

AMENDED IN SENATE AUGUST 21, 2012

AMENDED IN SENATE JUNE 29, 2011

AMENDED IN SENATE JUNE 20, 2011

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 345

Introduced by Assembly Member ~~Atkins Torres~~
(Principal coauthor: Assembly Member Atkins)
(Principal coauthor: Senator Lowenthal)
(Coauthors: ~~Assembly Members Gatto and Ma~~)

February 10, 2011

~~An act to amend Section 21400 of the Vehicle Code, relating to vehicles.~~
An act to amend Sections 33080, 33080.1, 33080.2, 33080.8, 33334.2, 33334.3, 33334.4, 33334.12, 33413, 33413.5, 33418, 33487, and 33490 of, to add Sections 33080.9, 33080.11, 33080.12, 33506, and 50464.5 to, to add Article 13 (commencing with Section 33460) to Chapter 4 of Part 1 of Division 24 of, and to repeal and add Section 33334.16 of, the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

AB 345, as amended, ~~Atkins Torres. Vehicles: traffic control device uniform standards: advisory committee.~~ *Redevelopment.*

(1) The Community Redevelopment Law requires that each redevelopment agency submit the final report of any audit undertaken by any other local, state, or federal government entity to its legislative body and to additionally present an annual report to the legislative body containing specified information.

This bill would require the agency to include additional information relating to any major audit violations, as defined, any corrections to those violations, and planning and general administrative expenses of the Low and Moderate Income Housing Fund. The bill would authorize the Controller to conduct quality control reviews of independent financial audit reports and require the Controller to publish the results of his or her reviews. The bill would require the Controller to comply with certain notification and referral provisions in the event that the audit was conducted in a manner that may constitute unprofessional conduct.

The bill would require the Department of Housing and Community Development to conduct audits of redevelopment agencies to ensure compliance with the housing provisions of the Community Redevelopment Law. The bill would require each agency to annually deposit 0.05% of any tax increment deposited into the Low and Moderate Income Housing Fund into the Redevelopment Agency Accountability Fund, which the bill would create, to fund the department audits.

(2) Existing law requires that funds used for purposes of increasing, improving, and preserving a community's supply of low- and moderate-income housing be held in a separate Low and Moderate Income Housing Fund until used. Existing law limits the planning and general administrative costs which may be paid with moneys from the Low and Moderate Income Housing Fund.

The bill would revise the costs and expenses which may be considered planning and general administrative costs for the purposes of being paid from the Low and Moderate Income Housing Fund. Except as provided, the bill would prohibit an agency from expending more than 15% of the tax increment deposited in the fund for planning and general administrative costs. The bill would impose other reporting and accountability measures on agencies with respect to the use of moneys in the fund for planning and administrative purposes. The bill would revise various provisions governing an action to compel agency compliance with specified provisions.

(3) Existing law requires, except as specified, each agency to expend over each 10-year period of the implementation plan, the moneys in the Low and Moderate Income Housing Fund to assist housing for persons of moderate, low, and very low income according to specified calculations.

The bill would instead require that at least 75% of the agency's expenditures from the fund directly assist the new construction,

acquisition and substantial rehabilitation, or preservation of housing for persons of extremely low, very low, low, or moderate income, with at least 25% of the expenditures required to be directed towards housing for persons of extremely low income and at least 50% of the expenditures required to be directed towards housing for persons of very low income.

(4) Existing law authorizes a redevelopment agency to merge project areas under its jurisdiction, and requires that at least 20% of specified taxes allocated to the redevelopment agency be deposited into the Low and Moderate Income Housing Fund to assist in the construction or rehabilitation of housing units for very low, and low- and moderate-income households, as specified. Existing law requires that if those funds have not been committed for that purpose within 6 years, the agency shall offer the funds to the housing authority that operates within the jurisdiction of the agency, as specified.

This bill would delete the requirement that the funds be offered to the housing authority.

(5) Existing law requires an agency that has failed to expend or encumber excess surplus in the Low and Moderate Income Housing Fund within one year to disburse the surplus voluntarily to the appropriate county housing authority or another public agency or to expend or encumber the surplus within 2 additional years.

The bill would delete these provisions. The bill would modify the definition of the term “excess surplus.”

(6) Existing law provides that whenever low- or moderate-income housing dwelling units are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment that is subject to a written agreement with the agency, or where financial assistance has been provided by the agency, the agency is required to provide replacement housing within 4 years of the destruction or removal.

The bill would modify the agency’s obligation to provide replacement housing to low- or moderate-income persons and families and would impose new requirements on the agency with respect to the replacement housing plan and housing specifications. If a court has found that an agency has failed to comply with these provisions, the bill would require the court, at a minimum, to issue an order temporarily prohibiting the agency from issuing any debt for any project area, except as specified.

(7) This bill would make its provisions operative on January 1, 2018.

~~Existing law requires the Department of Transportation to consult with local agencies before adopting rules and regulations prescribing uniform standards and specifications for official traffic control devices.~~

~~This bill would additionally require the department to establish, after consulting with groups representing users of streets, roads, and highways, a specified committee to advise the department, and to hold public hearings regarding all of the above. The bill would require the committee to include various representatives, including representatives from organizations representing the interests of nonmotorized users of the highway.~~

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

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

1 *SECTION 1. Section 33080 of the Health and Safety Code is*
2 *amended to read:*

3 33080. (a) Every redevelopment agency shall file with the
4 Controller within six months of the end of the agency’s fiscal year
5 a copy of the report required by Section 33080.1. In addition, each
6 redevelopment agency shall file with the department a copy of the
7 audit report required by subdivision (a) of Section 33080.1. The
8 reports shall be made in the time, format, and manner prescribed
9 by the Controller after consultation with the department.

10 (b) The redevelopment agency shall provide a copy of the report
11 required by Section 33080.1, upon the written request of any person
12 or any taxing agency. If the report does not include detailed
13 information regarding administrative costs, professional services,
14 or other expenditures *required under Section 33080.1*, the person
15 or taxing agency may request, and the redevelopment agency shall
16 provide, that information. ~~The person or taxing agency shall~~
17 ~~reimburse the redevelopment agency for all actual and reasonable~~
18 ~~costs incurred in connection with the provision of the requested~~
19 ~~information, upon payment of fees covering the direct costs of~~
20 ~~duplication.~~

21 *SEC. 2. Section 33080.1 of the Health and Safety Code is*
22 *amended to read:*

23 33080.1. Every redevelopment agency shall submit the final
24 report of any audit undertaken by any other local, state, or federal
25 government entity to its legislative body within 30 days of receipt

1 of that audit report. In addition, every redevelopment agency shall
2 present an annual report to its legislative body *at a public hearing*
3 *and make the report available on its Internet Web site, or if the*
4 *agency does not have an Internet Web site, on the community's*
5 *Internet Web site, within six months of the end of the agency's*
6 fiscal year. The annual report shall contain all of the following:

7 (a) (1) An independent financial audit report for the previous
8 fiscal year. "Audit report" means an examination of, and opinion
9 on, the financial statements of the agency which present the results
10 of the operations and financial position of the agency, including
11 all financial activities with moneys required to be held in a separate
12 Low and Moderate Income Housing Fund pursuant to Section
13 33334.3. This audit shall be conducted by a certified public
14 accountant or public accountant, licensed by the State of California,
15 in accordance with Government Auditing Standards adopted by
16 the Comptroller General of the United States. The audit report
17 shall meet, at a minimum, the audit guidelines prescribed by the
18 Controller's office pursuant to Section 33080.3 and also include
19 a report on the agency's compliance with laws, regulations, and
20 administrative requirements governing activities of the agency,
21 and a calculation of the excess surplus in the Low and Moderate
22 Income Housing Fund as defined in subdivision (g) of Section
23 33334.12. *The audit report shall include a statement from the*
24 *auditor as to whether or not the agency has any major audit*
25 *violations, as defined in subdivision (j) of Section 33080.8.*

26 (2) *A statement describing each corrective measure taken in*
27 *that fiscal year to correct major audit violations identified during*
28 *or prior to that fiscal year by the agency, its auditor, or the*
29 *Department of Housing and Community Development.*

30 ~~(2)~~

31 (3) However, the legislative body may elect to omit from
32 inclusion in the audit report any distinct activity of the agency that
33 is funded exclusively by the federal government and that is subject
34 to audit by the federal government.

35 (b) A fiscal statement for the previous fiscal year that contains
36 the information required pursuant to Section 33080.5.

37 (c) A description of the agency's activities in the previous fiscal
38 year affecting housing and displacement that contains the
39 information required by Sections 33080.4 and 33080.7.

- 1 (d) A description of the agency’s progress, including specific
2 actions and expenditures, in alleviating blight in the previous fiscal
3 year.
- 4 (e) A list of, and status report on, all loans made by the
5 redevelopment agency that are fifty thousand dollars (\$50,000) or
6 more, that in the previous fiscal year were in default, or not in
7 compliance with the terms of the loan approved by the
8 redevelopment agency.
- 9 (f) A description of the total number and nature of the properties
10 that the agency owns and those properties the agency has acquired
11 in the previous fiscal year.
- 12 (g) A list of the fiscal years that the agency expects each of the
13 following time limits to expire:
 - 14 (1) The time limit for the commencement for eminent domain
15 proceedings to acquire property within the project area.
 - 16 (2) The time limit for the establishment of loans, advances, and
17 indebtedness to finance the redevelopment project.
 - 18 (3) The time limit for the effectiveness of the redevelopment
19 plan.
 - 20 (4) The time limit to repay indebtedness with the proceeds of
21 property taxes.
- 22 (h) *All of the following relating to the agency’s planning and*
23 *general administrative expenses for the most recently completed*
24 *fiscal year paid from the Low and Moderate Income Housing Fund:*
 - 25 (1) *The amount and percentage of funds deposited into the Low*
26 *and Moderate Income Housing Fund, exclusive of debt proceeds,*
27 *expended for planning and general administrative costs described*
28 *in subparagraphs (A), (C), (D), and (E) of paragraph (1) of*
29 *subdivision (d) of Section 33334.3.*
 - 30 (2) *The amount and percentage of funds deposited into the Low*
31 *and Moderate Income Housing Fund, exclusive of debt proceeds,*
32 *expended for planning and general administrative costs described*
33 *in subparagraph (B) of paragraph (1) of subdivision (d) of Section*
34 *33334.3.*
 - 35 (3) *Consistent with the categories described in paragraph (1)*
36 *of subdivision (d) of Section 33334.3, an itemization of each*
37 *category of planning and general administration expenditures*
38 *from the Low and Moderate Income Housing Fund and an explicit*
39 *description of how the expenditures are necessary for the*

1 production, improvement, or preservation of low- and
2 moderate-income housing.

3 (4) A list of the title of any agency, city, or county employees
4 for whom any portion of his or her salary, wages, benefits, or
5 nonpersonnel costs is paid from the Low and Moderate Income
6 Housing Fund, the nature of the employee's activities eligible to
7 be paid from the Low and Moderate Income Housing Fund, the
8 percentage of time the employee spends on activities eligible to
9 be paid from the Low and Moderate Income Housing Fund, the
10 percentage of time the employee spends on activities that are
11 directly and necessarily associated with a specific eligible housing
12 development project or to the direct administration of programs,
13 and the percentage of the employee's salary, wages, benefits, and
14 nonpersonnel costs paid from the Low and Moderate Income
15 Housing Fund.

16 (5) A list of any overhead costs that are paid directly or
17 indirectly from the Low and Moderate Income Housing Fund, an
18 identification by title and department of any other employees with
19 whom the overhead costs are shared, and a description of the total
20 cost of the shared overhead costs.

21 (i) A statement of the amount and percentage of funds deposited
22 into the Low and Moderate Income Housing Fund, exclusive of
23 debt proceeds, expended for planning and general administration
24 in each of the preceding five fiscal years that begin after December
25 31, 2011, broken down by the categories described in paragraph
26 (1) of subdivision (d) of Section 33334.3.

27 (j) A list of all real properties owned by the agency and
28 purchased with funds from the Low and Moderate Income Housing
29 Fund, the date of acquisition for each property, the agency's
30 intended purpose for each property, a statement of the amount, if
31 any, of moneys from the Low and Moderate Income Housing Fund
32 used to acquire the property, and a statement of the amount, if
33 any, of moneys from the Low and Moderate Income Housing Fund
34 used to maintain the property.

35 (k) A list of the redevelopment projects that have caused a
36 replacement obligation pursuant to subdivision (a) of Section
37 33413, the respective number of units the agency is obligated to
38 replace as a result of each project, and the location and status of
39 the replacement units. This list shall cover each fiscal year from
40 the agency's last adopted implementation plan.

1 (l) A separate list of the development projects that have caused
2 a production obligation pursuant to subdivision (b) of Section
3 33413, the respective number of units the agency is obligated to
4 produce as a result of each project, and the location and status of
5 the production units. This list shall cover each fiscal year from
6 the agency's last adopted implementation plan.

7 (m) For each housing project for which the agency has
8 designated funds, encumbered funds, or amended an existing
9 designation or encumbrance of funds during the fiscal year, and
10 where the agency's financing constitutes more than 50 percent of
11 the total cost of the low- and moderate-income housing units in
12 the project, the project name, location, number of affordable units,
13 affordability level, amount of agency financing, and the total cost
14 of the low- and moderate-income units.

15 (n) An agency that has deposited less than one hundred thousand
16 dollars (\$100,000) into its Low and Moderate Income Housing
17 Fund during the fiscal year is not required to provide in its annual
18 report the information described in subdivisions (h) to (m),
19 inclusive.

20 ~~(h)~~

21 (o) Any other information that the agency believes useful to
22 explain its programs, including, but not limited to, the number of
23 jobs created and lost in the previous fiscal year as a result of its
24 activities.

25 SEC. 3. Section 33080.2 of the Health and Safety Code is
26 amended to read:

27 33080.2. (a) When the agency presents the annual report to
28 the legislative body pursuant to Section 33080.1, the agency shall
29 inform the legislative body of any major audit violations of this
30 part based on the independent financial audit report *or an audit*
31 *investigation conducted by the department*. The agency shall inform
32 the legislative body that the failure to correct a major audit
33 violation of this part may result in the filing of an action by the
34 Attorney General pursuant to Section 33080.8 *in a form that*
35 *indicates whether a referral to the Attorney General has been*
36 *made*.

37 (b) *At the time the agency presents the annual report to the*
38 *legislative body pursuant to Section 33080.1, the legislative body*
39 *shall adopt a separate written resolution making a finding, based*
40 *on substantial evidence in the record, that the actual planning and*

1 *general administrative expenses for the most recently completed*
2 *fiscal year paid from the Low and Moderate Income Housing Fund*
3 *did not exceed the limits established in subparagraphs (A) and (B)*
4 *of paragraph (2) of subdivision (d) of Section 33334.3 or that the*
5 *exception in subparagraph (C) of paragraph (2) of subdivision (d)*
6 *of Section 33334.3 applies.*

7 ~~(b)~~

8 (c) The legislative body shall review any report submitted
9 pursuant to Section 33080.1 and take any action it deems
10 appropriate on that report no later than the first meeting of the
11 legislative body occurring more than 21 days from the receipt of
12 the report.

