established or merged pursuant to this part and Part 1.5  
17 (commencing with Section 34000), including project areas  
18 authorized pursuant to this chapter and each individual project  
19 area that is authorized pursuant to any other provision of law.

20 (1) The affordable housing obligations specified in subdivision  
21 (a) shall include all of the following:

22 (A) The obligation to make deposits to and expenditures from  
23 the Low and Moderate Income Housing Fund pursuant to Sections  
24 33334.2, 33334.3, 33334.4, 33334.6, 33487, 33492.16, and other  
25 similar and related statutes.

26 (B) The obligation to eliminate project deficits pursuant to  
27 Sections 33334.6, 33487, 33492.16, and other similar and related  
28 statutes.

29 (C) The obligation to expend or transfer excess surplus funds  
30 pursuant to Section 33334.12 and other similar and related statutes.

31 (D) The obligation to provide relocation assistance pursuant to  
32 Article 9 (commencing with Section 33410), Section 7260 of the  
33 Government Code, or other applicable relocation laws.

34 (E) The obligation to provide replacement housing pursuant to  
35 subdivision (a) of Section 33413, Article 9 (commencing with  
36 Section 33410), and other similar and related statutes.

37 (F) The obligation to provide inclusionary housing pursuant to  
38 Section 33413 and other similar and related statutes and ordinances.

1 (2) A redevelopment agency shall not adopt an ordinance  
2 terminating a redevelopment project area if the agency has not  
3 complied with these obligations.

4 (b) If, on the date of the time limit on the effectiveness of the  
5 redevelopment plan, a redevelopment agency has not complied  
6 with subdivision (a), the time limit on the effectiveness of the  
7 redevelopment plan, and, if necessary, the time limit for repayment  
8 of indebtedness, shall be suspended until the agency has complied  
9 with subdivision (a). In addition, the agency shall receive and use  
10 all tax increment funds that are not pledged to repay indebtedness  
11 until the agency has fully complied with its obligations.

12 (c) If, on the date of the time limit on the repayment of  
13 indebtedness, the agency has not complied with subdivision (a),  
14 the time limit on the repayment of indebtedness shall be suspended  
15 until the agency has complied with subdivision (a). In addition,  
16 the agency shall receive and use tax increment funds until the  
17 agency has fully complied with its obligations.

18 (d) If, on the date of the time limit on the repayment of  
19 indebtedness, the agency has complied with its obligations under  
20 subdivision (a) and has moneys remaining in the Low and Moderate  
21 Income Housing Fund, the agency shall transfer the remaining  
22 moneys to a low and moderate income housing fund or account  
23 for a different project area within the agency's jurisdiction, if one  
24 exists, or if a different project area does not exist, the agency shall  
25 either transfer the remaining moneys to a special fund of the  
26 community or to the community or county housing authority. The  
27 community, community housing authority, or county housing  
28 authority to which the remaining moneys are transferred shall  
29 utilize the moneys for the purposes of, and subject to the same  
30 restrictions that are applicable to, the redevelopment agency under  
31 this part.

32 (e) If a redevelopment plan provides a limit on the total amount  
33 of tax increment funds that may be received by a redevelopment  
34 agency for any project area, and if that limit is reached prior to the  
35 agency complying with its obligations pursuant to subdivision (a),  
36 that limit is suspended until the agency has complied with  
37 subdivision (a) and the agency shall receive and use tax increment  
38 funds until the agency has fully complied with its obligations.

39 (f) If an agency fails to comply with its obligations pursuant to  
40 this section, any person may seek judicial relief. The court shall

1 require the agency to take all steps necessary to comply with those  
2 obligations, including, as necessary, the adoption of ordinances,  
3 to incur debt, to obtain tax increments, to expend tax increments,  
4 and to enter into contracts as necessary to meet its housing  
5 obligations under this part.

6 SEC. 2. Section 33333.9 is added to the Health and Safety  
7 Code, to read:

8 33333.9. (a) (1) Notwithstanding the time limits in  
9 subdivisions (a) and (b) of Section 33333.6, an agency that adopted  
10 a redevelopment plan on or before December 31, 1993, may,  
11 pursuant to this section, amend the plan to extend the time limit  
12 on the effectiveness of the plan for up to 10 additional years beyond  
13 the limit allowed by subdivision (a) of Section 33333.6.

14 (2) In addition, the agency may, pursuant to this section, amend  
15 the plan to extend the time limit on the payment of indebtedness  
16 and receipt of property taxes to be not more than 10 years from  
17 the termination of the effectiveness of the redevelopment plan as  
18 that time limit has been amended pursuant to paragraph (1).

19 (b) A redevelopment plan for a project area may be amended  
20 pursuant to subdivision (a) only after the agency determines, based  
21 on substantial evidence, that all of the following conditions exist:

22 (1) At least 25 percent of the property within the project area  
23 is a brownfield site.

24 (2) The redevelopment plan for the project area will expire  
25 within five years of the date of the determination.

