

AMENDED IN SENATE APRIL 26, 2010

AMENDED IN SENATE APRIL 12, 2010

AMENDED IN SENATE MARCH 22, 2010

SENATE BILL

No. 1112

Introduced by Senator Oropeza

February 17, 2010

An act to amend Sections 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. *The bill would also declare the need for a special statute.*

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.

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

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

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

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

17 (c) If, on the date of the time limit on the repayment of
18 indebtedness, the agency has not complied with subdivision (a),
19 the time limit on the repayment of indebtedness shall be suspended
20 until the agency has complied with subdivision (a). In addition,
21 the agency shall receive and use tax increment funds until the
22 agency has fully complied with its obligations.

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

37 (e) If a redevelopment plan provides a limit on the total amount
38 of tax increment funds that may be received by a redevelopment
39 agency for any project area, and if that limit is reached prior to the
40 agency complying with its obligations pursuant to subdivision (a),

1 that limit is suspended until the agency has complied with
2 subdivision (a) and the agency shall receive and use tax increment
3 funds until the agency has fully complied with its obligations.

4 (f) If an agency fails to comply with its obligations pursuant to
5 this section, any person may seek judicial relief. The court shall
6 require the agency to take all steps necessary to comply with those
7 obligations, including, as necessary, the adoption of ordinances,
8 to incur debt, to obtain tax increments, to expend tax increments,
9 and to enter into contracts as necessary to meet its housing
10 obligations under this part.

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

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

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

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

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

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

31 (3) The presence of the brownfield site adds significant costs
32 and time to the ability of the agency to eliminate blight according
33 to the redevelopment plan.

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

37 (5) None of the brownfield sites included in the calculation for
38 paragraph (1) of this section was contaminated through actions of
39 the agency.

1 (c) As used in this section, the following terms shall have the
2 following meanings:

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

5 (2) “Brownfield site” means ~~real property, the expansion,~~
6 ~~redevelopment, or reuse of which may be complicated by the~~
7 ~~presence or potential presence of a hazardous substance, pollutant,~~
8 ~~or contaminant.~~ *property where the agency is authorized to take*
9 *action to remedy or remove a release of hazardous substances*
10 *pursuant to the Polanco Redevelopment Act (Article 12.5*
11 *(commencing with Section 33459) of Chapter 4 of Part 1 of*
12 *Division 24).*

13 (3) “Necessary and essential parcels” means parcels that are not
14 blighted but are so necessary and essential to the elimination of
15 the blight that the parcels should be included within the portion of
16 the project area in which tax increment funds may be spent. To be
17 considered a “necessary and essential parcel” the parcel shall meet
18 one of the following requirements:

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

22 (B) The parcel or parcels on which it is necessary to construct
23 a public improvement to eliminate blight is adjacent to or near
24 parcels that are blighted.

25 (4) (A) “Project area” ~~may mean any independently adopted~~
26 ~~subarea with its own time effectiveness limits where a~~
27 ~~redevelopment plan has been amended over time to add new~~
28 ~~territory.~~ *means the original boundary of Project Area No. 1 of*
29 *the Carson Redevelopment Agency, as that project area was*
30 *established in 1971.*

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

36 (5) “Significant” means important and of a magnitude to warrant
37 agency assistance.

38 (d) After the limit on the payment of indebtedness and receipt
39 of property taxes that would have taken effect but for the
40 amendment pursuant to this section, except for funds deposited in

1 the Low and Moderate Income Housing Fund pursuant to Section
2 33334.2 or 33334.6, the agency shall spend tax increment funds
3 only within the portion of the project area that has been identified
4 in the report adopted pursuant to Section 33352 as the area
5 containing blighted parcels and necessary and essential parcels.
6 Except as otherwise provided in subdivisions (e) and (f), an agency
7 may continue to spend funds deposited in the Low and Moderate
8 Income Housing Fund in accordance with this division.

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

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

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

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

1 department does not respond to the written request of the agency
2 for this determination within 90 days of receipt of the written
3 request, compliance with this requirement shall be deemed
4 confirmed.

5 (f) Each redevelopment plan that was adopted prior to January
6 1, 1976, that is amended pursuant to subdivision (a) shall also be
7 amended simultaneously to apply subdivision (b) of Section 33413
8 applicable to the redevelopment plan in accordance with paragraph
9 (1) of subdivision (d) of Section 33413.