13 *SEC. 4. Section 33080.8 of the Health and Safety Code is*
14 *amended to read:*

15 33080.8. (a) On or before April 1 of each year, the Controller
16 shall compile a list of agencies that appear to have major audit
17 violations as defined in this section, based on the independent
18 financial audit reports filed with the Controller pursuant to Section
19 33080, *and make the list available on the Controller's Internet*
20 *Web site.*

21 (b) On or before June 1 of each year, for each major audit
22 violation of each agency identified pursuant to subdivision (a), the
23 Controller shall determine if the agency has corrected the major
24 audit violation. Before making this determination, the Controller
25 shall consult with each affected agency *and may consult with*
26 *affected local community groups.* In making this determination,
27 the Controller may request and shall receive the prompt assistance
28 of public officials and public agencies, including, but not limited
29 to, the affected agencies, counties, and cities. If the Controller
30 determines that an agency has not corrected the major audit
31 violation, the Controller shall send a list of those agencies, their
32 major violations, all relevant documents, and the affidavits required
33 pursuant to subdivision (d) to the Attorney General for action
34 pursuant to this section.

35 (c) For each agency that the Controller refers to the Attorney
36 General pursuant to subdivision (b), the Controller shall notify the
37 agency and the legislative body that the agency was on the list sent
38 to the Attorney General. The Controller's notice shall inform the
39 agency and the legislative body of the duties imposed by Section
40 33080.2.

1 (d) Within 45 days of receiving the referral from the Controller
2 pursuant to subdivision (b), the Attorney General shall determine
3 whether to file an action to compel the agency's compliance with
4 this part. Any action filed pursuant to this section shall be
5 commenced in the ~~County superior court of Sacramento~~; *any*
6 *county in which the Attorney General has an office*. The time limit
7 for the Attorney General to make this determination is directory
8 and not mandatory. Any action shall be accompanied by an
9 affidavit or affidavits, to be provided by the Controller with the
10 referral, setting forth facts that demonstrate a likelihood of success
11 on the merits of the claim that the agency has a major audit
12 violation. The affidavit shall also certify that the agency and the
13 legislative body were informed not less than 10 days prior to the
14 date on which the action was filed. The agency shall file a response
15 to any action filed by the Attorney General pursuant to this section
16 within 15 days of service.

17 (e) (1) On the earliest day that the business of the court will
18 permit, but not later than 45 days after the filing of an action
19 pursuant to this section, the court shall conduct a hearing to
20 determine if good cause exists for believing that the agency has a
21 major audit violation and has not corrected that violation.

22 (2) If the court determines that no good cause exists or that the
23 agency had a major audit violation but corrected the major audit
24 violation, the court shall dismiss the action.

25 (3) If the court determines that there is good cause for believing
26 that the agency has a major audit violation and has not corrected
27 that major audit violation, the court shall immediately issue an
28 order that prohibits the agency from doing any of the following:

29 (A) Encumbering any funds or expending any money derived
30 from any source except to pay the obligations designated in
31 subparagraphs (A) to ~~(G)~~; (F), inclusive, of paragraph (1) of
32 subdivision (e) of Section 33334.12, *or to pay amounts for the*
33 *operation and administration of the agency in accordance with*
34 *the agency's most recently adopted budget*.

35 (B) Adopting a redevelopment plan.

36 (C) Amending a redevelopment plan except to correct the major
37 audit violation that is the subject of the action.

38 (D) Issuing, selling, offering for sale, or delivering any bonds
39 or any other evidence of indebtedness, *except to increase, improve,*
40 *preserve, or assist in the construction or rehabilitation of, housing*

1 *units that will be occupied by and affordable to persons or families*
2 *of extremely low, very low, low, or moderate income, in accordance*
3 *with this part.*

4 (E) *Incurring any indebtedness, except to increase, improve,*
5 *preserve, or assist in the construction or rehabilitation of, housing*
6 *units that will be occupied by and affordable to persons or families*
7 *of extremely low, very low, low, or moderate income, in accordance*
8 *with this part.*

9 (F) *Exercising the power of eminent domain.*

10 (f) In a case that is subject to paragraph (3) of subdivision (e),
11 the court shall also set a hearing on the matter within 60 days *after*
12 *issuance of the order.*

13 (g) If, on the basis of that subsequent hearing, the court
14 determines that the agency has a major audit violation and has not
15 corrected that violation, the court shall order the agency to comply
16 with this part within 30 days, and order the agency to forfeit to the
17 state ~~no more than:~~ *a monetary sanction commensurate with the*
18 *violation. The sanction shall not be paid from the agency's Low*
19 *and Moderate Income Housing Fund or any other city, county, or*
20 *agency special fund related to housing.*

21 ~~(1) Two thousand dollars (\$2,000) in the case of a community~~
22 ~~redevelopment agency with a total revenue, in the prior year, of~~
23 ~~less than one hundred thousand dollars (\$100,000) as reported in~~
24 ~~the Controller's annual financial reports.~~

25 ~~(2) Five thousand dollars (\$5,000) in the case of a community~~
26 ~~redevelopment agency with a total revenue, in the prior year, of~~
27 ~~at least one hundred thousand dollars (\$100,000) but less than two~~
28 ~~hundred fifty thousand dollars (\$250,000) as reported in the~~
29 ~~Controller's annual financial reports.~~

30 ~~(3) Ten thousand dollars (\$10,000) in the case of a community~~
31 ~~redevelopment agency with a total revenue, in the prior year, of~~
32 ~~at least two hundred fifty thousand dollars (\$250,000) as reported~~
33 ~~in the Controller's annual financial reports.~~

34 (h) The order issued by the court pursuant to paragraph (3) of
35 subdivision (e) shall continue in effect until the court determines
36 that the agency has corrected the major audit violation. If the court
37 determines that the agency has corrected the major audit violation,
38 the court may dissolve its order issued pursuant to paragraph (3)
39 of subdivision (e) at any time.

1 (i) An action filed pursuant to this section to compel an agency
2 to comply with this part is in addition to any other remedy, and is
3 not an exclusive means to compel compliance. *This section shall*
4 *not be construed to preclude an action to compel compliance with*
5 *this article by any other interested party or resident of the*
6 *jurisdiction.*

7 (j) As used in this section, “major audit violation” means that,
8 for the fiscal year in question, an agency did not:

9 (1) File an independent financial audit report that substantially
10 conforms with the requirements of subdivision (a) of Section
11 33080.1.

12 (2) File a fiscal statement that includes substantially all of the
13 information required by Section 33080.5.

14 (3) Establish time limits, as required by Section 33333.6.

15 (4) Deposit all required tax increment revenues *and all other*
16 *funds required to be deposited into the fund* directly into the Low
17 and Moderate Income Housing Fund upon receipt, as required by
18 Section 33334.3, 33334.6, 33487, or 33492.16.

19 (5) Establish a Low and Moderate Income Housing Fund, as
20 required by subdivision (a) of Section 33334.3 *or Section 33487.*

21 (6) Accrue interest earned by the Low and Moderate Income
22 Housing Fund to that fund, as required by subdivision (b) of
23 Section 33334.3.

24 (7) ~~Determine that the~~ *Comply with subdivisions (d) and (e) of*
25 *Section 33334.3, governing eligible expenditures for planning and*
26 *administrative costs charged to general administration from the*
27 *Low and Moderate Income Housing Fund are necessary for the*
28 *production, improvement, or preservation of low- Fund, and*
29 *moderate-income housing, as adopt the resolution* required by
30 subdivision ~~(d)~~ (b) of Section 33334.3 33080.2.

31 (8) Initiate development of housing on real property acquired
32 using moneys from the Low and Moderate Income Housing Fund
33 or sell the property, as required by Section 33334.16.

34 (9) Adopt an implementation plan, as required by Section 33490.

35 *SEC. 5. Section 33080.9 is added to the Health and Safety*
36 *Code, to read:*

37 *33080.9. (a) (1) The department shall forward to the Attorney*
38 *General and the Controller a copy of any audit or investigation*
39 *of a redevelopment agency conducted pursuant to Section 50464.5.*

1 (2) *On or before April 1 of each year, the department shall*
2 *determine for all audits and investigations conducted the previous*
3 *year, including those audits and investigations conducted pursuant*
4 *to Section 50464.5, whether an audit or investigation contains*
5 *major audit violations, as defined in subdivision (j) of Section*
6 *33080.8. The department shall make the information available on*
7 *its Internet Web site.*

8 (b) *On or before June 1 of each year, the department shall*
9 *determine for each major audit violation identified pursuant to*
10 *subdivision (a) if the agency has corrected the major audit*
11 *violation. Before making this determination, the department shall*
12 *consult with each affected agency and may consult with affected*
13 *local community groups. In making this determination, the*
14 *department may request and shall receive the prompt assistance*
15 *of public officials and public agencies, including, but not limited*
16 *to, the affected agencies, counties, and cities. If the department*
17 *determines an agency has not corrected the major audit violation,*
18 *the department shall send a list of those agencies, their major audit*
19 *violations, all relevant documentation, and the affidavits required*
20 *pursuant to subdivision (e) to the Attorney General for any action*
21 *pursuant to this section.*

22 (c) *For each agency the department refers to the Attorney*
23 *General pursuant to subdivision (b), the department shall notify*
24 *the agency and its legislative body that the agency was on the list*
25 *sent to the Attorney General. The notice shall inform the agency*
26 *and its legislative body of the duties imposed pursuant to Section*
27 *33080.2.*

28 (d) *For each agency the department refers to the Attorney*
29 *General pursuant to subdivision (b), the provisions of subdivisions*
30 *(d) to (i), inclusive, of Section 33080.8 shall apply, except that*
31 *references to the Controller in those subdivisions shall be deemed*
32 *to refer to the department.*

33 (e) *Nothing in this section shall be construed to permit the*
34 *department to initiate or settle litigation, or to resolve any*
35 *departmental audit or investigation in a manner contrary to law.*

36 SEC. 6. *Section 33080.11 is added to the Health and Safety*
37 *Code, to read:*

38 33080.11. (a) *The Controller may conduct quality control*
39 *reviews of independent financial and compliance audit reports*
40 *required by Section 33080.1 to the extent it is feasible to do so*

1 *within existing budgetary resources. The Controller shall*
2 *communicate the results of his or her reviews to the independent*
3 *auditor and the agency for which the audit was conducted, and*
4 *shall review his or her findings with the independent auditor.*

5 *(b) If the quality control review specified in subdivision (a)*
6 *indicates the audit was conducted in a manner that may constitute*
7 *unprofessional conduct, as defined in Section 5100 of the Business*
8 *and Professions Code, including, but not limited to, gross*
9 *negligence resulting in a material misstatement in the audit or*
10 *failure to disclose noncompliant acts, the Controller shall refer*
11 *the case to the California Board of Accountancy. If the board*
12 *determines that the independent auditor conducted an audit in an*
13 *unprofessional manner, the independent auditor is prohibited from*
14 *performing any redevelopment agency audit for a period of three*
15 *years, in addition to any other penalties the board may impose.*

16 *SEC. 7. Section 33080.12 is added to the Health and Safety*
17 *Code, to read:*

18 *33080.12. (a) (1) Whenever the Controller determines through*
19 *two consecutive quality control reviews, pursuant to Section*
20 *33080.11, that audits performed by an independent auditor*
21 *pursuant to Section 33080.1 were not performed in substantial*
22 *conformity with provisions of the audit and report guidelines*
23 *adopted pursuant to Section 33080.3, the Controller shall notify*
24 *in writing the independent auditor and the California Board of*
25 *Accountancy.*

26 *(2) If the independent auditor does not file an appeal in writing*
27 *to the board within 30 calendar days after receipt of the*
28 *Controller's notification, the Controller's determination under*
29 *this section shall be final.*

30 *(3) If an appeal is filed with the California Board of*
31 *Accountancy, the board shall complete an investigation of the*
32 *appeal. On the basis of the investigation, the board may do either*
33 *of the following:*

34 *(A) Find the Controller's determination should not be upheld*
35 *and has no effect.*

36 *(B) Schedule the appeal for a hearing.*

37 *(b) If the Controller's determination pursuant to subdivision*
38 *(a) becomes final, the independent auditor shall be ineligible to*
39 *conduct audits pursuant to Section 33080.1 for a period of three*
40 *years, or, in the event of an appeal, for any period and subject to*

1 *conditions that may be ordered by the California Board of*
2 *Accountancy. No later than March 1 following the date on which*
3 *the Controller's determination becomes final, the Controller shall*
4 *notify each agency of those independent auditors determined to*
5 *be ineligible under this section or Section 33080.11. Agencies shall*
6 *not use the audit services of an independent auditor ineligible*
7 *under this section.*

8 *(c) For the purposes of this section, "independent auditor" shall*
9 *mean any person or firm entering into a contract to conduct an*
10 *audit under Section 33080.1.*

11 *(d) This section shall not preclude the California Board of*
12 *Accountancy from taking any disciplinary action it deems*
13 *appropriate under any other provisions of law.*

14 *SEC. 8. Section 33334.2 of the Health and Safety Code is*
15 *amended to read:*

16 33334.2. (a) Except as provided in subdivision (k), not less
17 than 20 percent of all taxes that are allocated to the agency pursuant
18 to Section 33670 shall be used by the agency for the purposes of
19 increasing, improving, and preserving the community's supply of
20 low- and moderate-income housing available at affordable housing
21 cost, as defined by Section 50052.5, to persons and families of
22 low or moderate income, as defined in Section 50093, lower
23 income households, as defined by Section 50079.5, very low
24 income households, as defined in Section 50105, and extremely
25 low income households, as defined by Section 50106, that is
26 occupied by these persons and families, unless one of the following
27 findings is made annually by resolution:

28 (1) (A) That no need exists in the community to improve,
29 increase, or preserve the supply of low- and moderate-income
30 housing, including housing for very low income households in a
31 manner that would benefit the project area and that this finding is
32 consistent with the housing element of the community's general
33 plan required by Article 10.6 (commencing with Section 65580)
34 of Chapter 3 of Division 1 of Title 7 of the Government Code,
35 including its share of the regional housing needs of very low
36 income households and persons and families of low or moderate
37 income.

38 (B) This finding shall only be made if the housing element of
39 the community's general plan demonstrates that the community
40 does not have a need to improve, increase, or preserve the supply

1 of low- and moderate-income housing available at affordable
2 housing cost to persons and families of low or moderate income
3 and to very low income households. This finding shall only be
4 made if it is consistent with the planning agency’s annual report
5 to the legislative body on implementation of the housing element
6 required by subdivision (b) of Section 65400 of the Government
7 Code. No agency of a charter city shall make this finding unless
8 the planning agency submits the report pursuant to subdivision (b)
9 of Section 65400 of the Government Code. This finding shall not
10 take effect until the agency has complied with subdivision (b) of
11 this section.

12 (2) (A) That some stated percentage less than 20 percent of the
13 taxes that are allocated to the agency pursuant to Section 33670
14 is sufficient to meet the housing needs of the community, including
15 its share of the regional housing needs of persons and families of
16 low- or moderate-income and very low income households, and
17 that this finding is consistent with the housing element of the
18 community’s general plan required by Article 10.6 (commencing
19 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
20 Government Code.