26 (3) The presence of the brownfield site adds significant costs  
27 and time to the ability of the agency to eliminate blight according  
28 to the redevelopment plan.

29 (4) Significant blight will remain in the project area at the time  
30 of the redevelopment plan effectiveness date limit unless that  
31 effectiveness date limit is extended.

32 (5) None of the brownfield sites included in the calculation for  
33 paragraph (1) of this section was contaminated through actions of  
34 the agency.

35 (c) As used in this section the following terms shall have the  
36 following meanings:

37 (1) “Blight” has the same meaning as that term is given in  
38 Section 33030.

39 (2) “Brownfield site” means real property, the expansion,  
40 redevelopment, or reuse of which may be complicated by the

1 presence or potential presence of a hazardous substance, pollutant,  
2 or contaminant.

3 (3) *“Necessary and essential parcels” means parcels that are*  
4 *not blighted but are so necessary and essential to the elimination*  
5 *of the blight that the parcels should be included within the portion*  
6 *of the project area in which tax increment funds may be spent. To*  
7 *be considered a “necessary and essential parcel” the parcel shall*  
8 *meet one of the following requirements:*

9 (A) *The parcel is adjacent to one or more blighted parcels that*  
10 *are to be assembled in order to create a parcel of adequate size,*  
11 *given present standards and market conditions.*

12 (B) *The parcel or parcels on which it is necessary to construct*  
13 *a public improvement to eliminate blight is adjacent to or near*  
14 *parcels that are blighted.*

15 ~~(3)~~

16 (4) (A) *“Project area” may mean any independently adopted*  
17 *subarea with its own time effectiveness limits where a*  
18 *redevelopment plan has been amended over time to add new*  
19 *territory.*

20 (B) *For purposes of this section, significant blight can exist in*  
21 *a project area even though it is not prevalent in a project area. The*  
22 *report submitted to the legislative body pursuant to Section 33352*  
23 *shall identify on a map the portion of the project area in which*  
24 *significant blight remains and the locations of the brownfield site.*

25 ~~(4)~~

26 (5) *“Significant” means important and of a magnitude to warrant*  
27 *agency assistance.*

28 (d) *After the limit on the payment of indebtedness and receipt*  
29 *of property taxes that would have taken effect but for the*  
30 *amendment pursuant to this section, except for funds deposited in*  
31 *the Low and Moderate Income Housing Fund pursuant to Section*  
32 *33334.2 or 33334.6, the agency shall spend tax increment funds*  
33 *only within the portion of the project area that has been identified*  
34 *in the report adopted pursuant to Section 33352 as the area*  
35 *containing blighted parcels and necessary and essential parcels.*  
36 *Except as otherwise provided in subdivisions (e) and (f), an agency*  
37 *may continue to spend funds deposited in the Low and Moderate*  
38 *Income Housing Fund in accordance with this division.*

1 (e) An agency shall not amend its redevelopment plan pursuant  
2 to this section unless the agency first adopts a resolution that finds,  
3 based on substantial evidence, all of the following:

4 (1) The community has adopted a housing element that the  
5 department has determined, pursuant to Section 65585 of the  
6 Government Code, to be in substantial compliance with the  
7 requirements of Article 10.6 (commencing with Section 65580) of  
8 Chapter 3 of Division 1 of Title 7 of the Government Code, or if  
9 applicable, an eligible city or county within the jurisdiction of the  
10 San Diego Association of Governments has adopted a  
11 self-certification compliance with its adopted housing element  
12 pursuant to Section 65585.1 of the Government Code.

13 (2) During the three fiscal years prior to the year in which the  
14 amendment is adopted, the agency has not been included in the  
15 report sent by the Controller to the Attorney General pursuant to  
16 subdivision (b) of Section 33080.8 as an agency that has a “major  
17 violation” pursuant to that section.

18 (3) After a written request by the agency and provision of the  
19 information requested by the department, the department has issued  
20 a letter to the agency confirming that the agency has not  
21 accumulated an excess surplus in its Low and Moderate Income  
22 Housing Fund. As used in this section, “excess surplus” has the  
23 same meaning as that term is defined in Section 33334.12. The  
24 department shall develop a methodology to collect information  
25 required by this section. Information requested by the department  
26 shall include a certification by the agency’s independent auditor  
27 on the status of excess surplus and submittal of data for the  
28 department to verify the status of excess surplus. The independent  
29 auditor shall make the required certification based on the  
30 Controller’s office guidelines, which shall include the methodology  
31 prescribed by the department pursuant to subparagraph (D) of  
32 paragraph (3) of subdivision (g) of Section 33334.12. If the  
33 department does not respond to the written request of the agency  
34 for this determination within 90 days of receipt of the written  
35 request, compliance with this requirement shall be deemed  
36 confirmed.

37 (f) Each redevelopment plan that was adopted prior to January  
38 1, 1976, that is amended pursuant to subdivision (a) shall also be  
39 amended simultaneously to apply subdivision (b) of Section 33413

1 applicable to the redevelopment plan in accordance with  
2 paragraph (1) of subdivision (d) of Section 33413.

