

Memorandum 2012-12

**Community Redevelopment Law Cleanup: General Provisions
(Discussion of Issues)**

Health and Safety Code Section 34189(b) requires the Law Revision Commission to “draft a Community Redevelopment Law cleanup bill for consideration by the Legislature no later than January 1, 2013.”

At its February 2012 meeting, the Commission approved a general methodology for the conduct of that study:

- The Commission’s clean-up work will be limited to making technical changes to conform to the effect of ABx1 26 (Blumenfield).
- The Commission will not recommend any revisions to construe, clarify, or alter the substantive effect of ABx1 26.
- The Commission’s clean-up work will not alter the existing powers and duties of successor agencies, as established by ABx1 26.
- The Commission’s clean-up work will not alter the existing status of the employees of former redevelopment agencies, as established by ABx1 26.
- The Commission’s clean-up work will not disturb the existing allocation of the revenue of former redevelopment agencies, as established by ABx1 26.
- The scope of the Commission’s clean-up work will include Parts 1, 1.5, 1.7, 1.8, 1.85, and 1.9 of Division 24 of the Health and Safety Code. The Commission will also correct any cross-references to any of those provisions.
- If the Commission discovers a possible substantive defect in ABx1 26 or any other provision of the community redevelopment statutes, the matter will be noted in an appendix for inclusion in the Commission’s final report. The appendix will state expressly that it has been prepared solely for informational purposes and that the Commission does not take any position on whether or how any of the issues noted in the appendix should be addressed. The appendix will also make clear that the omission of any issue

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting.

from the appendix should not be construed to infer that the Commission evaluated the issue and concluded that it is unproblematic.

- If the Commission determines that a provision of the community redevelopment statute is wholly obsolete, it shall recommend the provision's repeal.
- The staff will prepare a general "savings provision" for review by the Commission at its next meeting. The savings provision will expressly declare that the Commission's clean-up work does not have any effect on the existing powers and duties of successor agencies, the existing rights and obligations of the employees of former redevelopment agencies, the existing rules for allocation of the revenue of former redevelopment agencies, or any other substantive effect of ABx1 26.

See Minutes (Feb. 2012), p. 6.

The "savings provision" noted in the last bullet point above is discussed in Memorandum 2012-11, with a draft of the proposed provision set out on pages 9-11 of that memorandum.

This memorandum provides preliminary analysis and staff recommendations regarding Chapter 1 ("General") of Part 1 of Division 24 of the Health and Safety Code (Health & Safety Code §§ 33000-33080.8). Those provisions are reproduced in the attached Exhibit.

Throughout this memorandum, the staff uses the term "transitional period" as it is defined in the proposed savings provision:

"Transitional period" means the period during which either or both of the following are true:

(A) A successor agency is winding down the affairs of a former redevelopment agency.

(B) An arbitration, administrative adjudication or other administrative proceeding, civil action or proceeding, criminal action or proceeding, or any other kind of legally binding proceeding relating to redevelopment is pending or may be brought without violating the applicable statute of limitations.

See Memorandum 2012-11, p. 9.

Unless otherwise indicated, all statutory citations in this memorandum are to the Health and Safety Code.

TWO-STEP ANALYSIS

In this memorandum, the staff will first group the provisions of Chapter 1 by subject matter. Each subject matter group will then be analyzed separately, using a two-step process:

- (1) **Analyze the relevance of the provisions *after* the transitional period.** First, the staff will assess whether the group of provisions will serve any purpose after the end of the transitional period. In other words, once the affairs of all former redevelopment agencies (“RDAs”) have been wound down and all redevelopment-related litigation has been finally resolved, will the analyzed provisions still be needed? If not, the provisions are obsolete and should be repealed. If the group of provisions would serve some continuing purpose after the end of the transitional period, the staff will recommend that the provisions be retained, or suggest another means of effectively dealing with the situation.
- (2) **Analyze the relevance of the provisions *during* the transitional period.** Second, the staff will assess whether the group of provisions might have some continuing utility during the transitional period that would not be adequately preserved by the savings provision. If so, the staff will assess whether and how to adjust the savings provision to account for the issue.

Following that method, the staff should be able to move fairly quickly through its analysis of existing redevelopment law.