10 (g) Any amendment to a redevelopment plan pursuant to this
11 section shall be made by ordinance pursuant to Article 12
12 (commencing with Section 33450). The ordinance shall be subject
13 to referendum.

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

17 (i) Any limitations established by an ordinance adopted pursuant
18 to this section shall not be applied to limit allocation of taxes to
19 an agency to the extent required to comply with Section 33333.8.
20 In the event of a conflict between those limitations and Section
21 33333.8, the limitation shall be subject to that section.

22 (j) *This section shall apply only to the territory within the*
23 *original boundary of Project Area No. 1 of the Carson*
24 *Redevelopment Agency, as that project area was established in*
25 *1971.*

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

28 33333.10. (a) (1) Notwithstanding the time limits in
29 subdivisions (a) and (b) of Section 33333.6, an agency that adopted
30 a redevelopment plan on or before December 31, 1993, may,
31 pursuant to this section, amend that plan to extend the time limit
32 on effectiveness of the plan for up to 10 additional years beyond
33 the limit allowed by subdivision (a) of Section 33333.6.

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

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

- 4 (1) Significant blight remains within the project area.
- 5 (2) This blight cannot be eliminated without extending the
6 effectiveness of the plan and the receipt of property taxes.

7 (c) As used in this section:

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

10 (2) “Significant” means important and of a magnitude to warrant
11 agency assistance.

12 (3) “Necessary and essential parcels” means parcels that are not
13 blighted but are so necessary and essential to the elimination of
14 the blight that these parcels should be included within the portion
15 of the project area in which tax increment funds may be spent.
16 “Necessary and essential parcels” are (A) parcels that are adjacent
17 to one or more blighted parcels that are to be assembled in order
18 to create a parcel of adequate size given present standards and
19 market conditions, and (B) parcels that are adjacent or near parcels
20 that are blighted on which it is necessary to construct a public
21 improvement to eliminate the blight.

22 (d) For purposes of this section, significant blight can exist in
23 a project area even though blight is not prevalent in a project area.
24 The report submitted to the legislative body pursuant to Section
25 33352 shall identify on a map the portion of the project area in
26 which significant blight remains.

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

38 (f) (1) Except as otherwise provided in this subdivision, after
39 the limit on the payment of indebtedness and receipt of property
40 taxes that would have taken effect, but for the amendment pursuant

1 to this section, agencies shall only spend moneys from the Low
2 and Moderate Income Housing Fund for the purpose of increasing,
3 improving, and preserving the community's supply of housing at
4 affordable housing cost to persons and families of low, very low,
5 or extremely low income, as defined in Sections 50079.5, 50093,
6 50105, and 50106. During this period, an agency that has adopted
7 an amendment pursuant to subdivision (a) may use moneys from
8 the Low and Moderate Income Housing Fund for the purpose of
9 increasing, improving, and preserving housing at affordable
10 housing cost to persons and families of moderate income as defined
11 in Section 50093. However, this amount shall not exceed, in a
12 five-year period, the amount of moneys from the Low and
13 Moderate Income Housing Fund that are used to increase, improve,
14 and preserve housing at affordable housing cost to persons and
15 families of extremely low income, as defined in Section 50106.
16 In no case shall the amount expended for housing for persons and
17 families of moderate income exceed 15 percent of the annual
18 amount deposited in the Low and Moderate Income Housing Fund
19 during a five-year period and the number of housing units
20 affordable to moderate-income persons shall not exceed the number
21 of housing units affordable to extremely low income persons.

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

1 spent to increase, improve, and preserve housing at affordable
2 housing cost to persons and families of extremely low income as
3 defined in Section 50106, or 5 percent of the moneys deposited in
4 the Low and Moderate Income Housing Fund during that five-year
5 period.

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

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

35 (3) No later than 120 days prior to depositing less than the
36 amount required by paragraph (1) into the Low and Moderate
37 Income Housing Fund, the agency shall adopt, by resolution after
38 a noticed public hearing, a finding that the difference between the
39 amount allocated and the amount required by paragraph (1) is
40 necessary to make payments on bonds sold by the agency to finance

1 or refinance the redevelopment project and identified in the
2 preliminary report adopted pursuant to paragraph (9) of subdivision
3 (e) of Section 33333.11, and specifying the amount of principal
4 remaining on the bonds, the amount of annual payments, and the
5 date on which the indebtedness will be repaid. Notice of the time
6 and place of the public hearing shall be published in a newspaper
7 of general circulation once a week for at least two successive weeks
8 prior to the public hearing. The agency shall make available to the
9 public the proposed resolution no later than the time of the
10 publication of the first notice of the public hearing. A copy of the
11 resolution shall be transmitted to the Department of Housing and
12 Community Development within 10 days after adoption.