3 (g) Any amendment to a redevelopment plan pursuant to this  
4 section shall be made by ordinance pursuant to Article 12  
5 (commencing with Section 33450). The ordinance shall be subject  
6 to referendum.

7 (h) This section shall not apply to a project area that retains  
8 its eligibility to incur indebtedness and receive tax increment  
9 revenues pursuant to Section 33333.7.

10 (i) Any limitations established by an ordinance adopted pursuant  
11 to this section shall not be applied to limit allocation of taxes to  
12 an agency to the extent required to comply with Section 33333.8.  
13 In the event of a conflict between those limitations and Section  
14 33333.8, the limitation shall be subject to that section.

15 SEC. 3. Section 33333.10 of the Health and Safety Code is  
16 amended to read:

17 33333.10. (a) (1) Notwithstanding the time limits in  
18 subdivisions (a) and (b) of Section 33333.6, an agency that adopted  
19 a redevelopment plan on or before December 31, 1993, may,  
20 pursuant to this section, amend that plan to extend the time limit  
21 on effectiveness of the plan for up to 10 additional years beyond  
22 the limit allowed by subdivision (a) of Section 33333.6.

23 (2) In addition, the agency may, pursuant to this section, amend  
24 that plan to extend the time limit on the payment of indebtedness  
25 and receipt of property taxes to be not more than 10 years from  
26 the termination of the effectiveness of the redevelopment plan as  
27 that time limit has been amended pursuant to paragraph (1).

28 (b) A redevelopment plan may be amended pursuant to  
29 subdivision (a) only after the agency finds, based on substantial  
30 evidence, that both of the following conditions exist:

31 (1) Significant blight remains within the project area.

32 (2) This blight cannot be eliminated without extending the  
33 effectiveness of the plan and the receipt of property taxes.

34 (c) As used in this section:

35 (1) "Blight" has the same meaning as that term is given in  
36 Section 33030.

37 (2) "Significant" means important and of a magnitude to warrant  
38 agency assistance.

39 (3) "Necessary and essential parcels" means parcels that are not  
40 blighted but are so necessary and essential to the elimination of

1 the blight that these parcels should be included within the portion  
2 of the project area in which tax increment funds may be spent.  
3 “Necessary and essential parcels” are (A) parcels that are adjacent  
4 to one or more blighted parcels that are to be assembled in order  
5 to create a parcel of adequate size given present standards and  
6 market conditions, and (B) parcels that are adjacent or near parcels  
7 that are blighted on which it is necessary to construct a public  
8 improvement to eliminate the blight.

9 (d) For purposes of this section, significant blight can exist in  
10 a project area even though blight is not prevalent in a project area.  
11 The report submitted to the legislative body pursuant to Section  
12 33352 shall identify on a map the portion of the project area in  
13 which significant blight remains.

14 (e) After the limit on the payment of indebtedness and receipt  
15 of property taxes that would have taken effect but for the  
16 amendment pursuant to this section, except for funds deposited in  
17 the Low and Moderate Income Housing Fund pursuant to Section  
18 33334.2 or 33334.6, the agency shall spend tax increment funds  
19 only within the portion of the project area that has been identified  
20 in the report adopted pursuant to Section 33352 as the area  
21 containing blighted parcels and necessary and essential parcels.  
22 Except as otherwise limited by subdivisions (f) and (g), agencies  
23 may continue to spend funds deposited in the Low and Moderate  
24 Income Housing Fund in accordance with this division.

25 (f) (1) Except as otherwise provided in this subdivision, after  
26 the limit on the payment of indebtedness and receipt of property  
27 taxes that would have taken effect, but for the amendment pursuant  
28 to this section, agencies shall only spend moneys from the Low  
29 and Moderate Income Housing Fund for the purpose of increasing,  
30 improving, and preserving the community’s supply of housing at  
31 affordable housing cost to persons and families of low, very low,  
32 or extremely low income, as defined in Sections 50079.5, 50093,  
33 50105, and 50106. During this period, an agency that has adopted  
34 an amendment pursuant to subdivision (a) may use moneys from  
35 the Low and Moderate Income Housing Fund for the purpose of  
36 increasing, improving, and preserving housing at affordable  
37 housing cost to persons and families of moderate income as defined  
38 in Section 50093. However, this amount shall not exceed, in a  
39 five-year period, the amount of moneys from the Low and  
40 Moderate Income Housing Fund that are used to increase, improve,



1 and preserve housing at affordable housing cost to persons and  
2 families of extremely low income, as defined in Section 50106.  
3 In no case shall the amount expended for housing for persons and  
4 families of moderate income exceed 15 percent of the annual  
5 amount deposited in the Low and Moderate Income Housing Fund  
6 during a five-year period and the number of housing units  
7 affordable to moderate-income persons shall not exceed the number  
8 of housing units affordable to extremely low income persons.