ANALYSIS OF CHAPTER 1 — GENERAL PROVISIONS

The provisions of Chapter 1 can be organized into the following groups, by subject matter:

- (1) A provision establishing a “short title” for Part 1 of Division 24.
- (2) General definitions.
- (3) Legislative declarations of state policy.
- (4) Annual reporting requirements.

Each of these four subject matter groups will be analyzed separately, below.

Short Title

Section 33000 establishes a “short title” for Part 1 (allowing the part to be cited as the “Community Redevelopment Law”).

Relevance After Transitional Period

If the Commission winds up recommending the complete repeal of Part 1, then there would be no continuing need for a short title for the part. In that event, the provision would be obsolete and could be repealed.

However, if Part 1 is *not* repealed in its entirety, then Section 33000 may still be useful and perhaps should be retained.

We do not yet know whether Part 1 should be entirely repealed. **Therefore the staff recommends that the Commission delay making any decision on whether to repeal Section 33000 until later in the study, when we have the information needed to evaluate the section's continued utility.**

Relevance During Transitional Period

If Section 33000 is repealed, the staff does not see any reason why the savings provision would not be sufficient to preserve the effect of Section 33000. As recommended by the staff, the savings provision would make clear that the repeal of a provision by the clean-up legislation would have no effect, during the transitional period, on the “substance, *construction*, or application” of former law. See Memorandum 2012-11, p. 9 (emphasis added). This should be sufficient to make clear that the repeal of Section 33000 would have no effect on the legal interpretation of statutory references to the “Community Redevelopment Law.”

General Definitions

There are a number of provisions in Chapter 1 that define terms that are used elsewhere in statutory redevelopment law. See Sections 33001-33013 (miscellaneous terms), 33020-33022 (“redevelopment”), 33030-33031 (“blight”).

Relevance After Transitional Period

Definitions are only relevant to the extent that other statutes, within the scope of application of the definitions, use the defined terms. If the Commission recommends the continuation of any sections that use the defined terms, then the definitions of those terms will continue to be relevant and should also be continued. But if *all* sections that use a defined term are repealed, then the definition serves no purpose and should also be repealed.

We do not yet know whether all of the sections that use each of the defined terms will be repealed. **Therefore the staff recommends that the Commission delay making any decision on whether to repeal the definition sections until**

later in the study, when we have the necessary information to evaluate the definitions' continued utility.

Relevance During Transitional Period

The staff does not see any reason why the savings provision would not be sufficient to preserve existing law during the transitional period, with respect to any repealed definitions. As recommended by the staff, the savings provision would make clear that the repeal of a provision by the clean-up legislation would have no effect, during the transitional period, on the “substance, construction, or application” of former law. See Memorandum 2012-11, p. 9 (emphasis added). This should be sufficient to make clear that the repeal of definitions has no effect on the meaning of the defined term as used in the former law.

Legislative Declarations

A number of the provisions in Chapter 1 express legislative declarations of policy. For example, Section 33030(a) states the general policy purpose of redevelopment:

It is found and declared that there exist in many communities blighted areas that constitute physical and economic liabilities, requiring redevelopment in the interest of the health, safety, and general welfare of the people of these communities and of the state.

Other provisions expand on that general statement, describing the types of harms caused by blight, stating the seriousness of those harms, and stating the necessity, propriety, and benefits of using extraordinary remedies to address blight. See Sections 33035-33039.

These legislative declarations provide the policy justification for the extraordinary powers exercised by redevelopment agencies:

The elimination of blighted areas is the public purpose that has justified allowing a redevelopment agency to impose design controls, restrict uses, acquire property by eminent domain, and expend public funds. *Redevelopment Agency v. Hayes* (1954) 122 Cal. App. 2d 777....

J. Coomes, Jr. et al, *Redevelopment in California* 38-39 (4th ed. 2009).

In addition:

- Sections 33050 and 33051 express state policy against discrimination in redevelopment projects.

- Section 33070 declares the vital importance of “decent housing and genuine employment opportunities” for all people in this state.
- Section 33071 declares that one of the fundamental purposes of redevelopment is to expand the supply of low- and moderate-income housing and job opportunities for the under- and unemployed, and to provide an environment for the “social, economic, and psychological growth and well-being of all citizens.”