13 (4) Notwithstanding paragraph (1), an agency that sells bonds
14 on or after the date of adoption of an amendment pursuant to
15 subdivision (a), the repayment of which is to be made from taxes
16 allocated to the agency pursuant to Section 33670 from the project
17 so amended, may elect to subordinate up to $16 \frac{2}{3}$ percent of its
18 annual 30-percent Low and Moderate Income Housing Fund
19 deposit obligation to the payment of debt service on the bonds. If
20 the agency makes that election and in any year the agency has
21 insufficient tax-increment revenue available to pay debt service
22 on the bonds to which the funds from the Low and Moderate
23 Income Housing Fund are subordinated, the agency may deposit
24 less than the full 100 percent of its annual 30-percent Low and
25 Moderate Income Housing Fund obligation but only to the extent
26 necessary to pay that debt service and in no event shall less than
27 $83 \frac{1}{3}$ percent of that obligation be deposited into the Low and
28 Moderate Income Housing Fund for that year. The difference
29 between the amount that is actually deposited in the Low and
30 Moderate Income Housing Fund and the full 100 percent of the
31 agency's 30-percent Low and Moderate Income Housing Fund
32 deposit obligation shall constitute a deficit in the Low and
33 Moderate Income Housing Fund subject to repayment pursuant to
34 paragraph (5).

35 (5) If, pursuant to paragraph (2) or (4), the agency deposits less
36 than 30 percent of the taxes allocated to the agency pursuant to
37 Section 33670 in any fiscal year in the Low and Moderate Income
38 Housing Fund, the amount equal to the difference between 30
39 percent of the taxes allocated to the agency pursuant to Section
40 33670 for each affected redevelopment project area and the amount

1 actually deposited in the Low and Moderate Income Housing Fund
2 for that fiscal year shall be established as a deficit in the Low and
3 Moderate Income Housing Fund. Any new tax increment funds
4 not encumbered pursuant to paragraph (2) or (4) shall be utilized
5 to reduce or eliminate the deficit prior to entering into any new
6 contracts, commitments, or indebtedness. The obligations imposed
7 by this section are hereby declared to be an indebtedness of the
8 redevelopment project to which they relate, payable from taxes
9 allocated to the agency pursuant to Section 33670 and,
10 notwithstanding any other provision of law, shall constitute an
11 indebtedness of the agency with respect to the redevelopment
12 project, and the agency shall continue to receive allocations of
13 taxes pursuant to Section 33670 until the deficit is paid in full.

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

17 (1) The community has adopted a housing element that the
18 department has determined pursuant to Section 65585 of the
19 Government Code to be in substantial compliance with the
20 requirements of Article 10.6 (commencing with Section 65580)
21 of Chapter 3 of Division 1 of Title 7 of the Government Code, or
22 if applicable, an eligible city or county within the jurisdiction of
23 the San Diego Association of Governments has adopted a
24 self-certification of compliance with its adopted housing element
25 pursuant to Section 65585.1 of the Government Code.

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

31 (3) After a written request by the agency and provision of the
32 information requested by the department, the department has issued
33 a letter to the agency, confirming that the agency has not
34 accumulated an excess surplus in its Low and Moderate Income
35 Housing Fund. As used in this section, “excess surplus” has the
36 same meaning as that term is defined in Section 33334.12. The
37 department shall develop a methodology to collect information
38 required by this section. Information requested by the department
39 shall include a certification by the agency’s independent auditor
40 on the status of excess surplus and submittal of data for the

1 department to verify the status of excess surplus. The independent
2 auditor shall make the required certification based on the
3 Controller’s office guidelines which shall include the methodology
4 prescribed by the department pursuant to subparagraph (D) of
5 paragraph (3) of subdivision (g) of Section 33334.12. If the
6 department does not respond to the written request of the agency
7 for this determination within 90 days after receipt of the written
8 request, compliance with this requirement shall be deemed
9 confirmed.

10 (i) Each redevelopment plan that has been adopted prior to
11 January 1, 1976, that is amended pursuant to subdivision (a) shall
12 also be amended at the same time to make subdivision (b) of
13 Section 33413 applicable to the redevelopment plan in accordance
14 with paragraph (1) of subdivision (d) of Section 33413.