21 (B) This finding shall only be made if the housing element of
22 the community’s general plan demonstrates that a percentage of
23 less than 20 percent will be sufficient to meet the community’s
24 need to improve, increase, or preserve the supply of low- and
25 moderate-income housing available at affordable housing cost to
26 persons and families of low or moderate income and to very low
27 income households. This finding shall only be made if it is
28 consistent with the planning agency’s annual report to the
29 legislative body on implementation of the housing element required
30 by subdivision (b) of Section 65400 of the Government Code. No
31 agency of a charter city shall make this finding unless the planning
32 agency submits the report pursuant to subdivision (b) of Section
33 65400 of the Government Code. This finding shall not take effect
34 until the agency has complied with subdivision (b) of this section.

35 (C) For purposes of making the findings specified in this
36 paragraph and paragraph (1), the housing element of the general
37 plan of a city, county, or city and county shall be current, and shall
38 have been determined by the department pursuant to Section 65585
39 to be in substantial compliance with Article 10.6 (commencing

1 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
2 Government Code.

3 (3) (A) That the community is making a substantial effort to
4 meet its existing and projected housing needs, including its share
5 of the regional housing needs, with respect to persons and families
6 of low and moderate income, particularly very low income
7 households, as identified in the housing element of the
8 community's general plan required by Article 10.6 (commencing
9 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
10 Government Code, and that this effort, consisting of direct financial
11 contributions of local funds used to increase and improve the
12 supply of housing affordable to, and occupied by, persons and
13 families of low or moderate income and very low income
14 households is equivalent in impact to the funds otherwise required
15 to be set aside pursuant to this section. In addition to any other
16 local funds, these direct financial contributions may include federal
17 or state grants paid directly to a community and that the community
18 has the discretion of using for the purposes for which moneys in
19 the Low and Moderate Income Housing Fund may be used. The
20 legislative body shall consider the need that can be reasonably
21 foreseen because of displacement of persons and families of low
22 or moderate income or very low income households from within,
23 or adjacent to, the project area, because of increased employment
24 opportunities, or because of any other direct or indirect result of
25 implementation of the redevelopment plan. No finding under this
26 subdivision may be made until the community has provided or
27 ensured the availability of replacement dwelling units as defined
28 in Section 33411.2 and until it has complied with Article 9
29 (commencing with Section 33410).

30 (B) In making the determination that other financial
31 contributions are equivalent in impact pursuant to this subdivision,
32 the agency shall include only those financial contributions that are
33 directly related to programs or activities authorized under
34 subdivision (e).

35 (C) The authority for making the finding specified in this
36 paragraph shall expire on June 30, 1993, except that the expiration
37 shall not be deemed to impair contractual obligations to
38 bondholders or private entities incurred prior to May 1, 1991, and
39 made in reliance on the provisions of this paragraph. Agencies that
40 make this finding after June 30, 1993, shall show evidence that

1 the agency entered into the specific contractual obligation with
2 the specific intention of making a finding under this paragraph in
3 order to provide sufficient revenues to pay off the indebtedness.

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

25 (c) In any litigation to challenge or attack a finding made under
26 paragraph (1), (2), or (3) of subdivision (a), the burden shall be
27 upon the agency to establish that the finding is supported by
28 substantial evidence in light of the entire record before the agency.
29 If an agency is determined by a court to have knowingly
30 misrepresented any material facts regarding the community's share
31 of its regional housing need for low- and moderate-income housing,
32 including very low income households, or the community's
33 production record in meeting its share of the regional housing need
34 pursuant to the report required by subdivision (b) of Section 65400
35 of the Government Code, the agency shall be liable for all court
36 costs and plaintiff's attorney's fees, and shall be required to allocate
37 not less than 25 percent of the agency's tax increment revenues to
38 its Low and Moderate Income Housing Fund in each year
39 thereafter.

1 (d) Nothing in this section shall be construed as relieving any
2 other public entity or entity with the power of eminent domain of
3 any legal obligations for replacement or relocation housing arising
4 out of its activities.

5 (e) In carrying out the purposes of this section, the agency may
6 exercise any or all of its powers for the construction, rehabilitation,
7 or preservation of affordable housing for extremely low, very low,
8 low-, and moderate-income persons or families, including the
9 following:

10 (1) Acquire real property or building sites subject to Section
11 33334.16.

12 (2) (A) Improve real property or building sites with onsite or
13 offsite improvements, but only if both (i) the improvements are
14 part of the new construction or rehabilitation of affordable housing
15 units for low- or moderate-income persons that are directly
16 benefited by the improvements, and are a reasonable and
17 fundamental component of the housing units, and (ii) the agency
18 requires that the units remain available at affordable housing cost
19 to, and occupied by, persons and families of extremely low, very
20 low, low, or moderate income for the same time period and in the
21 same manner as provided in subdivision (c) and paragraph (2) of
22 subdivision (f) of Section 33334.3.

23 (B) If the newly constructed or rehabilitated housing units are
24 part of a larger project and the agency improves or pays for onsite
25 or offsite improvements pursuant to the authority in this
26 subdivision, the agency shall pay only a portion of the total cost
27 of the onsite or offsite improvement. The maximum percentage
28 of the total cost of the improvement paid for by the agency shall
29 be determined by dividing the number of housing units that are
30 affordable to low- or moderate-income persons by the total number
31 of housing units, if the project is a housing project, or by dividing
32 the cost of the affordable housing units by the total cost of the
33 project, if the project is not a housing project.

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

35 (4) Finance insurance premiums pursuant to Section 33136.

36 (5) Construct buildings or structures.

37 (6) Acquire buildings or structures.

38 (7) Rehabilitate buildings or structures.

39 (8) Provide subsidies to, or for the benefit of, extremely low
40 income households, as defined by Section 50106, very low income

1 households, as defined by Section 50105, lower income
 2 households, as defined by Section 50079.5, or persons and families
 3 of low or moderate income, as defined by Section 50093, to the
 4 extent those households cannot obtain housing at affordable costs
 5 on the open market. Housing units available on the open market
 6 are those units developed without direct government subsidies.

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

10 (10) Maintain the community’s supply of mobilehomes.

11 (11) Preserve the availability to lower income households of
 12 affordable housing units in housing developments that are assisted
 13 or subsidized by public entities and that are threatened with
 14 imminent conversion to market rates.

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

19 (g) (1) The agency may use these funds inside or outside the
 20 project area. The agency may only use these funds outside the
 21 project area upon a resolution of the agency and the legislative
 22 body that the use will be of benefit to the project. The
 23 determination by the agency and the legislative body shall be final
 24 and conclusive as to the issue of benefit to the project area. The
 25 Legislature finds and declares that the provision of replacement
 26 housing pursuant to Section 33413 is always of benefit to a project.
 27 Unless the legislative body finds, before the redevelopment plan
 28 is adopted, that the provision of low- and moderate-income housing
 29 outside the project area will be of benefit to the project, the project
 30 area shall include property suitable for low- and moderate-income
 31 housing.

32 (2) (A) The Contra Costa County Redevelopment Agency may
 33 use these funds anywhere within the unincorporated territory, or
 34 within the incorporated limits of the City of Walnut Creek on sites
 35 contiguous to the Pleasant Hill BART Station Area Redevelopment
 36 Project area. The agency may only use these funds outside the
 37 project area upon a resolution of the agency and board of
 38 supervisors determining that the use will be of benefit to the project
 39 area. In addition, the agency may use these funds within the

1 incorporated limits of the City of Walnut Creek only if the agency
2 and the board of supervisors find all of the following:

3 (i) Both the County of Contra Costa and the City of Walnut
4 Creek have adopted and are implementing complete and current
5 housing elements of their general plans that the Department of
6 Housing and Community Development has determined to be in
7 compliance with the requirements of Article 10.6 (commencing
8 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
9 Government Code.

10 (ii) The development to be funded shall not result in any
11 residential displacement from the site where the development is
12 to be built.

13 (iii) The development to be funded shall not be constructed in
14 an area that currently has more than 50 percent of its population
15 comprised of racial minorities or low-income families.

16 (iv) The development to be funded shall allow construction of
17 affordable housing closer to a rapid transit station than could be
18 constructed in the unincorporated territory outside the Pleasant
19 Hill BART Station Area Redevelopment Project.

20 (B) If the agency uses these funds within the incorporated limits
21 of the City of Walnut Creek, all of the following requirements
22 shall apply:

23 (i) The funds shall be used only for the acquisition of land for,
24 and the design and construction of, the development of housing
25 containing units affordable to, and occupied by, low- and
26 moderate-income persons.

27 (ii) If less than all the units in the development are affordable
28 to, and occupied by, low- or moderate-income persons, any agency
29 assistance shall not exceed the amount needed to make the housing
30 affordable to, and occupied by, low- or moderate-income persons.

31 (iii) The units in the development that are affordable to, and
32 occupied by, low- or moderate-income persons shall remain
33 affordable for a period of at least 55 years.

34 (iv) The agency and the City of Walnut Creek shall determine,
35 if applicable, whether Article XXXIV of the California Constitution
36 permits the development.

37 (h) The Legislature finds and declares that expenditures or
38 obligations incurred by the agency pursuant to this section shall
39 constitute an indebtedness of the project.

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

11 (j) (1) (A) An action to compel compliance with the
12 requirement of Section 33334.3 to deposit not less than 20 percent
13 of all taxes that are allocated to the agency pursuant to Section
14 33670 *or other revenue* in the Low and Moderate Income Housing
15 Fund shall be commenced within 10 years of the alleged violation.
16 A cause of action for a violation accrues on the last day of the
17 fiscal year in which the funds were required to be deposited in the
18 Low and Moderate Income Housing Fund.

19 (B) An action to compel compliance with the requirement of
20 this section or Section 33334.6 that money deposited in the Low
21 and Moderate Income Housing Fund be used by the agency for
22 purposes of increasing, improving, and preserving the community's
23 supply of low- and moderate-income housing available at
24 affordable housing cost shall be commenced within 10 years of
25 the alleged violation. A cause of action for a violation accrues on
26 the date of the actual expenditure of the funds.

27 (C) An agency found to have deposited less into the Low and
28 Moderate Income Housing Fund than mandated by Section 33334.3
29 or to have spent money from the Low and Moderate Income
30 Housing Fund for purposes other than increasing, improving, and
31 preserving the community's supply of low- and moderate-income
32 housing, as mandated, by this section or Section 33334.3 *or*
33 33334.6 shall repay the funds with interest, *plus an additional 50*
34 *percent of that amount and interest*, in one lump sum pursuant to
35 Section 970.4 or 970.5 of the Government Code or may do either
36 of the following:

37 (i) Petition the court under Section 970.6 for repayment in
38 installments.

1 (ii) Repay the portion of the judgment due to the Low and
2 Moderate Income Housing Fund in equal installments over a period
3 of five years following the judgment.

4 (D) *An action to compel compliance with the requirements of*
5 *Section 33487 shall be commenced within 10 years of the alleged*
6 *violation. A cause of action accrues on the last day of the fiscal*
7 *year in which the funds were required to be deposited in the Low*
8 *and Moderate Income Housing Fund or the date of the actual*
9 *expenditure of the funds, as applicable. In the event the deposits*
10 *to the Low and Moderate Income Housing Fund are less than the*
11 *amounts required pursuant to Section 33487, or the expenditures*
12 *from the Low and Moderate Income Housing Fund are not*
13 *consistent with Section 33487, the repayment required by*
14 *subparagraph (C) is applicable. This subparagraph applies to*
15 *actions filed on or after January 1, 2012.*

16 (2) Repayment shall not be made from the funds required to be
17 set aside or used for low- and moderate-income housing pursuant
18 to this ~~section~~ *part, or any other funds designated for affordable*
19 *housing.*

20 (3) Notwithstanding clauses (i) and (ii) of subparagraph (C) *or*
21 *subparagraph (D) of paragraph (1), all costs, including reasonable*
22 *attorney's fees if included in the judgment, are due and shall be*
23 *paid upon entry of judgment or order.*

24 (4) Except as otherwise provided in this subdivision, Chapter
25 2 (commencing with Section 970) of Part 5 of Division 3.6 of Title
26 1 of the Government Code for the enforcement of a judgment
27 against a local public entity applies to a judgment against a local
28 public entity that violates this section.

29 (5) ~~This~~ *Except as provided in subparagraph (D) of paragraph*
30 *(1), this subdivision applies to actions filed on and after January*
31 *1, 2006.*

32 (6) The limitations period specified in subparagraphs (A), (B),
33 and ~~(B)~~ (D) of paragraph (1) does not apply to a cause of action
34 brought pursuant to Chapter 9 (commencing with Section 860) of
35 Title 10 of Part 2 of the Code of Civil Procedure.

36 (k) (1) From July 1, 2009, to June 30, 2010, inclusive, an agency
37 may suspend all or part of its required allocation to the Low and
38 Moderate Income Housing Fund from taxes that are allocated to
39 that agency pursuant to Section 33670.

1 (2) An agency that suspends revenue pursuant to paragraph (1)
 2 shall pay back to its low- and moderate-income housing fund the
 3 amount of revenue that was suspended in the 2009–10 fiscal year
 4 pursuant to this subdivision from July 1, 2010, to June 30, 2015,
 5 inclusive.

6 (3) An agency that suspends revenue pursuant to paragraph (1)
 7 and fails to repay or have repaid on its behalf the amount of revenue
 8 suspended pursuant to paragraph (2) shall, commencing July 1,
 9 2015, be required to allocate an additional 5 percent of all taxes
 10 that are allocated to that agency pursuant to Section 33670 for low-
 11 and moderate-income housing for the remainder of the time that
 12 the agency receives allocations of tax revenue pursuant to Section
 13 33670.

14 (4) An agency that fails to pay or have paid on its behalf the
 15 full amount calculated pursuant to subparagraph (J) of paragraph
 16 (2) of subdivision (a) of Section 33690, or subparagraph (J) of
 17 paragraph (2) of subdivision (a) of Section 33690.5, as the case
 18 may be, shall, commencing July 1, 2010, or July 1, 2011, as
 19 applicable, be required to allocate an additional 5 percent of all
 20 taxes that are allocated to that agency pursuant to Section 33670
 21 for low- and moderate-income housing for the remainder of the
 22 time that the agency receives allocations of tax revenue pursuant
 23 to Section 33670.

24 *SEC. 9. Section 33334.3 of the Health and Safety Code is*
 25 *amended to read:*

26 33334.3. (a) The funds that are required by Section 33334.2
 27 or 33334.6 to be used for the purposes of increasing, improving,
 28 and preserving the community’s supply of low- and
 29 moderate-income housing shall be held in a separate Low and
 30 Moderate Income Housing Fund until used.

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

37 (c) The moneys in the Low and Moderate Income Housing Fund
 38 shall be used to increase, improve, and preserve the supply of low-
 39 and moderate-income housing within the territorial jurisdiction of
 40 the agency.