Relevance After Transitional Period

Collectively, these declarations provide a policy context that can be used to justify the extraordinary powers exercised in connection with redevelopment. The declarations also provide guidance for how redevelopment powers should be exercised in order to achieve the state’s policy objectives. That context and guidance is important so long as redevelopment activities (or litigation involving those activities) continue. However, once all redevelopment activity has ceased and all related litigation has been resolved, there will no longer be any need for these statements of legislative policy. There will be no redevelopment activity to justify or guide. **Consequently, the declaration provisions will be obsolete and should be repealed.**

Relevance During Transitional Period

As long as successor agencies continue to perform redevelopment activities, the legislative declarations will provide guidance to the successor agencies and other entities as to relevant state policy. Moreover, if there are any lawsuits contesting the exercise of redevelopment powers, the legislative declarations may provide helpful policy context that can be used by the courts in assessing the propriety of a contested action.

Although the savings provision contains broad catch-all language, to make clear that the proposed law will have no effect on the *substance* of the former law during the transitional period, it may not be clear that a statement of *policy* is covered by that disclaimer. One could perhaps argue that a policy statement does not express substantive law and therefore is not protected by the language preserving the “substance” of former law.

That problem could probably be avoided by making the following changes to the proposed savings provision:

33090. ...
- (b) The repeal or amendment of a provision of former law by the Redevelopment Clean-Up Act shall have no effect, during the

transitional period, on the policy, substance, construction, or application of former law with regards to any redevelopment-related matter, including, without limitation, any of the following redevelopment-related matters:

...
(7) Any legislative declaration of public policy relating to redevelopment.

The staff recommends that those changes be made. They would help to avoid any misunderstanding of the intended breadth of the savings provision.

Reporting Requirements

Chapter 1 includes a number of provisions establishing annual auditing, reporting, and disclosure requirements for RDAs. Pursuant to those provisions, every RDA is required to prepare an annual report containing the information specified in Sections 33080.1 (general content), 33080.4 (description of agency activities), 33080.5 (fiscal statement), and 33080.7 (surplus in Low and Moderate Income Housing Fund), for submission to its “legislative body.” See Section 33080. See also Section 33007 (“legislative body” defined). In addition, the State Controller is charged with developing guidelines for the content of the annual report. Section 33080.3.

One of the components of an RDA’s annual report is an independent financial audit. See Section 33080(a)(1). If the independent financial audit identifies any “major audit violations,” the RDA is required to disclose those violations to the legislative body. Section 33080.2(a).

In addition to filing its annual report with the legislative body, an RDA must also file the annual report with the Controller. Section 33080. A specified portion of the report must be filed with the Department of Housing and Community Development. *Id.* The Department of Housing and Community Development is then required to prepare its own annual report, using data drawn from the annual reports of the various RDAs. See Section 33080.6.

Finally, the Controller is required to compile an annual report of all RDAs that have major audit violations. Section 33080.8(a). The Controller must then investigate whether those violations have been corrected. If not, the Controller must refer the violations to the Attorney General. Section 33080.8(b)-(c). The Attorney General is authorized to file an action to compel correction of the violation. Section 33080.8(d)-(h).

Relevance After Transitional Period

Once all redevelopment activity has ceased and the last successor agency ends its work, these annual reporting requirements will be unnecessary. There will be no need for further annual reports because there will be nothing to report.

There may still be litigation that hinges on the reporting provisions (e.g., an action by the Attorney General to enforce the requirements, pursuant to Section 33080(d)). But those cases will eventually all be resolved and, in the absence of any new reports being filed, litigation relating to the reporting requirements will eventually cease.

For that reason, the reporting provisions will be obsolete after the end of the transitional period and should be repealed.

Relevance During Transitional Period

The reporting provisions will probably have continued relevance during the transitional period. Because successor agencies are generally vested with the “duties” of the former RDAs (Section 34173(b)), it would appear that they are now vested with the duty to prepare these annual reports during the transitional period, as if they were RDAs. The staff sees nothing in these provisions or in Section 34173 that would suggest otherwise.

It would also appear that the related duties of the Controller, Department of Housing and Community Development, and the Attorney General will also continue during the transitional period. It seems plain that those duties relate to the specified *reports*, regardless of whether they are prepared by an RDA or its successor agency.