15 (j) The amendment to the redevelopment plan authorized
16 pursuant to this section shall be made by ordinance pursuant to
17 Article 12 (commencing with Section 33450). The ordinance shall
18 be subject to referendum as prescribed by law for ordinances of
19 the legislative body.

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

23 (l) The limitations established in the ordinance adopted pursuant
24 to this section shall not be applied to limit allocation of taxes to
25 an agency to the extent required to comply with Section 33333.8.
26 In the event of a conflict between these limitations and the
27 obligations under Section 33333.8, the limitation established in
28 the ordinance shall be suspended pursuant to Section 33333.8.

29 (m) This section shall not apply to an amendment to extend the
30 time limit on the effectiveness of a plan pursuant to Section
31 33333.9.

32 SEC. 4. Section 33333.11 of the Health and Safety Code is
33 amended to read:

34 33333.11. (a) In order to adopt an amendment pursuant to
35 Section 33333.9 or Section 33333.10, the redevelopment agency
36 shall also comply with the procedures in this section.

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

1 (c) Prior to the publication of the notice of the public hearing
2 on the proposed amendment, the agency shall consult with each
3 affected taxing agency with respect to the proposed amendment.
4 At a minimum, the agency shall give each affected taxing agency
5 the opportunity to meet with representatives of the agency for the
6 purpose of discussing the effect of the proposed amendment upon
7 the affected taxing agency and shall notify each affected taxing
8 agency that any written comments from the affected taxing agency
9 will be included in the report to the legislative body.

10 (d) Prior to the publication of the notice of the public hearing
11 on the proposed amendment, the agency shall consult with and
12 obtain the advice of members of a project area committee, if a
13 project area committee exists, and residents and community
14 organizations and provide to those persons and organizations,
15 including the project area committee, if any, the amendment prior
16 to the agency's submitting the amendment to the legislative body.
17 In addition, the preliminary report prepared pursuant to subdivision
18 (e) shall be made available at no cost to the project area committee,
19 if one exists, and residents and community organizations not later
20 than 120 days prior to holding a public hearing on the proposed
21 amendment.

22 (e) No later than 120 days prior to holding a public hearing on
23 the proposed amendment, the agency shall send to each affected
24 taxing entity, as defined in Section 33353.2, the Department of
25 Finance, and the Department of Housing and Community
26 Development, a preliminary report that contains all of the
27 following:

28 (1) A map of the project area that identifies the portion, if any,
29 of the project area that is no longer blighted and the portion of the
30 project area that is blighted and the portion of the project area that
31 contains necessary and essential parcels for the elimination of the
32 remaining blight.

33 (2) A description of the remaining blight.

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

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

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

1 (6) The proposed method of financing these programs or
2 projects. This description shall include the amount of tax increment
3 revenues that is projected to be generated during the period of the
4 extension, including amounts projected to be deposited into the
5 Low and Moderate Income Housing Fund and amounts to be paid
6 to affected taxing entities. This description shall also include
7 sources and amounts of moneys other than tax increment revenues
8 that are available to finance these projects or programs. This
9 description shall also include the reasons that the remaining blight
10 cannot reasonably be expected to be reversed or alleviated by
11 private enterprise or governmental action, or both, without the use
12 of the tax increment revenues available to the agency because of
13 the proposed amendment.

14 (7) If the redevelopment plan is amended pursuant to Section
15 33333.10, an amendment to the agency's implementation plan that
16 includes, but is not limited to, the agency's housing responsibilities
17 pursuant to Section 33490. However, the agency shall not be
18 required to hold a separate public hearing on the implementation
19 plan pursuant to subdivision (d) of Section 33490 in addition to
20 the public hearing on the amendment to the redevelopment plan.

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

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

28 (10) If the redevelopment plan is amended pursuant to Section
29 33333.9, a study documenting the presence of the brownfield sites
30 and the locations of the sites identified on the map of the project
31 area required in paragraph (1).

32 (f) No later than 120 days prior to holding a public hearing on
33 the proposed amendment, the agency shall send the proposed
34 amendment to the planning commission. If the planning
35 commission does not report upon the amendment within 30 days
36 after its submission by the agency, the planning commission shall
37 be deemed to have waived its report and recommendations
38 concerning the amendment.