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

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

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

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

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

30 ~~(d) (1) It is the intent of the Legislature that the Low and~~
31 ~~Moderate Income Housing Fund be used to the maximum extent~~
32 ~~possible to defray the actual cost of producing, improving, or~~
33 ~~preserving low- and moderate-income housing and to restrict the~~
34 ~~use of Low and Moderate Income Housing Fund moneys for~~
35 ~~planning and general administrative costs to those which are~~
36 ~~necessary for and directly related to lawful use of the Low and~~
37 ~~Moderate Income Housing Fund. All of the following categories~~
38 ~~of costs paid from the Low and Moderate Income Housing Fund~~
39 ~~shall be considered planning and general administrative costs that~~
40 ~~are subject to the restrictions set forth in paragraph (2):~~

1 (A) *Employee compensation costs, including salaries, wages,*
2 *and benefits, and related nonpersonnel costs, including, but not*
3 *limited to, travel, training, publications, and conferences, paid to*
4 *or on behalf of any agency, city, or county employee whose duties*
5 *include activities authorized under subdivision (e) of Section*
6 *33334.2, except for those activities that are necessary for and*
7 *directly related to the development of a specific eligible housing*
8 *development project or the deliverance of eligible programs serving*
9 *low- and moderate-income households. If the employee spends*
10 *any time on matters other than those authorized under subdivision*
11 *(e) of Section 33334.2, Low and Moderate Income Housing Fund*
12 *moneys may only be used to pay for employee compensation and*
13 *related nonpersonnel costs in proportion to the actual time that*
14 *the employee spends on activities authorized under subdivision*
15 *(e) of Section 33334.2.*

16 (B) *Employee compensation costs, including salaries, wages,*
17 *and benefits, and related nonpersonnel costs, including, but not*
18 *limited to, travel, training, publications, and conferences, paid to*
19 *or on behalf of any agency, city, or county employee for activities*
20 *authorized under subdivision (e) of Section 33334.2 that are*
21 *necessary for and directly related to the development of a specific*
22 *eligible housing development project or the deliverance of eligible*
23 *programs that serve low- and moderate-income households. Those*
24 *activities shall include negotiation and project management of*
25 *disposition and development agreements, land leases, loan*
26 *agreements, and similar affordable housing agreements;*
27 *redevelopment agency work on entitlements for eligible affordable*
28 *housing developments; loan processing and servicing; inspection*
29 *of new and rehabilitated units; construction monitoring of an*
30 *eligible housing development; and monitoring of affordable*
31 *housing units. If the employee spends any time on matters other*
32 *than those authorized under subdivision (e) of Section 33334.2,*
33 *Low and Moderate Income Housing Fund moneys may only be*
34 *used to pay for employee compensation and related nonpersonnel*
35 *costs in proportion to the actual time that the employee spends on*
36 *activities authorized under subdivision (e) of Section 33334.2.*

37 (C) *Employee compensation costs, including salaries, wages,*
38 *and benefits, paid to or on behalf of any agency, city, or county*
39 *employee who supervises or manages the work of an employee or*
40 *employees specified in subparagraph (A) or (B) or who provides*

1 *general administrative services, including, but not limited to,*
2 *finance, legal, human resources, information technology, and other*
3 *administrative services, that indirectly support activities authorized*
4 *under subdivision (e) of Section 33334.2 and nonpersonnel costs,*
5 *including, but not limited to, travel, training, publications, and*
6 *conferences, for those employees that are directly related to those*
7 *activities. Employee compensation costs shall (i) be justified by*
8 *an independent cost allocation study no more than six years old,*
9 *and (ii) not represent a greater proportion of the employee's total*
10 *compensation than the proportion of employees working directly*
11 *and exclusively on activities authorized under subdivision (e) of*
12 *Section 33334.2 in comparison to the total number of employees*
13 *supervised, managed, or indirectly supported by that employee.*

14 *(D) Overhead costs, including, but not limited to, rent or*
15 *mortgage payments, equipment, and office supplies. If the overhead*
16 *costs are shared with departments or employees whose duties*
17 *include activities other than those authorized under subdivision*
18 *(e) of Section 33334.2, the proportion of the overhead costs paid*
19 *from the Low and Moderate Income Housing Fund shall not exceed*
20 *the proportion of employees working directly and exclusively on*
21 *activities authorized under subdivision (e) of Section 33334.2*
22 *represented in comparison to the total number of employees*
23 *sharing the space, equipment, or office supplies.*

24 *(E) The total value of any contracts for agency planning or*
25 *administrative services that are related to activities authorized*
26 *under subdivision (e) of Section 33334.2.*

27 *(F) Any other costs for planning and general administrative*
28 *activities that are related to activities authorized under subdivision*
29 *(e) of Section 33334.2.*

30 *(2) (A) Except as provided in subparagraph (C), an agency in*
31 *any fiscal year shall not expend more than 10 percent of the money*
32 *deposited into the Low and Moderate Income Housing Fund,*
33 *exclusive of debt proceeds, for planning and general administrative*
34 *costs described in subparagraphs (A), (C), (D), (E), and (F) of*
35 *paragraph (1).*

36 *(B) Except as provided in subparagraph (C), an agency in any*
37 *fiscal year shall not expend more than 10 percent of the money*
38 *deposited into the Low and Moderate Income Housing Fund,*
39 *exclusive of debt proceeds, for planning and general administrative*
40 *costs described in subparagraph (B) of paragraph (1), except that*

1 an agency may additionally expend for these purposes any
 2 difference between the cap described in subparagraph (A) and
 3 actual expenditures for those planning and general administrative
 4 costs.

5 (C) Subparagraphs (A) and (B) shall not apply to a project
 6 area-specific Low and Moderate Income Housing Fund during
 7 the first five fiscal years after adoption of that specific project
 8 area. Subparagraphs (A) and (B) shall apply to a new or amended
 9 project area if tax increment for that new or amended project area
 10 is deposited into an aggregate Low and Moderate Income Housing
 11 Fund covering more than one project area.

12 (3) In a challenge related to the proportionality of costs, as
 13 required by subparagraphs (A), (B), (C), and (D) of paragraph
 14 (1), the agency shall bear the burden of proof to demonstrate that
 15 the costs are proportionate. In a challenge related to compliance
 16 with the requirements of paragraph (2), the agency shall bear the
 17 burden of proof to demonstrate that costs are appropriately
 18 allocated to subparagraph (B) of paragraph (1).

19 (e) (1) Notwithstanding paragraph (1) of subdivision (d), the
 20 agency shall not expend moneys from the Low and Moderate
 21 Income Housing Fund for any of the following purposes:

22 (A) Land use planning or related activities of a planning
 23 department, including development or revision of the general plan
 24 housing element, except for the payment of normal project-related
 25 planning fees applicable to all similar development projects. This
 26 limitation shall not preclude an agency from expending moneys
 27 from the Low and Moderate Income Housing Fund toward the
 28 cost of agency staff participation in the development of the general
 29 plan housing element provided that those costs are counted towards
 30 the cap described in subparagraph (A) of paragraph (2) of
 31 subdivision (d).

32 (B) Lobbying. The Legislature finds and declares that this
 33 subparagraph is declaratory of existing law.

34 (C) Administration of nonredevelopment activities unrelated to
 35 activities allowed pursuant to this section, and Sections 33334.2,
 36 33334.6, and 33487.

37 (2) An agency may expend up to 2 percent of the moneys
 38 deposited into the Low and Moderate Income Housing Fund,
 39 exclusive of debt proceeds, for code enforcement activities within
 40 a project area that improve the housing opportunities of low- or

1 moderate-income households. However, if code enforcement
2 activities result, directly or indirectly, in the displacement of
3 tenants or the removal from the market of units affordable to or
4 occupied by low- or moderate-income households, the agency shall
5 be subject to the relocation and replacement obligations imposed
6 by this part and the requirements of Chapter 16 (commencing with
7 Section 7260) of Division 7 of Title 1 of the Government Code,
8 except that Section 7265.3 of the Government Code shall not apply.

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

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

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

1 shall be counted towards the agency’s obligations under Section
2 33413.

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

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

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

38 (A) The covenants or restrictions implementing this subdivision
39 for each parcel or unit of real property subject to this subdivision.
40 The agency shall obtain and maintain a copy of the recorded

1 covenants or restrictions for not less than the life of the covenant
2 or restriction.

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

9 (i) A recitation of the affordability covenants or restrictions. If
10 the document recorded under this subparagraph is recorded
11 concurrently with the covenants or restrictions recorded under
12 subparagraph (A), the recitation of the affordability covenants or
13 restrictions shall also reference the concurrently recorded
14 document. If the document recorded under this subparagraph is
15 not recorded concurrently with the covenants or restrictions
16 recorded under subparagraph (A), the recitation of the affordability
17 covenants or restrictions shall also reference the recorder’s
18 identification number of the document recorded under subparagraph
19 (A).

20 (ii) The date the covenants or restrictions expire.

21 (iii) The street address of the property, including, if applicable,
22 the unit number, unless the property is used to confidentially house
23 victims of domestic violence.

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

25 (v) The legal description of the property.

26 (4) The agency shall require the recording of the document
27 required under subparagraph (B) of paragraph (3) not more than
28 30 days after the date of recordation of the covenants or restrictions
29 required under subparagraph (A) of paragraph (3).

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

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

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

- 1 (A) The agency.
- 2 (B) The community, as defined in Section 33002.
- 3 (C) A resident of a unit subject to this subdivision.
- 4 (D) A residents' association with members who reside in units
- 5 subject to this subdivision.
- 6 (E) A former resident of a unit subject to this subdivision who
- 7 last resided in that unit.
- 8 (F) An applicant seeking to enforce the covenants or restrictions
- 9 for a particular unit that is subject to this subdivision, if the
- 10 applicant conforms to all of the following:
 - 11 (i) Is of low or moderate income, as defined in Section 50093.
 - 12 (ii) Is able and willing to occupy that particular unit.
 - 13 (iii) Was denied occupancy of that particular unit due to an
 - 14 alleged breach of a covenant or restriction implementing this
 - 15 subdivision.
- 16 (G) A person on an affordable housing waiting list who is of
- 17 low or moderate income, as defined in Section 50093, and who is
- 18 able and willing to occupy a unit subject to this subdivision.
- 19 (8) A dwelling unit shall not be counted as satisfying the
- 20 affordable housing requirements of this part, unless covenants for
- 21 that dwelling unit are recorded in compliance with subparagraph
- 22 (A) of paragraph (3).
- 23 (9) Failure to comply with the requirements of subparagraph
- 24 (B) of paragraph (3) shall not invalidate any covenants or
- 25 restrictions recorded pursuant to subparagraph (A) of paragraph
- 26 (3).
- 27 (g) "Housing," as used in this section, includes residential hotels,
- 28 as defined in subdivision (k) of Section 37912. The definitions of
- 29 "lower income households," "very low income households," and
- 30 "extremely low income households" in Sections 50079.5, 50105,
- 31 and 50106 shall apply to this section. "Longest feasible time," as
- 32 used in this section, includes, but is not limited to, unlimited
- 33 duration.
- 34 (h) "Increasing, improving, and preserving the community's
- 35 supply of low- and moderate-income housing," as used in this
- 36 section and in Section 33334.2, includes the preservation of rental
- 37 housing units assisted by federal, state, or local government on the
- 38 condition that units remain affordable to, and occupied by, low-
- 39 and moderate-income households, including extremely low and
- 40 very low income households, for the longest feasible time, but not

1 less than 55 years, beyond the date the subsidies and use restrictions
2 could be terminated and the assisted housing units converted to
3 market rate rentals. In preserving these units the agency shall
4 require that the units remain affordable to, and occupied by, persons
5 and families of low- and moderate-income and extremely low and
6 very low income households for the longest feasible time but not
7 less than 55 years. However, the agency may replace rental units
8 with equally affordable and comparable rental units in another
9 location within the community if (1) the replacement units in
10 another location are available for occupancy prior to the
11 displacement of any persons and families of low or moderate
12 income residing in the units to be replaced and (2) the comparable
13 replacement units are not developed with moneys from the Low
14 and Moderate Income Housing Fund.

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

24 (j) Funds from the Low and Moderate Income Housing Fund
25 shall not be used to the extent that other reasonable means of
26 *public, private, or commercial financing*—~~of for~~ the new
27 *construction, acquisition, or substantially rehabilitated substantial*
28 *rehabilitation of* units at the same level of affordability and quantity
29 are reasonably available to the agency or to the owner of the units.
30 Prior to the expenditure of funds from the Low and Moderate
31 Income Housing Fund for *the new construction, acquisition, or*
32 ~~*substantially rehabilitated substantial rehabilitation of*~~ housing
33 units, where those funds will exceed 50 percent of the cost of
34 producing the units, the agency shall find, based on substantial
35 evidence, that the use of the funds is necessary because the agency
36 or owner of the units has made a good faith attempt but been unable
37 to obtain—~~commercial other public, private, or private means~~
38 *commercial financing of financing* the units at the same level of
39 affordability and quantity.

1 *SEC. 10. Section 33334.4 of the Health and Safety Code is*
 2 *amended to read:*

3 33334.4. (a) ~~Except as specified in subdivision (d), (1) Over~~
 4 ~~each agency shall expend over each 10-year period of the~~
 5 ~~implementation plan, planning period, as specified in clause (iii)~~
 6 ~~of subparagraph (A) of paragraph (2) of subdivision (a) of Section~~
 7 ~~33490, that begins before January 1, 2010, each agency shall~~
 8 ~~expend the moneys in the Low and Moderate Income Housing~~
 9 ~~Fund to assist housing for persons of low income and housing for~~
 10 ~~persons of very low income in at least the same proportion as the~~
 11 ~~total number of housing units needed for each of those income~~
 12 ~~groups bears to the total number of units needed for persons of~~
 13 ~~moderate, low, and very low income within the community, as~~
 14 ~~those needs have been determined for the community pursuant to~~
 15 ~~Section 65584 of the Government Code. In determining compliance~~
 16 ~~with this obligation, the agency may adjust the proportion by~~
 17 ~~subtracting from the need identified for each income category, the~~
 18 ~~number of units for persons of that income category that are newly~~
 19 ~~constructed over the duration of the implementation plan with~~
 20 ~~other locally controlled government assistance and without agency~~
 21 ~~assistance and that are required to be affordable to, and occupied~~
 22 ~~by, persons of the income category for at least 55 years for rental~~
 23 ~~housing and 45 years for ownership housing, except that in making~~
 24 ~~an adjustment the agency may not subtract units developed~~
 25 ~~pursuant to a replacement housing obligation under state or federal~~
 26 ~~law.~~

27 (2) *Following the last 10-year implementation planning period*
 28 *referenced in paragraph (1), all of the following shall apply:*

29 (A) *At least 75 percent of each agency's expenditures from the*
 30 *Low and Moderate Income Housing Fund exclusive of debt service*
 31 *payments shall directly assist the new construction, acquisition*
 32 *and substantial rehabilitation, or preservation of housing for*
 33 *persons of extremely low, very low, or low income.*

34 (B) *At least 50 percent of each agency's expenditures from the*
 35 *Low and Moderate Income Housing Fund exclusive of debt service*
 36 *payments shall directly assist the new construction, acquisition*
 37 *and substantial rehabilitation, or preservation of housing for*
 38 *persons of extremely low or very low income.*