It is therefore necessary that the savings provision preserve the existing effect of the reporting provisions, so that they can continue to apply during the transitional period. The proposed savings provision should be sufficient to do so. Not only does it make clear that repeal of provisions of existing redevelopment law will have no effect on the duties of successor agencies during the transitional period, the language also encompasses the duties of *other entities* with respect to redevelopment duties, thus:

33090. ...

(b) The repeal or amendment of a provision of former law by the Redevelopment Clean-Up Act shall have no effect, during the transitional period, on the substance, construction, or application of former law with regards to any redevelopment-related matter,

including, without limitation, any of the following redevelopment-related matters:

(1) The authority, rights, powers, duties, and obligations of a successor agency *or any other person or entity who is granted or charged with authority, rights, powers, duties, and obligations relating to redevelopment.*

...

See Memorandum 2012-11, p. 9 (emphasis added). The staff does not recommend any change to the savings provision in connection with the reporting provisions.

Respectfully submitted,

Brian Hebert
Executive Director

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HEALTH AND SAFETY CODE

DIVISION 24. COMMUNITY DEVELOPMENT
AND HOUSING

PART 1. COMMUNITY REDEVELOPMENT LAW

CHAPTER 1. GENERAL

Article 1. General Definitions

§ 33000. Citation of part

33000. This part may be cited as the Community Redevelopment Law.

§ 33001. Construction

33001. The definitions and general provisions contained in this Article govern the construction of this part, unless the context otherwise requires.

§ 33002. “Community”

33002. “Community” means a city, county, city and county, or Indian tribe, band, or group which is incorporated or which otherwise exercises some local governmental powers.

§ 33003. “Agency”

33003. “Agency” means a redevelopment agency created by this part or its predecessor, or a legislative body which has elected to exercise the powers granted to an agency by this part.

§ 33004. “Public body”

33004. “Public body” means the State, or any city, county, district, authority, or any other subdivision or public body of the State.

§ 33005. “State”

33005. “State” includes any state agency or instrumentality.

§ 33006. “Federal government”

33006. “Federal government” means the United States or any of its agencies or instrumentalities.

1 **§ 33007. “Legislative body”**

2 33007. “Legislative body” means the city council, board of supervisors, or other
3 legislative body of the community.

4 **§ 33008. “Planning commission”**

5 33008. “Planning commission” means a planning agency established pursuant to
6 law or charter.

7 **§ 33009. “Obligee”**

8 33009. “Obligee” includes any bondholder, his trustee, any lessor demising to
9 the agency property used in connection with a project area or any assignee of all or
10 part of his interest, and the federal government when it is a party to any contract
11 with the agency.

12 **§ 33010. “Redevelopment project”**

13 33010. “Redevelopment project” means any undertaking of an agency pursuant
14 to this part.

15 **§ 33011. “Department”**

16 33011. “Department” means the Department of Housing and Community
17 Development.

18 **§ 33011.2. “Director”**

19 33011.2. “Director” means the Director of Housing and Community
20 Development.

21 **§ 33013. “Small housing project”**

22 33013. “Small housing project” means real property containing or proposed to
23 contain a separate residential structure having not more than four dwelling units
24 and which is owned by an agency and proposed to be conveyed to persons and
25 families of low or moderate income or to private parties pursuant to an agreement
26 with an agency to develop or maintain the residential structure which is proposed
27 to be restricted by a recorded instrument for the use and occupancy of persons and
28 families of low or moderate income for a period of not less than 30 years, or to the
29 term otherwise provided by law, and which meets either of the following criteria:

30 (a) The real property is owned by an agency and one or more of the dwelling
31 units therein are proposed to be restricted for the use and occupancy of persons or
32 families to whom the agency is obligated to provide relocation assistance under
33 Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the
34 Government Code or for persons and families of low or moderate income.

35 (b) The real property is owned by the agency and is proposed to be conveyed to
36 persons and families of low or moderate income or developed for rental by private

1 parties (nonprofit or otherwise) pursuant to an agreement with the redevelopment
2 agency.