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

1 the agency and the legislative body, the agency shall notify each
2 affected taxing entity, the Department of Finance, the Department
3 of Housing and Community Development, and each individual
4 and organization that submitted comments on the preliminary
5 report by certified mail of the public hearing, the date of the public
6 hearing, and the proposed amendment. This notice shall be
7 accompanied by the report required to be prepared pursuant to
8 subdivision (h).

9 (h) No later than 45 days prior to the public hearing on the
10 proposed amendment by the agency or the joint public hearing by
11 the agency and the legislative body, the agency shall adopt a report
12 to the legislative body containing all of the following:

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

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

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

20 (4) A summary of the consultations with the affected taxing
21 entities. If any of the affected taxing entities, a project area
22 committee, if any, residents, or community organizations have
23 expressed written objections or concerns with the proposed
24 amendment as part of these consultations, the agency shall include
25 a response to these concerns.

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

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

33 (j) As an alternative to the separate public hearing required by
34 subdivision (i), the agency and the legislative body, with the
35 consent of both, may hold a joint public hearing on the proposed
36 amendment. Notice of this public hearing shall comply with Section
37 33452. When a joint public hearing is held and the legislative body
38 is also the agency, the legislative body may adopt the amended
39 plan with no actions required of the agency. If, after the public
40 hearing, the legislative body determines that the amendment to the

1 plan is necessary or desirable, the legislative body shall adopt an
2 ordinance amending the ordinance adopting the plan thus amended.
3 The ordinance adopting the amendment shall contain findings that
4 both (1) significant blight remains within the project area, and (2)
5 the blight cannot be eliminated without the extension of the
6 effectiveness of the plan and receipt of tax increment revenues.

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

36 (l) The Attorney General may bring a civil action pursuant to
37 Section 33501 to determine the validity of an amendment adopted
38 pursuant to Section 33333.10. The Department of Finance and the
39 Department of Housing and Community Development shall be
40 considered interested persons for the purposes of protecting the

1 interests of the state pursuant to Section 863 of the Code of Civil
2 Procedure in any action brought with regard to the validity of an
3 ordinance adopting a proposed amendment pursuant to Section
4 33333.10. Either department may request the Attorney General to
5 bring an action pursuant to Section 33501 to determine the validity
6 of an amendment adopted pursuant to Section 33333.10. Actions
7 brought pursuant to this subdivision are in addition to any other
8 actions that may be brought by the Attorney General or other
9 persons.

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

12 33413. (a) Whenever dwelling units housing persons and
13 families of low or moderate income are destroyed or removed from
14 the low- and moderate-income housing market as part of a
15 redevelopment project that is subject to a written agreement with
16 the agency or where financial assistance has been provided by the
17 agency, the agency shall, within four years of the destruction or
18 removal, rehabilitate, develop, or construct, or cause to be
19 rehabilitated, developed, or constructed, for rental or sale to persons
20 and families of low or moderate income, an equal number of
21 replacement dwelling units that have an equal or greater number
22 of bedrooms as those destroyed or removed units at affordable
23 housing costs within the territorial jurisdiction of the agency. When
24 dwelling units are destroyed or removed after September 1, 1989,
25 75 percent of the replacement dwelling units shall replace dwelling
26 units available at affordable housing cost in the same or a lower
27 income level of very low income households, lower income
28 households, and persons and families of low and moderate income,
29 as the persons displaced from those destroyed or removed units.
30 When dwelling units are destroyed or removed on or after January
31 1, 2002, 100 percent of the replacement dwelling units shall be
32 available at affordable housing cost to persons in the same or a
33 lower income category (low, very low, or moderate), as the persons
34 displaced from those destroyed or removed units.

35 (b) (1) Prior to the time limit on the effectiveness of the
36 redevelopment plan established pursuant to Sections 33333.2,
37 33333.6, 33333.9, and 33333.10 at least 30 percent of all new and
38 substantially rehabilitated dwelling units developed by an agency
39 shall be available at affordable housing cost to, and occupied by,
40 persons and families of low or moderate income. Not less than 50

1 percent of the dwelling units required to be available at affordable
2 housing cost to, and occupied by, persons and families of low or
3 moderate income shall be available at affordable housing cost to,
4 and occupied by, very low income households.