39 (C) *At least 25 percent of each agency's expenditures from the*
 40 *Low and Moderate Income Housing Fund exclusive of debt service*

1 *payments shall directly assist the new construction, acquisition*
2 *and substantial rehabilitation, or preservation of housing for*
3 *persons of extremely low income.*

4 (3) *The expenditures for extremely low income housing, pursuant*
5 *to subparagraph (C) of paragraph (2), shall count towards the*
6 *requirements of subparagraphs (A) and (B) of paragraph (2), and*
7 *the expenditures for very low and extremely low-income housing*
8 *pursuant to subparagraphs (B) and (C) of paragraph (2) shall*
9 *count towards the requirements of subparagraph (A) of paragraph*
10 *(2).*

11 (4) *An agency shall satisfy the requirements of paragraph (2)*
12 *by demonstrating in each implementation plan that as of the end*
13 *of the immediately preceding 5-year implementation planning*
14 *period, the agency's aggregate expenditures from the Low and*
15 *Moderate Income Housing Fund, exclusive of debt service*
16 *payments, between the end of the last 10-year implementation*
17 *period referenced in paragraph (1) and the end of the immediately*
18 *preceding 5-year implementation planning period satisfy the*
19 *proportionality requirements set forth in paragraph (2).*

20 (5) (A) *For purposes of this subdivision, "preservation" means*
21 *preserving the affordability of an assisted housing development*
22 *that is eligible for prepayment or termination or for which within*
23 *the expiration of rental restrictions is scheduled to occur within*
24 *five years, as those terms are defined in Section 65863.10 of the*
25 *Government Code.*

26 (B) *For purposes of this section, "housing for persons of*
27 *extremely low income" shall mean housing that is available at an*
28 *affordable rent or affordable housing cost to, and occupied by,*
29 *households earning 30 percent of the area median income or 30*
30 *percent of the statewide median income, whichever is greater.*

31 (b) *Each agency shall expend over the duration of each*
32 *redevelopment implementation plan, the moneys in the Low and*
33 *Moderate Income Housing Fund to assist housing that is available*
34 *to all persons regardless of age in at least the same proportion as*
35 *the number of low-income households with a member under age*
36 *65 years bears to the total number of low-income households of*
37 *the community as reported in the most recent census of the United*
38 *States Census Bureau.*

39 (c) (1) *An agency that has deposited an aggregate amount that*
40 *is less than two million dollars (\$2,000,000) in the Low and*

1 *Moderate Income Housing Fund over the first five-year*
2 *implementation planning period following the last 10-year*
3 *implementation planning period referenced in paragraph (1) of*
4 *subdivision (a) shall have 10 years following the last 10-year*
5 *implementation planning period referenced in paragraph (1) of*
6 *subdivision (a) to meet the requirements of paragraph (2) of*
7 *subdivision (a).*

8 (e)

9 (2) An agency that has deposited in the Low and Moderate
10 Income Housing Fund over the first five years of the period of an
11 implementation plan an aggregate *amount* that is less than two
12 million dollars (\$2,000,000) shall have an extra five years to meet
13 the requirements of ~~this section~~. *subdivision (b).*

14 ~~(d) For the purposes of this section, “locally controlled” means~~
15 ~~government assistance where the community or other local~~
16 ~~government entity has the discretion and the authority to determine~~
17 ~~the recipient and the amount of the assistance, whether or not the~~
18 ~~source of the funds or other assistance is from the state or federal~~
19 ~~government. Examples of locally controlled government assistance~~
20 ~~include, but are not limited to, Community Development Block~~
21 ~~Grant Program (42 U.S.C. Sec. 5301 and following) funds allocated~~
22 ~~to a city or county, Home Investment Partnership Program (42~~
23 ~~U.S.C. Sec. 12721 and following) funds allocated to a city or~~
24 ~~county, fees or funds received by a city or county pursuant to a~~
25 ~~city or county authorized program, and the waiver or deferral of~~
26 ~~city or other charges.~~

27 *(d) For the purposes of this section only, funds may be deemed*
28 *expended if the agency has contractually obligated the funds to*
29 *an entity that is independent of the agency or its community for*
30 *the development of a specific eligible housing development,*
31 *provided that if the contract is terminated prior to expenditure of*
32 *the funds, the funds shall be discounted from the calculations*
33 *required in subdivisions (a) and (b) and the provisions of*
34 *subdivision (e) shall apply.*

35 *(e) (1) If an agency fails to comply with subdivision (a) within*
36 *the required time period, it shall not expend any moneys from the*
37 *Low and Moderate Income Housing Fund to assist households*
38 *whose incomes exceed 50 percent of the area median income until*
39 *the agency has expended the funds that it should have expended*

1 *for extremely low, very low, and low-income housing, respectively,*
2 *in previous implementation plan periods.*

3 (2) *If an agency fails to comply with subdivision (b) within the*
4 *required time period, it shall not expend any moneys from the Low*
5 *and Moderate Income Housing Fund to assist senior households*
6 *until the agency has expended the funds that it should have*
7 *expended for housing available to all persons regardless of age*
8 *in previous implementation plan periods.*

9 (f) *Agencies are encouraged to expend moneys in the Low and*
10 *Moderate Income Housing Fund to assist special housing needs*
11 *identified in the community's housing element pursuant to*
12 *paragraph (7) of subdivision (a) of Section 65583 of the*
13 *Government Code.*

14 *SEC. 11. Section 33334.12 of the Health and Safety Code is*
15 *amended to read:*

16 ~~33334.12. (a) (1) Upon failure of the agency to expend or~~
17 ~~encumber excess surplus in the Low and Moderate Income Housing~~
18 ~~Fund within one year from the date the moneys become excess~~
19 ~~surplus, as defined in paragraph (1) of subdivision (g), the agency~~
20 ~~shall do either of the following:~~

21 ~~(A) Disburse voluntarily its excess surplus to the county housing~~
22 ~~authority or to another public agency exercising housing~~
23 ~~development powers within the territorial jurisdiction of the agency~~
24 ~~in accordance with subdivision (b).~~

25 ~~(B) Expend or encumber its excess surplus within two additional~~
26 ~~years.~~

27 ~~(2)~~

28 *33334.12. (a) Agencies shall expend moneys from the Low*
29 *and Moderate Income Housing Fund in a manner that does not*
30 *accrue an excess surplus, as defined in paragraph (1) of*
31 *subdivision (c). If an agency, after three years has elapsed from*
32 *the date that the moneys become excess surplus, has not expended*
33 *or encumbered its excess surplus, the agency shall be subject to*
34 *sanctions pursuant to subdivision (e), until the agency has expended*
35 *or encumbered its excess surplus plus an additional amount, equal*
36 *to 50 percent of the amount of the excess surplus that remains at*
37 *the end of the three-year period. The additional expenditure shall*
38 *not be from the agency's Low and Moderate Income Housing*
39 *Fund, or any other city, county, or agency special fund related to*

1 *housing*, but shall be used in a manner that meets all requirements
2 for expenditures from that fund.

3 (b) ~~The~~ *For disbursements or expenditures of excess surplus*
4 *made prior to January 1, 2012, the* housing authority or other
5 public agency to which the money is transferred shall utilize the
6 moneys for the purposes of, and subject to the same restrictions
7 that are applicable to, the redevelopment agency under this part,
8 and for that purpose may exercise all of the powers of a housing
9 authority under Part 2 (commencing with Section 34200) to an
10 extent not inconsistent with these limitations.

11 (c) ~~Notwithstanding~~ *For disbursements or expenditures of excess*
12 *surplus made prior to January 1, 2012, notwithstanding* Section
13 34209 or any other ~~provision of~~ law, for the purpose of accepting
14 a transfer of, and using, moneys pursuant to this section, the
15 housing authority of a county or other public agency may exercise
16 its powers within the territorial jurisdiction of a city redevelopment
17 agency located in that county.

18 (d) ~~The~~ *For disbursements or expenditures of excess surplus*
19 *made prior to January 1, 2012, the* amount of excess surplus that
20 shall be transferred to the housing authority or other public agency
21 because of a failure of the redevelopment agency to expend or
22 encumber excess surplus within one year shall be the amount of
23 the excess surplus that is not so expended or encumbered. The
24 housing authority or other public agency to which the moneys are
25 transferred shall expend or encumber these moneys for authorized
26 purposes not later than three years after the date these moneys
27 were transferred from the Low and Moderate Income Housing
28 Fund.

29 (e) (1) Until a time when the agency has expended or
30 encumbered excess surplus moneys pursuant to subdivision (a),
31 the agency shall be prohibited from encumbering any funds or
32 expending any moneys derived from any source, except that the
33 agency may encumber funds and expend moneys to pay the
34 following obligations, if any, that were incurred by the agency
35 prior to three years from the date the moneys became excess
36 surplus:

37 (A) Bonds, notes, interim certificates, debentures, or other
38 obligations issued by an agency, whether funded, refunded,
39 assumed, or otherwise, pursuant to Article 5 (commencing with
40 Section 33640).

1 (B) Loans or moneys advanced to the agency, including, but
2 not limited to, loans from federal, state, or local agencies, or a
3 private entity.

4 (C) Contractual obligations which, if breached, could subject
5 the agency to damages or other liabilities or remedies.

6 (D) Obligations incurred pursuant to Section 33445.

7 (E) Indebtedness incurred pursuant to Section 33334.2 or
8 33334.6.

9 (F) Obligations incurred pursuant to Section 33401.

10 (G) An amount, to be expended for the operation and
11 administration of the agency, that may not exceed 75 percent of
12 the amount spent for those purposes in the preceding fiscal year.

13 (2) This subdivision shall not be construed to prohibit the
14 expenditure of excess surplus funds or other funds to meet the
15 requirement in ~~paragraph (2)~~ of subdivision (a) that the agency
16 spend or encumber excess surplus funds, plus an amount equal to
17 50 percent of excess surplus, prior to spending or encumbering
18 funds for any other purpose.

19 ~~(f) Nothing in this section shall be construed to limit any~~
20 ~~authority a redevelopment agency may have under other provisions~~
21 ~~of this part to contract with a housing authority for increasing or~~
22 ~~improving the community's supply of low- and moderate-income~~
23 ~~housing.~~

24 ~~(g)~~

25 (f) For purposes of this section:

26 (1) "Excess surplus" means any unexpended and unencumbered
27 amount in an agency's Low and Moderate Income Housing Fund
28 that exceeds the greater of one million dollars (\$1,000,000) or the
29 aggregate amount deposited into the Low and Moderate Income
30 Housing Fund pursuant to Sections 33334.2 and 33334.6 during
31 the agency's preceding four fiscal years. The first fiscal year to be
32 included in this computation is the 1989-90 fiscal year, and the
33 first date on which an excess surplus may exist is July 1, 1994.

34 (2) Moneys shall be deemed encumbered if committed pursuant
35 to a legally enforceable contract or agreement for expenditure for
36 purposes specified in Section 33334.2 or 33334.3.

37 (3) (A) For purposes of determining whether an excess surplus
38 exists, it is the intent of the Legislature to give credit to agencies
39 which convey land for less than fair market value, on which low-
40 and moderate-income housing is built or is to be built if at least

1 49 percent of the units developed on the land are available at
2 affordable housing cost to lower income households for at least
3 the time specified in subdivision (e) of Section 33334.3, and
4 otherwise comply with all of the provisions of this division
5 applicable to expenditures of moneys from a low- and
6 moderate-income housing fund established pursuant to Section
7 33334.3. Therefore, for the sole purpose of determining the amount,
8 if any, of an excess surplus, an agency may make the following
9 calculation: if an agency sells, leases, or grants land acquired with
10 moneys from the Low and Moderate Income Housing Fund,
11 established pursuant to Section 33334.3, for an amount which is
12 below fair market value, and if at least 49 percent of the units
13 constructed or rehabilitated on the land are affordable to lower
14 income households, as defined in Section 50079.5, the difference
15 between the fair market value of the land and the amount the
16 agency receives may be subtracted from the amount of moneys in
17 an agency's Low and Moderate Income Housing Fund.

18 (B) If taxes that are deposited in the Low and Moderate Income
19 Housing Fund are used as security for bonds or other indebtedness,
20 the proceeds of the bonds or other indebtedness, and income and
21 expenditures related to those proceeds, shall not be counted in
22 determining whether an excess surplus exists. The unspent portion
23 of the proceeds of bonds or other indebtedness, and income related
24 thereto, shall be excluded from the calculation of the unexpended
25 and unencumbered amount in the Low and Moderate Income
26 Housing Fund when determining whether an excess surplus exists.

27 (C) Nothing in this subdivision shall be construed to restrict the
28 authority of an agency provided in any other provision of this part
29 to expend funds from the Low and Moderate Income Housing
30 Fund.

31 (D) The department shall develop and periodically revise the
32 methodology to be used in the calculation of excess surplus as
33 required by this section. The director shall appoint an advisory
34 committee to advise in the development of this methodology. The
35 advisory committee shall include department staff, affordable
36 housing advocates, and representatives of the California
37 Redevelopment Association, the California Society of Certified
38 Public Accountants, the Controller, and any other authorities or
39 persons interested in the field that the director deems necessary
40 and appropriate.

1 ~~(h)~~

2 (g) Communities in which an agency has disbursed excess
3 surplus funds pursuant to this section shall not disapprove a low-
4 or moderate-income housing project funded in whole or in part by
5 the excess surplus funds if the project is consistent with applicable
6 building codes and the land use designation specified in any
7 element of the general plan as it existed on the date the application
8 was deemed complete. A local agency may require compliance
9 with local development standards and policies appropriate to and
10 consistent with meeting the quantified objectives relative to the
11 development of housing, as required in housing elements of the
12 community pursuant to subdivision (b) of Section 65583 of the
13 Government Code.

14 (i)

15 (h) Notwithstanding subdivision (a), any agency that has funds
16 that become excess surplus on July 1, 1994, shall have, pursuant
17 to subdivision (a), until January 1, 1995, to decide to transfer the
18 funds to a housing authority or other public agency, or until January
19 1, 1997, to expend or encumber those funds, or face sanctions
20 pursuant to subdivision (e).