3 Article 2. Redevelopment

4 **§ 33020. “Redevelopment”**

5 33020. “Redevelopment” means the planning, development, replanning,
6 redesign, clearance, reconstruction, or rehabilitation, or any combination of these,
7 of all or part of a survey area, and the provision of those residential, commercial,
8 industrial, public, or other structures or spaces as may be appropriate or necessary
9 in the interest of the general welfare, including recreational and other facilities
10 incidental or appurtenant to them and payments to school and community college
11 districts in the fiscal years specified in Sections 33681, 33681.5, 33681.7, 33681.9,
12 and 33681.12.

13 **§ 33020.5. Payments to school districts**

14 33020.5. In addition to Section 33020, “redevelopment” also means payments to
15 school districts in the fiscal years specified in Sections 33690 and 33690.5.

16 **§ 33021. Redevelopment projects**

17 33021. Redevelopment includes:

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

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

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

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

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

32 **§ 33021.1. Emergency shelters**

33 33021.1. In a city and county, redevelopment includes improving, increasing, or
34 preserving emergency shelters for homeless persons or households. These shelters
35 may be located within or outside of established redevelopment project areas.
36 Notwithstanding any other provision of law, only redevelopment funds other than
37 those available pursuant to Section 33334.3 may be used to finance these
38 activities.

1 **§ 33022. Existing buildings**

2 33022. Redevelopment does not exclude the continuance of existing buildings or
3 uses whose demolition and rebuilding or change of use are not deemed essential to
4 the redevelopment and rehabilitation of the area.

5 **Article 3. Declaration of State Policy—Blighted Areas**

6 **§ 33030. Necessity of redevelopment**

7 33030. (a) It is found and declared that there exist in many communities blighted
8 areas that constitute physical and economic liabilities, requiring redevelopment in
9 the interest of the health, safety, and general welfare of the people of these
10 communities and of the state.

11 (b) A blighted area is one that contains both of the following:

12 (1) An area that is predominantly urbanized, as that term is defined in Section
13 33320.1, and is an area in which the combination of conditions set forth in Section
14 33031 is so prevalent and so substantial that it causes a reduction of, or lack of,
15 proper utilization of the area to such an extent that it constitutes a serious physical
16 and economic burden on the community that cannot reasonably be expected to be
17 reversed or alleviated by private enterprise or governmental action, or both,
18 without redevelopment.

19 (2) An area that is characterized by one or more conditions set forth in any
20 paragraph of subdivision (a) of Section 33031 and one or more conditions set forth
21 in any paragraph of subdivision (b) of Section 33031.

22 (c) A blighted area that contains the conditions described in subdivision (b) may
23 also be characterized by the existence of any of the following:

24 (1) Inadequate public improvements.

25 (2) Inadequate water or sewer utilities.

26 (3) Housing constructed as a government-owned project that was constructed
27 before January 1, 1960.

28 **§ 33031. Physical and economic conditions that cause blight**

29 33031. (a) This subdivision describes physical conditions that cause blight:

30 (1) Buildings in which it is unsafe or unhealthy for persons to live or work.
31 These conditions may be caused by serious building code violations, serious
32 dilapidation and deterioration caused by long-term neglect, construction that is
33 vulnerable to serious damage from seismic or geologic hazards, and faulty or
34 inadequate water or sewer utilities.

35 (2) Conditions that prevent or substantially hinder the viable use or capacity of
36 buildings or lots. These conditions may be caused by buildings of substandard,
37 defective, or obsolete design or construction given the present general plan,
38 zoning, or other development standards.

39 (3) Adjacent or nearby incompatible land uses that prevent the development of
40 those parcels or other portions of the project area.

1 (4) The existence of subdivided lots that are in multiple ownership and whose
2 physical development has been impaired by their irregular shapes and inadequate
3 sizes, given present general plan and zoning standards and present market
4 conditions.

5 (b) This subdivision describes economic conditions that cause blight:

6 (1) Depreciated or stagnant property values.

7 (2) Impaired property values, due in significant part, to hazardous wastes on
8 property where the agency may be eligible to use its authority as specified in
9 Article 12.5 (commencing with Section 33459).

10 (3) Abnormally high business vacancies, abnormally low lease rates, or an
11 abnormally high number of abandoned buildings.

12 (4) A serious lack of necessary commercial facilities that are normally found in
13 neighborhoods, including grocery stores, drug stores, and banks and other lending
14 institutions.