5 (2) (A) (i) Prior to the time limit on the effectiveness of the
6 redevelopment plan established pursuant to Sections 33333.2,
7 33333.6, 33333.9 and 33333.10 at least 15 percent of all new and
8 substantially rehabilitated dwelling units developed within a project
9 area under the jurisdiction of an agency by public or private entities
10 or persons other than the agency shall be available at affordable
11 housing cost to, and occupied by, persons and families of low or
12 moderate income. Not less than 40 percent of the dwelling units
13 required to be available at affordable housing cost to, and occupied
14 by, persons and families of low or moderate income shall be
15 available at affordable housing cost to, and occupied by, very low
16 income households.

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

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

32 (iv) As used in this paragraph and in paragraph (1), “substantial
33 rehabilitation” means rehabilitation, the value of which constitutes
34 25 percent of the after rehabilitation value of the dwelling, inclusive
35 of the land value.

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

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

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

28 (D) To satisfy the requirements of paragraph (1) and
29 subparagraph (A), each mutual self-help housing unit, as defined
30 in subparagraph (C) of paragraph (1) of subdivision (f) of Section
31 33334.3, that is subject to a 15-year deed restriction shall count as
32 one-third of a unit.

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

1 (4) Each redevelopment agency, as part of the implementation
2 plan required by Section 33490, shall adopt a plan to comply with
3 the requirements of this subdivision for each project area. The plan
4 shall be consistent with, and may be included within, the
5 community's housing element. The plan shall be reviewed and, if
6 necessary, amended at least every five years in conjunction with
7 either the housing element cycle or the plan implementation cycle.
8 The plan shall ensure that the requirements of this subdivision are
9 met every 10 years. If the requirements of this subdivision are not
10 met by the end of each 10-year period, the agency shall meet these
11 goals on an annual basis until the requirements for the 10-year
12 period are met. If the agency has exceeded the requirements within
13 the 10-year period, the agency may count the units that exceed the
14 requirement in order to meet the requirements during the next
15 10-year period. The plan shall contain the contents required by
16 paragraphs (2), (3), and (4) of subdivision (a) of Section 33490.

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

30 (2) Notwithstanding paragraph (1), the agency may permit sales
31 of owner-occupied units prior to the expiration of the 45-year
32 period, and mutual self-help housing units prior to the expiration
33 of the 15-year period, established by the agency for a price in
34 excess of that otherwise permitted under this subdivision pursuant
35 to an adopted program that protects the agency's investment of
36 moneys from the Low and Moderate Income Housing Fund,
37 including, but not limited to, an equity sharing program that
38 establishes a schedule of equity sharing that permits retention by
39 the seller of a portion of those excess proceeds, based on the length
40 of occupancy. The remainder of the excess proceeds of the sale

1 shall be allocated to the agency, and deposited into the Low and
2 Moderate Income Housing Fund. The agency shall, within three
3 years from the date of sale pursuant to this paragraph of each home
4 ownership or mutual self-help housing unit subject to a 45-year
5 deed restriction, and every third mutual self-help housing unit
6 subject to a 15-year deed restriction, expend funds to make
7 affordable an equal number of units at the same or lowest income
8 level as the unit or units sold pursuant to this paragraph, for a
9 period not less than the duration of the original deed restrictions.
10 Only the units originally assisted by the agency shall be counted
11 towards the agency's obligations under Section 33413.

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

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

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

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

1 plans adopted prior to January 1, 1976, for which an amendment
2 is adopted pursuant to Sections 33333.9 and 33333.10, except that
3 subdivision (b) shall apply to those redevelopment plans
4 prospectively only so that the requirements of subdivision (b) shall
5 apply only to new and substantially rehabilitated dwelling units
6 for which the building permits are issued on or after the date that
7 the ordinance adopting the amendment pursuant to Sections
8 33333.9 and 33333.10 becomes effective.

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

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

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

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

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

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

32 *SEC. 6. The Legislature finds and declares that a special law*
33 *is necessary and that a general law cannot be made applicable*
34 *within the meaning of Section 16 of Article IV of the California*
35 *Constitution because of the unique circumstances of the original*
36 *territory within Project Area No. 1 of the Carson Redevelopment*
37 *Agency. The facts constituting the special circumstances are:*

38 *The original territory of Project Area No. 1 of the Carson*
39 *Redevelopment Agency, as established in 1971, contains an*
40 *unusually large amount of real property that is contaminated by*

1 *hazardous substances. The Carson Redevelopment Agency's*
2 *remediation or removal of those hazardous substances from that*
3 *property requires more time and more tax increment revenues*
4 *than allowed by Section 33333.10 of the Health and Safety Code.*

O