9 (2) Commencing with the first fiscal year that commences after  
10 the date of the adoption of an amendment pursuant to subdivision  
11 (a) and until the limit on the payment of indebtedness and receipt  
12 of property taxes that would have taken effect but for the  
13 amendment pursuant to this section, an agency that has adopted  
14 an amendment pursuant to subdivision (a) may use moneys from  
15 the Low and Moderate Income Housing Fund for the purpose of  
16 increasing, improving, and preserving housing at affordable  
17 housing cost to persons and families of moderate income as defined  
18 in Section 50093. However, this amount shall not exceed, in a  
19 five-year period, 15 percent of the amount of moneys deposited  
20 in the Low and Moderate Income Housing Fund during that  
21 five-year period and shall only be used to assist housing projects  
22 in which no less than 49 percent of the units are affordable to and  
23 occupied by persons and families of low, very low, or extremely  
24 low income. An agency may spend an additional amount of moneys  
25 in the same or other housing projects to assist housing units  
26 affordable to and occupied by moderate-income persons. However,  
27 this amount shall not exceed the lesser of: the amount of moneys  
28 spent to increase, improve, and preserve housing at affordable  
29 housing cost to persons and families of extremely low income as  
30 defined in Section 50106, or 5 percent of the moneys deposited in  
31 the Low and Moderate Income Housing Fund during that five-year  
32 period.

33 (g) (1) Except as provided in paragraph (2) or (3), commencing  
34 with the first fiscal year that commences after the date of adoption  
35 of an amendment pursuant to subdivision (a), not less than 30  
36 percent of all taxes that are allocated to the agency pursuant to  
37 Section 33670 from the redevelopment project area so amended  
38 shall be deposited into that project's Low and Moderate Income  
39 Housing Fund for the purposes specified in subdivision (f).

1 (2) In any fiscal year, the agency may deposit less than the  
2 amount required by paragraph (1), but not less than the amount  
3 required by Section 33334.2 or 33334.6, into the Low and  
4 Moderate Income Housing Fund if the agency finds that the  
5 difference between the amount deposited and the amount required  
6 by paragraph (1) is necessary to make principal and interest  
7 payments during that fiscal year on bonds sold by the agency to  
8 finance or refinance the redevelopment project prior to six months  
9 before the date of adoption of the amendment pursuant to  
10 subdivision (a). Bonds sold by the agency prior to six months  
11 before the date of the adoption of the amendment pursuant to  
12 subdivision (a) may only be refinanced, refunded, or restructured  
13 after the date of the amendment pursuant to subdivision (a).  
14 However, for purposes of this section, bonds refinanced, refunded,  
15 or restructured after the date of the amendment pursuant to  
16 subdivision (a) may only be treated as if sold on the date the  
17 original bonds were sold if (A) the net proceeds were used to  
18 refinance the original bonds, (B) there is no increase in the amount  
19 of principal at the time of refinancing, restructuring, or refunding,  
20 and (C) the time during which the refinanced indebtedness is to  
21 be repaid does not exceed the date on which the existing  
22 indebtedness would have been repaid.

23 (3) No later than 120 days prior to depositing less than the  
24 amount required by paragraph (1) into the Low and Moderate  
25 Income Housing Fund, the agency shall adopt, by resolution after  
26 a noticed public hearing, a finding that the difference between the  
27 amount allocated and the amount required by paragraph (1) is  
28 necessary to make payments on bonds sold by the agency to finance  
29 or refinance the redevelopment project and identified in the  
30 preliminary report adopted pursuant to paragraph (9) of subdivision  
31 (e) of Section 33333.11, and specifying the amount of principal  
32 remaining on the bonds, the amount of annual payments, and the  
33 date on which the indebtedness will be repaid. Notice of the time  
34 and place of the public hearing shall be published in a newspaper  
35 of general circulation once a week for at least two successive weeks  
36 prior to the public hearing. The agency shall make available to the  
37 public the proposed resolution no later than the time of the  
38 publication of the first notice of the public hearing. A copy of the  
39 resolution shall be transmitted to the Department of Housing and  
40 Community Development within 10 days after adoption.

1 (4) Notwithstanding paragraph (1), an agency that sells bonds  
2 on or after the date of adoption of an amendment pursuant to  
3 subdivision (a), the repayment of which is to be made from taxes  
4 allocated to the agency pursuant to Section 33670 from the project  
5 so amended, may elect to subordinate up to 16  $\frac{2}{3}$  percent of its  
6 annual 30-percent Low and Moderate Income Housing Fund  
7 deposit obligation to the payment of debt service on the bonds. If  
8 the agency makes that election and in any year the agency has  
9 insufficient tax-increment revenue available to pay debt service  
10 on the bonds to which the funds from the Low and Moderate  
11 Income Housing Fund are subordinated, the agency may deposit  
12 less than the full 100 percent of its annual 30-percent Low and  
13 Moderate Income Housing Fund obligation but only to the extent  
14 necessary to pay that debt service and in no event shall less than  
15 83  $\frac{1}{3}$  percent of that obligation be deposited into the Low and  
16 Moderate Income Housing Fund for that year. The difference  
17 between the amount that is actually deposited in the Low and  
18 Moderate Income Housing Fund and the full 100 percent of the  
19 agency's 30-percent Low and Moderate Income Housing Fund  
20 deposit obligation shall constitute a deficit in the Low and  
21 Moderate Income Housing Fund subject to repayment pursuant to  
22 paragraph (5).