15 (5) Serious residential overcrowding that has resulted in significant public health
16 or safety problems. As used in this paragraph, "overcrowding" means exceeding
17 the standard referenced in Article 5 (commencing with Section 32) of Chapter 1 of
18 Title 25 of the California Code of Regulations.

19 (6) An excess of bars, liquor stores, or adult-oriented businesses that has resulted
20 in significant public health, safety, or welfare problems.

21 (7) A high crime rate that constitutes a serious threat to the public safety and
22 welfare.

23 **§ 33035. Effects of blight and blight abatement**

24 33035. It is further found and declared that:

25 (a) The existence of blighted areas characterized by any or all of such conditions
26 constitutes a serious and growing menace which is condemned as injurious and
27 inimical to the public health, safety, and welfare of the people of the communities
28 in which they exist and of the people of the State.

29 (b) Such blighted areas present difficulties and handicaps which are beyond
30 remedy and control solely by regulatory processes in the exercise of police power.

31 (c) They contribute substantially and increasingly to the problems of, and
32 necessitate excessive and disproportionate expenditures for, crime prevention,
33 correction, prosecution, and punishment, the treatment of juvenile delinquency,
34 the preservation of the public health and safety, and the maintaining of adequate
35 police, fire, and accident protection and other public services and facilities.

36 (d) This menace is becoming increasingly direct and substantial in its
37 significance and effect.

38 (e) The benefits which will result from the remedying of such conditions and the
39 redevelopment of blighted areas will accrue to all the inhabitants and property
40 owners of the communities in which they exist.

1 **§ 33036. Effect of blighted area**

2 33036. It is further found and declared that:

3 (a) Such conditions of blight tend to further obsolescence, deterioration, and
4 disuse because of the lack of incentive to the individual landowner and his
5 inability to improve, modernize, or rehabilitate his property while the condition of
6 the neighboring properties remains unchanged.

7 (b) As a consequence the process of deterioration of a blighted area frequently
8 cannot be halted or corrected except by redeveloping the entire area, or substantial
9 portions of it.

10 (c) Such conditions of blight are chiefly found in areas subdivided into small
11 parcels, held in divided and widely scattered ownerships, frequently under
12 defective titles, and in many such instances the private assembly of the land in
13 blighted areas for redevelopment is so difficult and costly that it is uneconomic
14 and as a practical matter impossible for owners to undertake because of lack of the
15 legal power and excessive costs.

16 (d) The remedying of such conditions may require the public acquisition at fair
17 prices of adequate areas, the clearance of the areas through demolition of existing
18 obsolete, inadequate, unsafe, and insanitary buildings, and the redevelopment of
19 the areas suffering from such conditions under proper supervision, with
20 appropriate planning, and continuing land use and construction policies.

21 **§ 33037. State redevelopment policy**

22 33037. For these reasons it is declared to be the policy of the State:

23 (a) To protect and promote the sound development and redevelopment of
24 blighted areas and the general welfare of the inhabitants of the communities in
25 which they exist by remedying such injurious conditions through the employment
26 of all appropriate means.

27 (b) That whenever the redevelopment of blighted areas cannot be accomplished
28 by private enterprise alone, without public participation and assistance in the
29 acquisition of land, in planning and in the financing of land assembly, in the work
30 of clearance, and in the making of improvements necessary therefor, it is in the
31 public interest to employ the power of eminent domain, to advance or expend
32 public funds for these purposes, and to provide a means by which blighted areas
33 may be redeveloped or rehabilitated.

34 (c) That the redevelopment of blighted areas and the provisions for appropriate
35 continuing land use and construction policies in them constitute public uses and
36 purposes for which public money may be advanced or expended and private
37 property acquired, and are governmental functions of state concern in the interest
38 of health, safety, and welfare of the people of the State and of the communities in
39 which the areas exist.

40 (d) That the necessity in the public interest for the provisions of this part is
41 declared to be a matter of legislative determination.

1 **§ 33039. Causes of slum and blighted residential areas**

2 33039. The Legislature of the State of California recognizes that among the
3 principal causes of slum and blighted residential areas are the following factors:

4 (a) Inadequate enforcement of health, building, and safety laws.

5 (b) The fact that the limited financial resources of many human beings who
6 inhabit them make only this type of housing available to such persons.