21 *SEC. 12. Section 33334.16 of the Health and Safety Code is*
22 *repealed.*

23 ~~33334.16. For each interest in real property acquired using~~
24 ~~moneys from the Low and Moderate Income Housing Fund, the~~
25 ~~agency shall, within five years from the date it first acquires the~~
26 ~~property interest for the development of housing affordable to~~
27 ~~persons and families of low and moderate income, initiate activities~~
28 ~~consistent with the development of the property for that purpose.~~
29 ~~These activities may include, but are not limited to, zoning changes~~
30 ~~or agreements entered into for the development and disposition of~~
31 ~~the property. If these activities have not been initiated within this~~
32 ~~period, the legislative body may, by resolution, extend the period~~
33 ~~during which the agency may retain the property for one additional~~
34 ~~period not to exceed five years. The resolution of extension shall~~
35 ~~affirm the intention of the legislative body that the property be~~
36 ~~used for the development of housing affordable to persons and~~
37 ~~families of low and moderate income. In the event that physical~~
38 ~~development of the property for this purpose has not begun by the~~
39 ~~end of the extended period, or if the agency does not comply with~~
40 ~~this requirement, the property shall be sold and the moneys from~~

1 ~~the sale, less reimbursement to the agency for the cost of the sale,~~
 2 ~~shall be deposited in the agency's Low and Moderate Income~~
 3 ~~Housing Fund.~~

4 *SEC. 13. Section 33334.16 is added to the Health and Safety*
 5 *Code, to read:*

6 *33334.16. (a) (1) For each interest in real property acquired*
 7 *using moneys from the Low and Moderate Income Housing Fund,*
 8 *the agency shall, within five years from the date of acquisition,*
 9 *complete at least one of the following activities:*

10 *(A) Enter into a disposition and development agreement or a*
 11 *land lease with a third party for the development of housing*
 12 *affordable to persons and families of low and moderate income.*

13 *(B) Obtain final land use entitlements and secure full financing*
 14 *for agency development of housing affordable to persons and*
 15 *families of low and moderate income.*

16 *(C) Submit a remedial action plan for the real property to the*
 17 *appropriate oversight agency, including, but not limited to, the*
 18 *Department of Toxic Substances Control, a California regional*
 19 *water quality control board, or the Office of Human Health Risk*
 20 *Assessment, for the cleanup of contamination.*

21 *(2) On or after January 1, 2013, if none of the activities*
 22 *described in paragraph (1) has been completed within five years,*
 23 *or if less than 10 percent of the dwelling units or floor area of a*
 24 *project is developed within 10 years from the date the agency*
 25 *originally acquired the property, the agency shall reimburse the*
 26 *Low and Moderate Income Housing Fund 150 percent of the*
 27 *amount expended to acquire and maintain the property or of the*
 28 *current fair market value of the property, whichever amount is*
 29 *greater.*

30 *(3) If the agency owns two or more adjacent parcels of real*
 31 *property that comprise a single redevelopment project for which*
 32 *the parcels are described in the implementation plan, the date of*
 33 *acquisition for all such parcels shall be the date of acquisition of*
 34 *the last acquired parcel, provided that this date shall not be later*
 35 *than 5 years after the acquisition of the first parcel.*

36 *(4) An agency may adopt a resolution to petition the department*
 37 *for, and the department may grant, a single extension for up to*
 38 *five years of the deadlines established in paragraphs (1) and (2)*
 39 *if the department makes a finding that the failure to complete the*
 40 *required activities is due to circumstances beyond the agency's*

1 or community's control and that the agency has a feasible plan
2 for the development of housing affordable to persons and families
3 of low and moderate income on the real property within the period
4 of the extension. The agency shall provide information supporting
5 the need for the extension and a plan for development of the
6 property. The department shall solicit comments from known or
7 expected parties interested in the petition and consider comments
8 from these and any other parties. The department shall establish
9 a schedule of fees to cover but not exceed its costs under this
10 subparagraph, and at the time the petition is submitted the agency
11 shall pay the fees with funds other than those required to be set
12 aside or used for low- and moderate-income housing pursuant to
13 this part or otherwise designated for affordable housing.

14 (b) At any time, in addition to proceeds from the sale or transfer,
15 the agency shall deposit into the Low and Moderate Income
16 Housing Fund from agency revenues other than those required to
17 be deposited in the Low and Moderate Income Housing Fund an
18 amount equal to 50 percent of the fair market value of the property
19 at the time it is sold or transferred or, if the property is not sold
20 or transferred, of the fair market value of the land at the time a
21 building permit is issued for the property. This subdivision shall
22 apply only under either of the following conditions:

23 (1) A real property acquired using moneys from the Low and
24 Moderate Income Housing Fund is sold or transferred for a
25 purpose other than housing affordable to persons and families of
26 low and moderate income.

27 (2) A real property acquired using moneys from the Low and
28 Moderate Income Housing Fund is developed such that less than
29 50 percent of the floor area, or a percentage of the floor area equal
30 to the proportion that moneys from the Low and Moderate Income
31 Housing Fund represent to the total acquisition cost, whichever
32 is less, is housing affordable to persons and families of low and
33 moderate income.

34 SEC. 14. Section 33413 of the Health and Safety Code is
35 amended to read:

36 33413. (a) Whenever dwelling units ~~housing~~ affordable to or
37 occupied by persons and families of low or moderate income are
38 destroyed or removed from the low- and moderate-income housing
39 market as part of a redevelopment project that is subject to a written
40 agreement with the agency or where financial assistance has been

1 provided by the agency, the agency shall, within four years of the
 2 destruction or removal, ~~rehabilitate, develop, or construct~~, or cause
 3 to be ~~rehabilitated, developed, or constructed~~, for rental or sale to
 4 persons and families of low or moderate income, an equal number
 5 of replacement dwelling units that have an equal or greater number
 6 of bedrooms as those destroyed or removed units at affordable
 7 housing costs within the territorial jurisdiction of the agency. ~~When~~
 8 ~~dwelling units are destroyed or removed after September 1, 1989,~~
 9 ~~75 percent of the replacement dwelling units shall replace dwelling~~
 10 ~~units available at affordable housing cost in the same or a lower~~
 11 ~~income level of very low income households, lower income~~
 12 ~~households, and persons and families of low and moderate income,~~
 13 ~~as the persons displaced from those destroyed or removed units.~~
 14 ~~When dwelling units are destroyed or removed on or after January~~
 15 ~~1, 2002, 100 percent of the replacement dwelling units shall be~~
 16 ~~available at affordable housing cost to persons in the same or a~~
 17 ~~lower income category (low, very low, or moderate), as the persons~~
 18 ~~displaced from those destroyed or removed units, provided that if~~
 19 ~~the units are provided outside the project area the agency shall~~
 20 ~~provide two units for each unit the agency is obligated to replace.~~
 21 ~~The replacement obligation shall apply to all units affordable to~~
 22 ~~low- or moderate-income persons or families at the time of~~
 23 ~~initiation of negotiations of a written agreement with or financial~~
 24 ~~assistance from the agency. For purposes of this section, the~~
 25 ~~inclusion of residential units in the rehabilitation of an existing~~
 26 ~~nonresidential structure shall constitute construction.~~

27 (1) *When dwelling units are destroyed or removed after*
 28 *September 1, 1989, 75 percent of the replacement dwelling units*
 29 *shall be available at affordable housing cost to, and occupied by,*
 30 *persons and families in the same or a lower income level of very*
 31 *low income households, lower income households, and persons*
 32 *and families of low and moderate income, as the persons and*
 33 *families displaced from those destroyed or removed units.*

34 (2) *When dwelling units are destroyed or removed on or after*
 35 *January 1, 2002, 100 percent of the replacement dwelling units*
 36 *shall be available at affordable housing cost to, and occupied by,*
 37 *persons and families in the same or a lower income category*
 38 *(extremely low, very low, low, or moderate), as the persons and*
 39 *families displaced from those destroyed or removed units. This*
 40 *paragraph is declaratory of existing law.*

1 (3) *On or after January 1, 2012, in the case where the agency*
2 *is obligated to replace vacant units, those replacement units shall*
3 *be available at affordable housing costs to, and occupied by,*
4 *persons and families in the same or lower income category*
5 *(extremely low, very low, low, or moderate) in the same proportion*
6 *as the units occupied or last occupied by low- and*
7 *moderate-income households in the property.*

8 (4) *Up to 25 percent of the replacement obligation incurred*
9 *during a five-year implementation plan may be satisfied in either*
10 *of the following ways:*

11 (A) *With units that have been rehabilitated such that*
12 *after-rehabilitation value is increased by 50 percent or more of*
13 *the pre-rehabilitation value, as evidenced by pre and post*
14 *rehabilitation appraisals and, the rehabilitated units were, at the*
15 *time the dwelling units to be replaced were destroyed or removed*
16 *were either of the following:*

17 (i) *At risk of demolition or closure due to substandard conditions*
18 *and occupied by extremely low or very low income households.*

19 (ii) *Vacant due to substandard conditions as defined in Section*
20 *1941.1 of the Civil Code.*

21 (B) *With substantially rehabilitated multifamily rental dwelling*
22 *units, as defined in paragraph (2) of subdivision (b) and evidenced*
23 *by pre and post rehabilitation appraisals, provided that the agency*
24 *shall substantially rehabilitate within the project area, two units*
25 *for each unit the agency is obligated to replace, or outside of the*
26 *project area, three units for each unit the agency is obligated to*
27 *replace.*

28 (5) *For each project containing rehabilitated replacement units,*
29 *the agency shall adopt a separate written resolution, after public*
30 *hearing and based on substantial evidence, that the rehabilitation*
31 *of the replacement dwelling units complies with this subdivision.*

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

1 moderate income shall be available at affordable housing cost to,
2 and occupied by, very low income households.

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

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

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

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

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

39 (B) To satisfy the requirements of paragraph (1) and
40 subparagraph (A), the agency may purchase, or otherwise acquire

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

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

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

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

38 (4) Each redevelopment agency, as part of the implementation
39 plan required by Section 33490, shall adopt a plan to comply with
40 the requirements of this subdivision for each project area. The plan

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

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

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

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

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

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

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

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

1 (b) shall apply to those redevelopment plans prospectively only
 2 so that the requirements of subdivision (b) shall apply only to new
 3 and substantially rehabilitated dwelling units for which the building
 4 permits are issued on or after the date that the ordinance adopting
 5 the amendment pursuant to Section 33333.10 becomes effective.

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

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

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

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

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

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

29 (h) *If a court finds that an agency has failed to comply with the*
 30 *requirements of this section, the court, at a minimum, shall issue*
 31 *an order that prohibits the agency from issuing any debt for any*
 32 *project area, except debt from which all the proceeds will be*
 33 *deposited into the Low and Moderate Income Housing Fund or*
 34 *otherwise used to comply with the requirements of this section,*
 35 *until such time as the court finds that the agency has fully complied*
 36 *with the requirements of this section.*

37 *SEC. 15. Section 33413.5 of the Health and Safety Code is*
 38 *amended to read:*

39 33413.5. Not less than 30 days prior to the execution of an
 40 agreement for acquisition of real property, ~~or~~ the execution of an

1 agreement for the disposition and development of property, ~~or the~~
2 execution of an owner participation agreement, ~~which or other~~
3 agreement *or assistance that* would lead to the destruction or
4 removal of dwelling units from the low- and moderate-income
5 housing market, the agency shall adopt by resolution a replacement
6 housing plan. For a reasonable time prior to adopting a replacement
7 housing plan by resolution, the agency shall make available a draft
8 of the proposed replacement housing plan for review and comment
9 by the *tenants to be displaced*, the project area committee, other
10 public agencies, and the general public.

11 The replacement housing plan shall include (1) the general
12 location of housing to be ~~rehabilitated, developed, rehabilitated~~
13 or constructed pursuant to Section 33413, (2) *a description of the*
14 *occupancy and affordability restrictions to be imposed on the*
15 *replacement dwelling units*, (3) *substantial evidence supporting a*
16 *finding that the replacement dwelling units will meet the needs of*
17 *households in the income categories of the households displaced*
18 *from the dwelling units that the replacement units are intended to*
19 *replace*, (4) *a declaration of whether the agency intends to*
20 *rehabilitate existing dwelling units pursuant to paragraph (5) of*
21 *subdivision (a) of Section 33413*, (5) an adequate means of
22 financing such rehabilitation, ~~development~~, or construction, ~~(3)~~
23 (6) a finding that the replacement housing does not require the
24 approval of the voters pursuant to Article XXXIV of the California
25 Constitution, or that such approval has been obtained, ~~(4)~~ (7) the
26 number of dwelling units housing persons and families of low or
27 moderate income planned for construction or rehabilitation, and
28 ~~(5)~~ (8) the timetable for meeting the plan's relocation,
29 rehabilitation, and replacement housing objectives. A dwelling
30 unit whose replacement is required by Section 33413 but for which
31 no replacement housing plan has been prepared, shall not be
32 destroyed or removed from the low- and moderate-income housing
33 market until the agency has by resolution adopted a replacement
34 housing plan.

35 Nothing in this section shall prevent an agency from destroying
36 or removing from the low- and moderate-income housing market
37 a dwelling unit which the agency owns and which is an immediate
38 danger to health and safety. The agency shall, as soon as
39 practicable, adopt by resolution a replacement housing plan with
40 respect to such dwelling unit.

1 *SEC. 16. Section 33418 of the Health and Safety Code is*
 2 *amended to read:*

3 33418. (a) An agency shall monitor, on an ongoing basis, any
 4 housing affordable to persons and families of low or moderate
 5 income developed or otherwise made available pursuant to any
 6 provisions of this part. As part of this monitoring, an agency shall
 7 require owners or managers of the housing to submit an annual
 8 report to the agency. The annual reports shall include for each
 9 rental unit the rental rate and the income and family size of the
 10 occupants, and for each owner-occupied unit whether there was a
 11 change in ownership from the prior year and, if so, the income and
 12 family size of the new owners. The income information required
 13 by this section shall be supplied by the tenant in a certified
 14 statement on a form provided by the agency.

15 (b) The data specified in subdivision (a) shall be obtained by
 16 the agency from owners and managers of the housing specified
 17 therein and current data shall be included in any reports required
 18 by law to be submitted to the Department of Housing and
 19 Community Development or the Controller. The information on
 20 income and family size that is required to be reported by the owner
 21 or manager shall be supplied by the tenant and shall be the only
 22 information on income or family size that the owner or manager
 23 shall be required to submit on his or her annual report to the
 24 agency.

25 (c) (1) The agency shall compile and maintain a database of
 26 existing, new and substantially rehabilitated, housing units
 27 developed or otherwise assisted with moneys from the Low and
 28 Moderate Income Housing Fund, or otherwise counted towards
 29 the requirements of subdivision (a) or (b) of Section 33413. The
 30 database shall be made available to the public on the Internet and
 31 updated on an annual basis and shall include the date the database
 32 was last updated. The database shall require all of the following
 33 information for each owner-occupied unit or rental unit, or for
 34 each group of units, if more than one unit is subject to the same
 35 covenant:

36 (A) The street address and assessor’s parcel number of the
 37 property.

38 (B) The size of each unit, measured by the number of bedrooms.

39 (C) The year in which the construction or substantial
 40 rehabilitation of the unit was completed.

1 (D) The date of recordation and document number of the
2 affordability covenants or restrictions required under subdivision
3 (f) of Section 33334.3.

4 (E) The date on which the covenants or restrictions expire.

5 (F) For owner-occupied units that have changed ownership
6 during the reporting year, as described in subdivision (a), the date
7 and document number of the new affordability covenants or other
8 documents recorded to—~~assure~~ *ensure* that the affordability
9 restriction is enforceable and continues to run with the land.

10 (G) Whether occupancy in the unit or units is restricted to any
11 special population, including senior citizens.

12 *(H) The affordability level of each unit.*

13 *(I) Whether the unit is a rental or ownership unit.*

14 *(J) Whether the unit is being counted towards a replacement*
15 *obligation pursuant to subdivision (a) of Section 33413 or towards*
16 *a production obligation pursuant to subdivision (b) of Section*
17 *33413.*

18 *(K) The project type, including, but not limited to, new*
19 *construction, substantial rehabilitation, preservation, or the*
20 *purchase of long-term affordability covenants.*

21 (2) Notwithstanding subparagraphs (A) and (D) of paragraph
22 (1), the database shall omit any property used to confidentially
23 house victims of domestic violence.