23 (5) If, pursuant to paragraph (2) or (4), the agency deposits less  
24 than 30 percent of the taxes allocated to the agency pursuant to  
25 Section 33670 in any fiscal year in the Low and Moderate Income  
26 Housing Fund, the amount equal to the difference between 30  
27 percent of the taxes allocated to the agency pursuant to Section  
28 33670 for each affected redevelopment project area and the amount  
29 actually deposited in the Low and Moderate Income Housing Fund  
30 for that fiscal year shall be established as a deficit in the Low and  
31 Moderate Income Housing Fund. Any new tax increment funds  
32 not encumbered pursuant to paragraph (2) or (4) shall be utilized  
33 to reduce or eliminate the deficit prior to entering into any new  
34 contracts, commitments, or indebtedness. The obligations imposed  
35 by this section are hereby declared to be an indebtedness of the  
36 redevelopment project to which they relate, payable from taxes  
37 allocated to the agency pursuant to Section 33670 and,  
38 notwithstanding any other provision of law, shall constitute an  
39 indebtedness of the agency with respect to the redevelopment

1 project, and the agency shall continue to receive allocations of  
2 taxes pursuant to Section 33670 until the deficit is paid in full.

3 (h) An agency may not amend its redevelopment plan pursuant  
4 to this section unless the agency first adopts a resolution that finds,  
5 based on substantial evidence, all of the following:

6 (1) The community has adopted a housing element that the  
7 department has determined pursuant to Section 65585 of the  
8 Government Code to be in substantial compliance with the  
9 requirements of Article 10.6 (commencing with Section 65580)  
10 of Chapter 3 of Division 1 of Title 7 of the Government Code, or  
11 if applicable, an eligible city or county within the jurisdiction of  
12 the San Diego Association of Governments has adopted a  
13 self-certification of compliance with its adopted housing element  
14 pursuant to Section 65585.1 of the Government Code.

15 (2) During the three fiscal years prior to the year in which the  
16 amendment is adopted, the agency has not been included in the  
17 report sent by the Controller to the Attorney General pursuant to  
18 subdivision (b) of Section 33080.8 as an agency that has a “major  
19 violation” pursuant to Section 33080.8.

20 (3) After a written request by the agency and provision of the  
21 information requested by the department, the department has issued  
22 a letter to the agency, confirming that the agency has not  
23 accumulated an excess surplus in its Low and Moderate Income  
24 Housing Fund. As used in this section, “excess surplus” has the  
25 same meaning as that term is defined in Section 33334.12. The  
26 department shall develop a methodology to collect information  
27 required by this section. Information requested by the department  
28 shall include a certification by the agency’s independent auditor  
29 on the status of excess surplus and submittal of data for the  
30 department to verify the status of excess surplus. The independent  
31 auditor shall make the required certification based on the  
32 Controller’s office guidelines which shall include the methodology  
33 prescribed by the department pursuant to subparagraph (D) of  
34 paragraph (3) of subdivision (g) of Section 33334.12. If the  
35 department does not respond to the written request of the agency  
36 for this determination within 90 days after receipt of the written  
37 request, compliance with this requirement shall be deemed  
38 confirmed.

39 (i) Each redevelopment plan that has been adopted prior to  
40 January 1, 1976, that is amended pursuant to subdivision (a) shall

1 also be amended at the same time to make subdivision (b) of  
2 Section 33413 applicable to the redevelopment plan in accordance  
3 with paragraph (1) of subdivision (d) of Section 33413.

4 (j) The amendment to the redevelopment plan authorized  
5 pursuant to this section shall be made by ordinance pursuant to  
6 Article 12 (commencing with Section 33450). The ordinance shall  
7 be subject to referendum as prescribed by law for ordinances of  
8 the legislative body.

9 (k) This section shall not apply to a project area that retains its  
10 eligibility to incur indebtedness and receive tax increment revenues  
11 pursuant to Section 33333.7.

12 (l) The limitations established in the ordinance adopted pursuant  
13 to this section shall not be applied to limit allocation of taxes to  
14 an agency to the extent required to comply with Section 33333.8.  
15 In the event of a conflict between these limitations and the  
16 obligations under Section 33333.8, the limitation established in  
17 the ordinance shall be suspended pursuant to Section 33333.8.

18 (m) *This section shall not apply to an amendment to extend the*  
19 *time limit on the effectiveness of a plan pursuant to Section*  
20 *33333.9.*

21 ~~SEC. 3.~~

22 *SEC. 4.* Section 33333.11 of the Health and Safety Code is  
23 amended to read:

24 33333.11. (a) In order to adopt an amendment pursuant to  
25 Section 33333.9 or Section 33333.10, the redevelopment agency  
26 shall also comply with the procedures in this section.