24 (3) Upon establishment of a database under this section, the
25 agency shall provide reasonable notice to the community regarding
26 the existence of the database.

27 (d) The agency shall adequately fund its monitoring activities
28 as needed to insure compliance of applicable laws and agreements
29 in relation to affordable units. For purposes of defraying the cost
30 of complying with the requirements of this section and the changes
31 in reporting requirements of Section 33080.4 enacted by the act
32 enacting this section, an agency may establish and impose fees
33 upon owners of properties monitored pursuant to this section.

34 *(e) The agency shall continue to monitor and enforce the*
35 *covenants covered by this section for the entire period of the*
36 *covenant. In the event the agency ceases its activities prior to the*
37 *entire period of the covenants, then its designated successor agency*
38 *shall monitor and enforce the covenants for the remaining period*
39 *of the covenant. If a successor agency is not designated at the time*

1 *the agency ceases its activities, then the community shall monitor*
 2 *and enforce the covenants for the remaining period of the covenant.*
 3 *SEC. 17. Article 13 (commencing with Section 33460) is added*
 4 *to Chapter 4 of Part 1 of Division 24 of the Health and Safety*
 5 *Code, to read:*

6
 7 *Article 13. Accountability Audits*
 8

9 *33460. (a) The Legislature hereby finds and declares both of*
 10 *the following:*

11 *(1) Past department audits of redevelopment agencies have*
 12 *uncovered errors, omissions, and violations that have resulted in*
 13 *significant repayments to agencies' Low and Moderate Income*
 14 *Housing Fund, thereby providing additional resources for*
 15 *increasing, improving, and preserving the supply of low- and*
 16 *moderate-income housing available at affordable housing cost.*

17 *(2) Providing funding for future department audits of*
 18 *redevelopment agencies will ensure that tax increment, interest,*
 19 *and debt proceeds are appropriately deposited into the Low and*
 20 *Moderate Income Housing Fund and that agencies make only legal*
 21 *expenditures from the fund, thereby providing additional resources*
 22 *for increasing, improving, and preserving the supply of low- and*
 23 *moderate-income housing available at affordable housing cost.*
 24 *As a result, the deposits required by this section are permissible*
 25 *pursuant to paragraph (7) of subdivision (a) of Section 25.5 of*
 26 *Article XIII of the California Constitution.*

27 *(b) Immediately upon receipt, each agency shall annually*
 28 *deposit one-half of one-tenth (.0005) percent of any tax increment*
 29 *deposited into the Low and Moderate Income Housing Fund into*
 30 *the Redevelopment Agency Accountability Fund created pursuant*
 31 *to Section 50464.5 to be used solely for the purpose described in*
 32 *subdivision (b) of that section.*

33 *SEC. 18. Section 33487 of the Health and Safety Code is*
 34 *amended to read:*

35 *33487. (a) Subject to subdivisions (a) and (b) of Section 33486,*
 36 *not less than 20 percent of all taxes that are allocated to the*
 37 *redevelopment agency pursuant to Section 33670 for*
 38 *redevelopment projects merged pursuant to this article, irrespective*
 39 *of the date of adoption of the final redevelopment plans, shall be*
 40 *deposited by the agency in the Low and Moderate Income Housing*

1 Fund established pursuant to Section 33334.3, or which shall be
2 established for purposes of this section. The agency shall use the
3 moneys in this fund to assist in the construction or rehabilitation
4 of housing units that will be available to, or occupied by, persons
5 and families of low or moderate income, as defined in Section
6 50093, and very low income households, as defined in Section
7 50105, *at an affordable housing cost* for the longest feasible time
8 period but not less than 55 years for rental units and 45 years for
9 owner-occupied units. For the purposes of this subdivision,
10 “construction and rehabilitation” shall include acquisition of land,
11 improvements to land; the acquisition, rehabilitation, or
12 construction of structures; or the provision of subsidies necessary
13 to provide housing for persons and families of low or moderate
14 income, as defined in Section 50093, and very low income
15 households, as defined in Section 50105.

16 (b) The agency may use the funds set aside by subdivision (a)
17 inside or outside the project area. However, the agency may only
18 use these funds outside the project area upon a resolution of the
19 agency and the legislative body that the use will be of benefit to
20 the project. This determination by the agency and the legislative
21 body shall be final and conclusive as to the issue of benefit to the
22 project area. The Legislature finds and declares that the provision
23 of replacement housing pursuant to Section 33413 is of benefit to
24 a project.

25 The Legislature finds and declares that expenditures or
26 obligations incurred by the agency pursuant to this section shall
27 constitute an indebtedness of the project.

28 ~~(e) If moneys deposited in the Low and Moderate Income~~
29 ~~Housing Fund pursuant to this section have not been committed~~
30 ~~for the purposes specified in subdivisions (a) and (b) for a period~~
31 ~~of six years following deposit in that fund, the agency shall offer~~
32 ~~these moneys to the housing authority that operates within the~~
33 ~~jurisdiction of the agency, if activated pursuant to Section 34240,~~
34 ~~for the purpose of constructing or rehabilitating housing as~~
35 ~~provided in subdivisions (a) and (b). However, if no housing~~
36 ~~authority operates within the jurisdiction of the agency, the agency~~
37 ~~may retain these moneys for use pursuant to this section.~~

38 ~~(d)~~

39 (c) If the agency deposits less than 20 percent of taxes allocated
40 pursuant to Section 33670, due to the provisions of subdivisions

1 (a) and (b) of Section 33486, in any fiscal year, a deficit shall be
2 created in the Low and Moderate Income Housing Fund in an
3 amount equal to the difference between 20 percent of the taxes
4 allocated pursuant to Section 33670 and the amount deposited in
5 that year. The deficit, if any, created pursuant to this section
6 constitutes an indebtedness of the project. The agency shall
7 eliminate the deficit by expending taxes allocated in years
8 subsequent to creation of the deficit and, until the time when that
9 deficit has been eliminated, an agency shall not incur new
10 obligations for purposes other than those set forth in Section 33487,
11 except to comply with the terms of any resolution or other
12 agreement pledging taxes allocated pursuant to Section 33670 that
13 existed on the date of merger pursuant to this article.

14 (e)

15 (d) Notwithstanding subdivision (d) of Section 33413, any
16 agency that merges its redevelopment project areas pursuant to
17 this article shall be subject to subdivisions (a) and (c) of Section
18 33413.

19 *SEC. 19. Section 33490 of the Health and Safety Code is*
20 *amended to read:*

21 33490. (a) (1) (A) On or before December 31, 1994, and each
22 five years thereafter, each agency that has adopted a redevelopment
23 plan prior to December 31, 1993, shall adopt, after a public hearing,
24 an implementation plan that shall contain the specific goals and
25 objectives of the agency for the project area, the specific programs,
26 including potential projects, and estimated expenditures proposed
27 to be made during the next five years, and an explanation of how
28 the goals and objectives, programs, and expenditures will eliminate
29 blight within the project area and implement the requirements of
30 Section 33333.10, if applicable, and Sections 33334.2, 33334.4,
31 33334.6, 33413, and ~~33413~~ 33487. After adoption of the first
32 implementation plan, the parts of the implementation plan that
33 address Section 33333.10, if applicable, and Sections 33334.2,
34 33334.4, 33334.6, 33413, and ~~33413~~ 33487 shall be adopted every
35 five years ~~either in conjunction with the housing element cycle or~~
36 ~~the implementation plan cycle~~ and shall be made available to the
37 public on the Internet. The agency may amend the implementation
38 plan after conducting a public hearing on the proposed amendment.
39 If an action attacking the adoption, approval, or validity of a
40 redevelopment plan adopted prior to January 1, 1994, has been

1 brought pursuant to Chapter 5 (commencing with Section 33500),
2 the first implementation plan required pursuant to this section shall
3 be adopted within six months after a final judgment or order has
4 been entered. Subsequent implementation plans required pursuant
5 to this section shall be adopted pursuant to the terms of this section,
6 and as if the first implementation plan had been adopted on or
7 before December 31, 1994.

8 (B) Adoption of an implementation plan shall not constitute an
9 approval of any specific program, project, or expenditure and shall
10 not change the need to obtain any required approval of a specific
11 program, project, or expenditure from the agency or community.
12 The adoption of an implementation plan shall not constitute a
13 project within the meaning of Section 21000 of the Public
14 Resources Code. However, the inclusion of a specific program,
15 potential project, or expenditure in an implementation plan
16 prepared pursuant to subdivision (c) of Section 33352 in
17 conjunction with a redevelopment plan adoption shall not eliminate
18 analysis of those programs, potential projects, and expenditures
19 in the environmental impact report prepared pursuant to subdivision
20 (k) of Section 33352 to the extent that it would be otherwise
21 required. In addition, the inclusion of programs, potential projects,
22 and expenditures in an implementation plan shall not eliminate
23 review pursuant to the California Environmental Quality Act
24 (Division 13 (commencing with Section 21000) of the Public
25 Resources Code), at the time of the approval of the program,
26 project, or expenditure, to the extent that it would be otherwise
27 required.

28 (2) (A) A portion of the implementation plan shall address the
29 agency housing responsibilities and shall contain a section
30 addressing Section 33333.10, if applicable, and Sections 33334.2,
31 33334.4, 33334.6, and ~~33334.6~~ 33487, the Low and Moderate
32 Income Housing Fund, and, if subdivision (b) of Section 33413
33 applies, a section addressing agency developed and project area
34 housing. The section addressing the Low and Moderate Income
35 Housing Fund shall contain:

36 (i) The amount available in the Low and Moderate Income
37 Housing Fund and the estimated amounts which will be deposited
38 in the Low and Moderate Income Housing Fund during each of
39 the next five years.

- 1 (ii) A housing program with estimates of the number of new,
 2 rehabilitated, or price restricted units to be assisted during each of
 3 the five years and estimates of the expenditures of moneys from
 4 the Low and Moderate Income Housing Fund during each of the
 5 five years.
- 6 (iii) A description of how the housing program will implement
 7 the requirement for expenditures of moneys in the Low and
 8 Moderate Income Housing Fund over a 10-year period *or 5-year*
 9 *period, as applicable*, for various groups as required by Section
 10 33334.4. For project areas to which subdivision (b) of Section
 11 33413 applies, the 10-year period within which *subdivision (b) of*
 12 ~~Section 33334.4~~ 33413 is required to be implemented shall ~~be~~
 13 *coincide with the same* 10-year period *or with two 5-year periods,*
 14 *as applicable*, within which ~~subdivision (b) of Section 33413~~
 15 ~~33334.4~~ is required to be implemented. Notwithstanding the first
 16 sentence of Section 33334.4 and the first sentence of this clause,
 17 in order to allow these two 10-year time periods to coincide for
 18 the first time period, the time to implement the requirements of
 19 Section 33334.4 shall be extended two years, and project areas in
 20 existence on December 31, 1993, shall implement the requirements
 21 of Section 33334.4 on or before December 31, 2014, ~~and each 10~~
 22 ~~years thereafter~~ rather than December 31, 2012. For project areas
 23 to which subdivision (b) of Section 33413 does not apply, the
 24 requirements of Section 33334.4 shall be implemented on or before
 25 December 31, 2014, ~~and each 10 years thereafter~~.
- 26 (iv) This requirement to include a description of how the housing
 27 program will implement Section 33334.4 in the implementation
 28 plan shall apply to implementation plans adopted pursuant to
 29 subdivision (a) on or after December 31, 2002.
- 30 (B) For each project area to which subdivision (b) of Section
 31 33413 applies, the section addressing the agency developed and
 32 project area housing shall contain:
- 33 (i) Estimates of the number of new, substantially rehabilitated
 34 or price restricted residential units to be developed or purchased
 35 within one or more project areas, both over the life of the plan and
 36 during the next 10 years.
- 37 (ii) Estimates of the number of units of very low, low-, and
 38 moderate-income households required to be developed within one
 39 or more project areas in order to meet the requirements of

1 paragraph (2) of subdivision (b) of Section 33413, both over the
2 life of the plan and during the next 10 years.

3 (iii) The *statement of the* number of units of very low, low-, and
4 moderate-income households which have been developed *over the*
5 *life of the plan* within one or more project areas which meet the
6 requirements of ~~paragraph (2) of subdivision (b) of Section 33413.~~

7 (iv) Estimates of the number of agency developed residential
8 units which will be developed during the next five years, if any,
9 which will be governed by paragraph (1) of subdivision (b) of
10 Section 33413.

11 (v) Estimates of the number of agency developed units for very
12 low, low-, and moderate-income households which will be
13 developed by the agency during the next five years to meet the
14 requirements of paragraph (1) of subdivision (b) of Section 33413.

15 (C) The section addressing Section 33333.10, if applicable, and
16 Section 33334.4 shall contain all of the following:

17 ~~(i) The number of housing units needed for very low income~~
18 ~~persons, low-income persons, and moderate-income persons as~~
19 ~~each of those needs have been identified in the most recent~~
20 ~~determination pursuant to Section 65584 of the Government Code,~~
21 ~~and the proposed amount of expenditures from the Low and~~
22 ~~Moderate Income Housing Fund for each proposed amount of~~
23 ~~expenditures from the Low and Moderate Income Housing Fund~~
24 ~~for the new construction, acquisition and substantial rehabilitation,~~
25 ~~or preservation of housing for persons of extremely low, very low,~~
26 ~~or low income group during each year of the implementation plan~~
27 ~~period.~~

28 (ii) The total population of the community and the population
29 under 65 years of age as reported in the most recent census of the
30 United States Census Bureau.

31 (iii) A housing program that provides a detailed schedule of
32 actions the agency is undertaking or intends to undertake to ensure
33 expenditure of the Low and Moderate Income Housing Fund in
34 the proportions required by Section 33333.10, if applicable, and
35 Section 33334.4.

36 (iv) For the previous implementation plan period, ~~the amounts~~
37 ~~of Low and Moderate Income Housing Fund moneys utilized to~~
38 ~~assist units affordable to, and occupied by, extremely low income~~
39 ~~households, very low income households, and low-income~~
40 ~~households; the number, the location, and level of affordability of~~

1 units newly constructed ~~with other locally controlled government~~
2 ~~assistance~~ and without agency assistance and that are required to
3 be affordable to, and occupied by, persons of low, very low, or
4 extremely low income for at least 55 years for rental housing or
5 45 years for ~~homeownership~~ *home ownership* housing, and the
6 amount of Low and Moderate Income Housing Fund moneys
7 utilized to assist housing units available to families with children,
8 and the number, location, and level of affordability of those units.