27 (b) Before adopting an amendment of the plan, the agency shall  
28 hold a public hearing on the proposed amendment. The notice of  
29 the public hearing shall comply with Section 33452.

30 (c) Prior to the publication of the notice of the public hearing  
31 on the proposed amendment, the agency shall consult with each  
32 affected taxing agency with respect to the proposed amendment.  
33 At a minimum, the agency shall give each affected taxing agency  
34 the opportunity to meet with representatives of the agency for the  
35 purpose of discussing the effect of the proposed amendment upon  
36 the affected taxing agency and shall notify each affected taxing  
37 agency that any written comments from the affected taxing agency  
38 will be included in the report to the legislative body.

39 (d) Prior to the publication of the notice of the public hearing  
40 on the proposed amendment, the agency shall consult with and

1 obtain the advice of members of a project area committee, if a  
2 project area committee exists, and residents and community  
3 organizations and provide to those persons and organizations,  
4 including the project area committee, if any, the amendment prior  
5 to the agency's submitting the amendment to the legislative body.  
6 In addition, the preliminary report prepared pursuant to subdivision  
7 (e) shall be made available at no cost to the project area committee,  
8 if one exists, and residents and community organizations not later  
9 than 120 days prior to holding a public hearing on the proposed  
10 amendment.

11 (e) No later than 120 days prior to holding a public hearing on  
12 the proposed amendment, the agency shall send to each affected  
13 taxing entity, as defined in Section 33353.2, the Department of  
14 Finance, and the Department of Housing and Community  
15 Development, a preliminary report that contains all of the  
16 following:

17 (1) A map of the project area that identifies the portion, if any,  
18 of the project area that is no longer blighted and the portion of the  
19 project area that is blighted and the portion of the project area that  
20 contains necessary and essential parcels for the elimination of the  
21 remaining blight.

22 (2) A description of the remaining blight.

23 (3) A description of the projects or programs proposed to  
24 eliminate the remaining blight.

25 (4) A description of how the project or programs will improve  
26 the conditions of blight.

27 (5) The reasons why the projects or programs cannot be  
28 completed without extending the time limits on the effectiveness  
29 of the plan and receipt of tax increment revenues.

30 (6) The proposed method of financing these programs or  
31 projects. This description shall include the amount of tax increment  
32 revenues that is projected to be generated during the period of the  
33 extension, including amounts projected to be deposited into the  
34 Low and Moderate Income Housing Fund and amounts to be paid  
35 to affected taxing entities. This description shall also include  
36 sources and amounts of moneys other than tax increment revenues  
37 that are available to finance these projects or programs. This  
38 description shall also include the reasons that the remaining blight  
39 cannot reasonably be expected to be reversed or alleviated by  
40 private enterprise or governmental action, or both, without the use

1 of the tax increment revenues available to the agency because of  
2 the proposed amendment.

3 (7) If the redevelopment plan is amended pursuant to Section  
4 33333.10, an amendment to the agency's implementation plan that  
5 includes, but is not limited to, the agency's housing responsibilities  
6 pursuant to Section 33490. However, the agency shall not be  
7 required to hold a separate public hearing on the implementation  
8 plan pursuant to subdivision (d) of Section 33490 in addition to  
9 the public hearing on the amendment to the redevelopment plan.

10 (8) A new neighborhood impact report if required by subdivision  
11 (m) of Section 33352.

12 (9) A description of each bond sold by the agency to finance or  
13 refinance the redevelopment project prior to six months before the  
14 date of adoption of the proposed amendment, and listing for each  
15 bond the amount of remaining principal, the annual payments, and  
16 the date that the bond will be paid in full.

17 (10) If the redevelopment plan is amended pursuant to Section  
18 33333.9, a study documenting the presence of the brownfield sites  
19 and the locations of the sites identified on the map of the project  
20 area required in paragraph (1).

21 (f) No later than 120 days prior to holding a public hearing on  
22 the proposed amendment, the agency shall send the proposed  
23 amendment to the planning commission. If the planning  
24 commission does not report upon the amendment within 30 days  
25 after its submission by the agency, the planning commission shall  
26 be deemed to have waived its report and recommendations  
27 concerning the amendment.

28 (g) No later than 45 days prior to the public hearing on the  
29 proposed amendment by the agency or the joint public hearing of  
30 the agency and the legislative body, the agency shall notify each  
31 affected taxing entity, the Department of Finance, the Department  
32 of Housing and Community Development, and each individual  
33 and organization that submitted comments on the preliminary  
34 report by certified mail of the public hearing, the date of the public  
35 hearing, and the proposed amendment. This notice shall be  
36 accompanied by the report required to be prepared pursuant to  
37 subdivision (h).

38 (h) No later than 45 days prior to the public hearing on the  
39 proposed amendment by the agency or the joint public hearing by

1 the agency and the legislative body, the agency shall adopt a report  
2 to the legislative body containing all of the following:

3 (1) All of the information required to be contained in the  
4 preliminary report prepared pursuant to subdivision (e).