9 *(v) A demonstration, based on substantial evidence in the plan,*
10 *that as of the end of the immediately preceding 5-year*
11 *implementation planning period, the agency's aggregate*
12 *expenditures from the Low and Moderate Income Housing Fund,*
13 *exclusive of debt service payments, between the end of the last*
14 *10-year implementation period referenced in paragraph (1) of*
15 *subdivision (a) of Section 33334.4 and the end of the immediately*
16 *preceding 5-year implementation planning period satisfy the*
17 *proportionality requirements set forth in paragraph (2) of*
18 *subdivision (a) of Section 33334.4.*

19 (3) If the implementation plan contains a project that will result
20 in the destruction or removal of dwelling units that will have to
21 be replaced pursuant to subdivision (a) of Section 33413, the
22 implementation plan shall identify proposed locations suitable for
23 those replacement dwelling units. *If the implementation plan*
24 *contains a project that has resulted in the destruction or removal*
25 *of dwelling units that must be replaced pursuant to subdivision*
26 *(a) of Section 33413, the implementation plan shall identify either*
27 *of the following:*

28 *(A) The replacement dwelling units that satisfy each replacement*
29 *housing obligation.*

30 *(B) In the case where dwelling units have been destroyed or*
31 *removed, but replacement units are not yet complete, the proposed*
32 *location of the replacement dwelling units.*

33 (4) *The implementation plan shall include a complete accounting*
34 *for compliance with the agency's affordable housing obligations*
35 *over the life of the plan, including the total number of units the*
36 *agency is obligated to replace pursuant to subdivision (a) of*
37 *Section 33413, the number of units the agency is obligated to*
38 *produce pursuant to subdivision (b) of Section 33413, and the*
39 *number of dwelling units that satisfy these obligations.*

- 1 (A) For each owner-occupied unit or rental unit counted towards
2 meeting the agency obligations under subdivision (a) or (b) of
3 Section 33413 and required to be included in the database required
4 pursuant to subdivision (c) of Section 33418, or for each group of
5 such units, if more than one unit is subject to the same covenant,
6 the implementation plan shall identify all of the following:
- 7 (i) The street address and assessor's parcel number of the
8 property and, for properties where units are listed as a group, the
9 number of units.
 - 10 (ii) The size of each unit, measured by the number of bedrooms.
 - 11 (iii) The affordability level of each unit, according to the
12 categories required by Section 33413.
 - 13 (iv) The year in which the construction or substantial
14 rehabilitation of the unit was completed.
 - 15 (v) The date of recordation and document number of the
16 affordability covenants or restrictions required under subdivision
17 (f) of Section 33334.3 or subdivision (c) of Section 33413.
 - 18 (vi) The date on which the covenants or restrictions expire.
 - 19 (vii) For the projects developed prior to January 1, 2002, a
20 statement of the effective period of the land use controls established
21 in the plan at the time each unit was developed, in order to
22 demonstrate that the duration of the covenants or restrictions
23 extends for a period not less than the applicable period of land
24 use controls, in accordance with then applicable law.
 - 25 (viii) For owner-occupied units that have changed ownership
26 during the previous implementation plan period, the date and
27 document number of the new affordability covenants or other
28 documents recorded to ensure that the affordability restriction is
29 enforceable and continues to run with the land.
 - 30 (ix) Whether the unit counts towards a replacement obligation
31 pursuant to subdivision (a) of Section 33413 or towards a
32 production obligation pursuant to subdivision (b) of Section 33413.
33 Units counted towards a replacement obligation shall reference
34 the destroyed units they are replacing.
- 35 (B) For each owner-occupied unit or rental unit counted towards
36 meeting the agency obligations under subdivision (a) or (b) of
37 Section 33413 and not required to be included in the database
38 required pursuant to subdivision (c) of Section 33418, or for each
39 group of such units, if more than one unit is subject to the same

1 covenant, the implementation plan shall identify all of the
 2 following:

3 (i) The street address and, if available, assessor’s parcel number
 4 of the property.

5 (ii) For properties where units are listed as a group, the number
 6 of units.

7 (iii) The affordability level of each unit, according to the
 8 categories required by Section 33413.

9 (iv) The year in which the construction or substantial
 10 rehabilitation of the unit was completed.

11 (v) The date of recordation and document number of the
 12 affordability covenants or restrictions required under subdivision
 13 (f) of Section 33334.3 or subdivision (c) of Section 33413.

14 (vi) The date on which the covenants or restrictions expired.

15 (vii) Whether the unit counts towards a replacement obligation
 16 pursuant to subdivision (a) of Section 33413 or towards a
 17 production obligation pursuant to subdivision (b) of Section 33413.
 18 Units counted towards a replacement obligation shall reference
 19 the destroyed units they are replacing.

20 (5) Notwithstanding subparagraphs (A) and (E) of paragraph
 21 (4), the implementation plan shall omit any property used to
 22 confidentially house victims of domestic violence.

23 ~~(4)~~

24 (6) For a project area that is within six years of the time limit
 25 on the effectiveness of the redevelopment plan established pursuant
 26 to Section 33333.2, 33333.6, 33333.7, or 33333.10, the portion of
 27 the implementation plan addressing the housing responsibilities
 28 shall specifically address the ability of the agency to comply, prior
 29 to the time limit on the effectiveness of the redevelopment plan,
 30 with subdivision (a) of Section 33333.8, subdivision (a) of Section
 31 33413 with respect to replacement dwelling units, subdivision (b)
 32 of Section 33413 with respect to project area housing, and the
 33 disposition of the remaining moneys in the Low and Moderate
 34 Income Housing Fund.

35 ~~(5)~~

36 (7) The implementation plan shall identify the fiscal year that
 37 the agency expects each of the following time limits to expire:

38 (A) The time limit for the commencement for eminent domain
 39 proceedings to acquire property within the project area.

1 (B) The time limit for the establishment of loans, advances, and
2 indebtedness to finance the redevelopment project.

3 (C) The time limit for the effectiveness of the redevelopment
4 plan.

5 (D) The time limit to repay indebtedness with the proceeds of
6 property taxes.

7 (b) For a project area for which a redevelopment plan is adopted
8 on or after January 1, 1994, the implementation plan prepared
9 pursuant to subdivision (c) of Section 33352 shall constitute the
10 initial implementation plan and thereafter the agency after a public
11 hearing shall adopt an implementation plan every five years
12 commencing with the fifth year after the plan has been adopted.
13 Agencies may adopt implementation plans that include more than
14 one project area.

15 (c) Every agency, at least once within the five-year term of the
16 plan, shall conduct a public hearing and hear testimony of all
17 interested parties for the purpose of reviewing the redevelopment
18 plan and the corresponding implementation plan for each
19 redevelopment project within the jurisdiction and evaluating the
20 progress of the redevelopment project. The hearing required by
21 this subdivision shall take place no earlier than two years and no
22 later than three years after the adoption of the implementation plan.
23 For a project area that is within three years of the time limit on the
24 effectiveness of the redevelopment plan established pursuant to
25 Section 33333.2, 33333.6, 33333.7, or 33333.10, the review shall
26 specifically address those items in paragraph (4) of subdivision
27 (a). An agency may hold one hearing for two or more project areas
28 if those project areas are included within the same implementation
29 plan.

30 (d) Notice of public hearings conducted pursuant to this section
31 shall be published pursuant to Section 6063 of the Government
32 Code, mailed at least three weeks in advance to all persons and
33 agencies that have requested notice, and posted in at least four
34 permanent places within the project area for a period of three weeks
35 *and concurrently posted on the Internet*. Publication, mailing, and
36 posting shall be completed not less than 10 days prior to the date
37 set for hearing.

38 *SEC. 20. Section 33506 is added to the Health and Safety Code,*
39 *to read:*

1 33506. (a) A failure to meet any of the following obligations
2 shall be an ongoing violation until the agency has fully met the
3 obligation:

4 (1) The obligation to eliminate project deficits pursuant to
5 Sections 33334.6, 33487, 33492.16, and other similar and related
6 provisions of law.

7 (2) The obligation to expend or encumber excess surplus funds
8 pursuant to Section 33334.12 and other similar and related
9 provisions of law.

10 (3) The obligation to provide relocation assistance pursuant to
11 Article 9 (commencing with Section 33410), Section 7260 of the
12 Government Code, or other applicable relocation laws.

13 (4) The obligation to provide replacement housing pursuant to
14 subdivision (a) of Section 33413, Article 9 (commencing with
15 Section 33410), and other similar and related provisions of law.

16 (5) The obligation to provide housing pursuant to subdivision
17 (b) of Section 33413 and other similar and related provisions of
18 law.

19 (6) The obligation to monitor and enforce affordability
20 covenants required pursuant to Section 33418.

21 (7) The obligation to continue the project past the effectiveness
22 date of the redevelopment plan pursuant to Section 33333.8.

23 (8) The obligation to expend funds proportionately to assist
24 housing for persons of extremely low, very low, or low income or
25 to assist housing available to all persons regardless of age
26 pursuant to Section 33334.4.

27 (9) The obligations to record covenants that run with the land
28 pursuant to subdivision (f) of Section 33334.3 and subdivision (c)
29 of Section 33413(c).

30 (b) This section is declaratory of existing law.

31 SEC. 21. Section 50464.5 is added to the Health and Safety
32 Code, to read:

33 50464.5. (a) The Redevelopment Agency Accountability Fund
34 is hereby created in the State Treasury and is available, upon
35 appropriation, to the department for the purposes of subdivision
36 (b). Notwithstanding Section 16305.7 of the Government Code,
37 any moneys received by the department pursuant to Section 33460,
38 and any other sources, repayments, interest, or new appropriations,
39 shall be deposited in the fund. Moneys in the fund shall not be
40 subject to transfer to any other fund pursuant to any provision of

1 Part 2 (commencing with Section 16300) of Division 4 of Title 2
2 of the Government Code, except the Surplus Money Investment
3 Fund. The department may require the transfer of moneys in the
4 fund to the Surplus Money Investment Fund for investment pursuant
5 to Article 4 (commencing with Section 16470) of Chapter 3 of Part
6 2 of Division 4 of Title 2 of the Government Code. Notwithstanding
7 Section 16305.7 of the Government Code, all interest, dividends,
8 and pecuniary gains from the investments shall accrue to the fund.

9 (b) With funds made available pursuant to subdivision (a), the
10 department shall conduct audits of redevelopment agencies to
11 ensure compliance with the housing provisions of the Community
12 Redevelopment Law. The department shall include in the audits a
13 review of agency compliance with production and replacement
14 housing obligations, recording and monitoring of affordability
15 covenants, provision of relocation assistance, propriety of deposits
16 to and expenditures from the Low and Moderate Income Housing
17 Fund, compliance with the debt limit of the agency, adoption of a
18 legally sufficient implementation plan, each of the major audit
19 violations pursuant to subdivision (j) of Section 33080.8, and any
20 other accounting practice or provision of the Community
21 Redevelopment Law in the discretion of the department. The
22 department shall require that each agency take action to correct
23 the audit violations. If the department determines that an agency
24 has not corrected the audit violations within 180 days of a final
25 audit report, it shall forward all relevant documents to the Attorney
26 General for action pursuant to Section 33080.9. The department
27 shall make available on its Internet Web site the final audit reports,
28 a statement of any resolution of audit reports, or if not resolved,
29 the date audit reports were forwarded to the Attorney General.

30 SEC. 22. This act shall become operative on January 1, 2018.

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

33 ~~(a) The California Department of Transportation has fulfilled~~
34 ~~the obligations set forth in Section 21400 of the Vehicle Code~~
35 ~~through the creation, staffing, and operation of the California~~
36 ~~Traffic Control Devices Committee (CTCDC). The CTCDC meets~~
37 ~~regularly to make recommendations to the director for the~~
38 ~~completion of the Manual on Uniform Traffic Control Devices~~
39 ~~(MUTCD).~~

1 ~~(b) The committee membership, which has not changed since~~
2 ~~the department created it in 1968, currently represents the interests~~
3 ~~of the department, law enforcement, local government, and~~
4 ~~motorized users.~~

5 ~~(c) In 2008, the department adopted Deputy Directive Number~~
6 ~~DD-64R-1, which directs the department to include all users of~~
7 ~~the road in all activities the department engages in.~~

8 ~~(d) In 2008, the California Complete Streets Act of 2008~~
9 ~~(Chapter 657 of the Statutes of 2008) was signed into law,~~
10 ~~mandating that all general plans' circulation elements consider the~~
11 ~~needs of all users of the road.~~

12 ~~(e) The department has established and regularly pulls together~~
13 ~~a committee of interest groups, department heads and staff, other~~
14 ~~state departments, and the public to discuss implementation of the~~
15 ~~California Complete Streets Act of 2008. The committee is called~~
16 ~~the Active Transportation and Livable Communities Committee.~~

17 ~~(f) The Active Transportation and Livable Communities~~
18 ~~Committee is widely accepted as the most comprehensive complete~~
19 ~~streets venue in the state and should make the recommendation to~~
20 ~~the department for the placement of two members from the~~
21 ~~nonmotorized interests to the CTCDC.~~

22 ~~SEC. 2. Section 21400 of the Vehicle Code is amended to read:~~

23 ~~21400. (a) (1) The Department of Transportation shall, after~~
24 ~~consulting with local agencies and groups representing users of~~
25 ~~streets, roads, and highways, establishing a committee to advise~~
26 ~~the department, and holding public hearings regarding rules and~~
27 ~~regulations, adopt rules and regulations prescribing uniform~~
28 ~~standards and specifications for all official traffic control devices~~
29 ~~placed pursuant to this code, including, but not limited to, stop~~
30 ~~signs, yield right-of-way signs, speed restriction signs, railroad~~
31 ~~warning approach signs, street name signs, lines and markings on~~
32 ~~the roadway, and stock crossing signs placed pursuant to Section~~
33 ~~21364.~~

34 ~~(2) The committee shall be composed of the following members:~~

35 ~~(A) One representative selected by the director of the~~
36 ~~department.~~

37 ~~(B) One representative recommended by the Commissioner of~~
38 ~~the Department of the California Highway Patrol.~~

39 ~~(C) Two representatives recommended by the League of~~
40 ~~California Cities.~~

1 ~~(D) Two representatives recommended by the California State~~
2 ~~Association of Counties.~~

3 ~~(E) Two representatives from motorized users of the highway.~~
4 ~~One shall be recommended by the Automobile Club of Southern~~
5 ~~California and one shall be recommended by AAA Northern~~
6 ~~California, Nevada and Utah.~~

7 ~~(F) Two representatives, approved by the director, from~~
8 ~~nonmotorized users of the highway recommended by the Active~~
9 ~~Transportation and Livable Communities Committee created within~~
10 ~~the department.~~

11 ~~(b) For purposes of this section, “users of the highway” means~~
12 ~~bicyclists, children, persons with disabilities, motorists, movers~~
13 ~~of commercial goods, pedestrians, users of public transportation,~~
14 ~~and seniors.~~

15 ~~(c) The Department of Transportation shall, after notice and~~
16 ~~public hearing, determine and publicize the specifications for~~
17 ~~uniform types of warning signs, lights, and devices to be placed~~
18 ~~upon a highway by any person engaged in performing work which~~
19 ~~interferes with or endangers the safe movement of traffic upon~~
20 ~~that highway.~~

21 ~~(d) Only those signs, lights, and devices as are provided for in~~
22 ~~this section shall be placed upon a highway to warn traffic of work~~
23 ~~that is being performed on the highway.~~

24 ~~(e) Any control devices or markings installed upon traffic~~
25 ~~barriers on or after January 1, 1984, shall conform to the uniform~~
26 ~~standards and specifications required by this section.~~