5 (2) The report and recommendation of the planning commission.

6 (3) A negative declaration, environmental impact report, or  
7 other document that is required in order to comply with the  
8 California Environmental Quality Act (Division 13 (commencing  
9 with Section 21000) of the Public Resources Code.

10 (4) A summary of the consultations with the affected taxing  
11 entities. If any of the affected taxing entities, a project area  
12 committee, if any, residents, or community organizations have  
13 expressed written objections or concerns with the proposed  
14 amendment as part of these consultations, the agency shall include  
15 a response to these concerns.

16 (5) A summary of the consultation with residents and community  
17 organizations, including the project area committee, if any.

18 (i) After receiving the recommendation of the agency on the  
19 proposed amendment, and not sooner than 30 days after the  
20 submission of changes to the planning commission, the legislative  
21 body shall hold a public hearing on the proposed amendment. The  
22 notice of the public hearing shall comply with Section 33452.

23 (j) As an alternative to the separate public hearing required by  
24 subdivision (i), the agency and the legislative body, with the  
25 consent of both, may hold a joint public hearing on the proposed  
26 amendment. Notice of this public hearing shall comply with Section  
27 33452. When a joint public hearing is held and the legislative body  
28 is also the agency, the legislative body may adopt the amended  
29 plan with no actions required of the agency. If, after the public  
30 hearing, the legislative body determines that the amendment to the  
31 plan is necessary or desirable, the legislative body shall adopt an  
32 ordinance amending the ordinance adopting the plan thus amended.  
33 The ordinance adopting the amendment shall contain findings that  
34 both (1) significant blight remains within the project area, and (2)  
35 the blight cannot be eliminated without the extension of the  
36 effectiveness of the plan and receipt of tax increment revenues.

37 (k) If an affected taxing entity, the Department of Finance, or  
38 the Department of Housing and Community Development believes  
39 that significant remaining blight does not exist within the portion  
40 of the project area designated as blighted in the report to the



1 legislative body regarding a proposed amendment to be adopted  
2 pursuant to Section 33333.10, the affected taxing entity, the  
3 Department of Finance, or the Department of Housing and  
4 Community Development may request the Attorney General to  
5 participate in the amendment process. The affected taxing entity,  
6 the Department of Finance, or the Department of Housing and  
7 Community Development shall request this participation within  
8 21 days after receipt of the notice of the public hearing sent  
9 pursuant to subdivision (g). The Attorney General shall determine  
10 whether or not to participate in the amendment process. The  
11 Attorney General may consult with and request the assistance of  
12 departments of the state and any other persons or groups that are  
13 interested or that have expertise in redevelopment. The Attorney  
14 General may participate in the amendment process by requesting  
15 additional information from the agency, conducting his or her own  
16 review of the project area, meeting with the agency and any  
17 affected taxing entity, submitting evidence for consideration at the  
18 public hearing, or presenting oral evidence at the public hearing.  
19 No later than five days prior to the public hearing on the proposed  
20 amendment, the Attorney General shall notify each affected taxing  
21 agency, each department that has requested the Attorney General  
22 to review the proposed amendment, and the redevelopment agency  
23 with regard to whether the Attorney General will participate in the  
24 amendment process and, if so, how he or she will participate, on  
25 their behalf.

26 (l) The Attorney General may bring a civil action pursuant to  
27 Section 33501 to determine the validity of an amendment adopted  
28 pursuant to Section 33333.10. The Department of Finance and the  
29 Department of Housing and Community Development shall be  
30 considered interested persons for the purposes of protecting the  
31 interests of the state pursuant to Section 863 of the Code of Civil  
32 Procedure in any action brought with regard to the validity of an  
33 ordinance adopting a proposed amendment pursuant to Section  
34 33333.10. Either department may request the Attorney General to  
35 bring an action pursuant to Section 33501 to determine the validity  
36 of an amendment adopted pursuant to Section 33333.10. Actions  
37 brought pursuant to this subdivision are in addition to any other  
38 actions that may be brought by the Attorney General or other  
39 persons.

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

3     33413. (a) Whenever dwelling units housing persons and  
4     families of low or moderate income are destroyed or removed from  
5     the low- and moderate-income housing market as part of a  
6     redevelopment project that is subject to a written agreement with  
7     the agency or where financial assistance has been provided by the  
8     agency, the agency shall, within four years of the destruction or  
9     removal, rehabilitate, develop, or construct, or cause to be  
10    rehabilitated, developed, or constructed, for rental or sale to persons  
11    and families of low or moderate income, an equal number of  
12    replacement dwelling units that have an equal or greater number  
13    of bedrooms as those destroyed or removed units at affordable  
14    housing costs within the territorial jurisdiction of the agency. When  
15    dwelling units are destroyed or removed after September 1, 1989,  
16    75 percent of the replacement dwelling units shall replace dwelling  
17    units available at affordable housing cost in the same or a lower  
18    income level of very low income households, lower income  
19    households, and persons and families of low and moderate income,  
20    as the persons displaced from those destroyed or removed units.  
21    When dwelling units are destroyed or removed on or after January  
22    1, 2002, 100 percent of the replacement dwelling units shall be  
23    available at affordable housing cost to persons in the same or a  
24    lower income category (low, very low, or moderate), as the persons  
25    displaced from those destroyed or removed units.

26    (b) (1) Prior to the time limit on the effectiveness of the  
27    redevelopment plan established pursuant to Sections 33333.2,  
28    33333.6, 33333.9, and 33333.10 at least 30 percent of all new and  
29    substantially rehabilitated dwelling units developed by an agency  
30    shall be available at affordable housing cost to, and occupied by,  
31    persons and families of low or moderate income. Not less than 50  
32    percent of the dwelling units required to be available at affordable  
33    housing cost to, and occupied by, persons and families of low or  
34    moderate income shall be available at affordable housing cost to,  
35    and occupied by, very low income households.

36    (2) (A) (i) Prior to the time limit on the effectiveness of the  
37    redevelopment plan established pursuant to Sections 33333.2,  
38    33333.6, 33333.9 and 33333.10 at least 15 percent of all new and  
39    substantially rehabilitated dwelling units developed within a project  
40    area under the jurisdiction of an agency by public or private entities

1 or persons other than the agency shall be available at affordable  
2 housing cost to, and occupied by, persons and families of low or  
3 moderate income. Not less than 40 percent of the dwelling units  
4 required to be available at affordable housing cost to, and occupied  
5 by, persons and families of low or moderate income shall be  
6 available at affordable housing cost to, and occupied by, very low  
7 income households.

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

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

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

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

32 (B) To satisfy the requirements of paragraph (1) and  
33 subparagraph (A), the agency may purchase, or otherwise acquire  
34 or cause by regulation or agreement the purchase or other  
35 acquisition of, long-term affordability covenants on multifamily  
36 units that restrict the cost of renting or purchasing those units that  
37 either: (i) are not presently available at affordable housing cost to  
38 persons and families of low or very low income households, as  
39 applicable; or (ii) are units that are presently available at affordable  
40 housing cost to this same group of persons or families, but are

1 units that the agency finds, based upon substantial evidence, after  
2 a public hearing, cannot reasonably be expected to remain  
3 affordable to this same group of persons or families.

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

19 (D) To satisfy the requirements of paragraph (1) and  
20 subparagraph (A), each mutual self-help housing unit, as defined  
21 in subparagraph (C) of paragraph (1) of subdivision (f) of Section  
22 33334.3, that is subject to a 15-year deed restriction shall count as  
23 one-third of a unit.

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

31 (4) Each redevelopment agency, as part of the implementation  
32 plan required by Section 33490, shall adopt a plan to comply with  
33 the requirements of this subdivision for each project area. The plan  
34 shall be consistent with, and may be included within, the  
35 community's housing element. The plan shall be reviewed and, if  
36 necessary, amended at least every five years in conjunction with  
37 either the housing element cycle or the plan implementation cycle.  
38 The plan shall ensure that the requirements of this subdivision are  
39 met every 10 years. If the requirements of this subdivision are not  
40 met by the end of each 10-year period, the agency shall meet these

1 goals on an annual basis until the requirements for the 10-year  
2 period are met. If the agency has exceeded the requirements within  
3 the 10-year period, the agency may count the units that exceed the  
4 requirement in order to meet the requirements during the next  
5 10-year period. The plan shall contain the contents required by  
6 paragraphs (2), (3), and (4) of subdivision (a) of Section 33490.

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

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

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

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

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

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

17 (d) (1) This section applies only to redevelopment projects for  
18 which a final redevelopment plan is adopted pursuant to Article 5  
19 (commencing with Section 33360) on or after January 1, 1976,  
20 and to areas that are added to a project area by amendment to a  
21 final redevelopment plan adopted on or after January 1, 1976. In  
22 addition, subdivision (a) shall apply to any other redevelopment  
23 project with respect to dwelling units destroyed or removed from  
24 the low- and moderate-income housing market on or after January  
25 1, 1996, irrespective of the date of adoption of a final  
26 redevelopment plan or an amendment to a final redevelopment  
27 plan adding areas to a project area. Additionally, any agency may,  
28 by resolution, elect to make all or part of the requirements of this  
29 section applicable to any redevelopment project of the agency for  
30 which the final redevelopment plan was adopted prior to January  
31 1, 1976. In addition, subdivision (b) shall apply to redevelopment  
32 plans adopted prior to January 1, 1976, for which an amendment  
33 is adopted pursuant to ~~Section Sections 33333.9 and 33333.10,~~  
34 except that subdivision (b) shall apply to those redevelopment  
35 plans prospectively only so that the requirements of subdivision  
36 (b) shall apply only to new and substantially rehabilitated dwelling  
37 units for which the building permits are issued on or after the date  
38 that the ordinance adopting the amendment pursuant to ~~Section~~  
39 *Sections 33333.9 and 33333.10* becomes effective.

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

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

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

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

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

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