7 (c) Racial discrimination against persons of certain groups in seeking housing.

8 (d) The neglect of absentee landlords.

9 It is, therefore, declared to be the public policy of this State that, in order to cope
10 with the problems of the rehabilitation of slum or blighted areas, these factors shall
11 be taken into consideration in any rehabilitation or redevelopment program. It is
12 further declared to be the public policy of this State that such rehabilitation or
13 redevelopment programs shall not be undertaken and operated in such a manner as
14 to exchange new slums for old slums or as to congest individuals from one slum to
15 another slum.

16 **Article 4. Declaration of State Policy—Antidiscrimination**

17 **§ 33050. Discrimination**

18 33050. (a) It is hereby declared to be the policy of the state that in undertaking
19 community redevelopment projects under this part there shall be no discrimination
20 because of any basis listed in subdivision (a) or (d) of Section 12955 of the
21 Government Code, as those bases are defined in Sections 12926, 12926.1,
22 subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and
23 Section 12955.2 of the Government Code.

24 (b) Notwithstanding subdivision (a), with respect to familial status, subdivision
25 (a) shall not be construed to apply to housing for older persons, as defined in
26 Section 12955.9 of the Government Code. With respect to familial status, nothing
27 in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10,
28 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens.
29 Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions
30 (n), (o), and (p) of Section 12955 of the Government Code shall apply to
31 subdivision (a).

32 **§ 33051. Discrimination on basis of sexual orientation**

33 33051. If the legislative body of the City and County of San Francisco adopts, or
34 has adopted, an ordinance which prohibits discrimination on the basis of sexual
35 orientation, it may require the agency to prohibit discrimination on that basis. In
36 this case, the agency shall implement Sections 33435, 33436, and 33724 as if the
37 discrimination prohibited by the legislative body were also prohibited by Section
38 33050.

1 Article 5. Further Declaration of State Policy

2 **§ 33070. Decent housing and genuine employment opportunities**

3 33070. The Legislature finds and declares that decent housing and genuine
4 employment opportunities for all the people of this state are vital to the state's
5 future peace and prosperity, for all of the following reasons:

6 (a) Hazardous, congested, and insanitary housing debilitates occupants' health to
7 the point of impairing motivation and achievement.

8 (b) Lack of employment opportunity creates despair and frustration which may
9 precipitate violence.

10 (c) Unfit housing and lack of employment opportunity depend on each other to
11 perpetuate a system of dependency and hopelessness which drains the state of its
12 valuable financial and human resources.

13 **§ 33071. Fundamental purpose of redevelopment**

14 33071. The Legislature further finds and declares that a fundamental purpose of
15 redevelopment is to expand the supply of low- and moderate-income housing, to
16 expand employment opportunities for jobless, underemployed, and low-income
17 persons, and to provide an environment for the social, economic, and
18 psychological growth and well-being of all citizens.

19 Article 6. Reporting Requirement

20 **§ 33080. Annual report**

21 33080. (a) Every redevelopment agency shall file with the Controller within six
22 months of the end of the agency's fiscal year a copy of the report required by
23 Section 33080.1. In addition, each redevelopment agency shall file with the
24 department a copy of the audit report required by subdivision (a) of Section
25 33080.1. The reports shall be made in the time, format, and manner prescribed by
26 the Controller after consultation with the department.

27 (b) The redevelopment agency shall provide a copy of the report required by
28 Section 33080.1, upon the written request of any person or any taxing agency. If
29 the report does not include detailed information regarding administrative costs,
30 professional services, or other expenditures, the person or taxing agency may
31 request, and the redevelopment agency shall provide, that information. The person
32 or taxing agency shall reimburse the redevelopment agency for all actual and
33 reasonable costs incurred in connection with the provision of the requested
34 information.

35 **§ 33080.1. Contents of report**

36 33080.1. Every redevelopment agency shall submit the final report of any audit
37 undertaken by any other local, state, or federal government entity to its legislative
38 body within 30 days of receipt of that audit report. In addition, every

1 redevelopment agency shall present an annual report to its legislative body within
2 six months of the end of the agency's fiscal year. The annual report shall contain
3 all of the following:

4 (a) (1) An independent financial audit report for the previous fiscal year. "Audit
5 report" means an examination of, and opinion on, the financial statements of the
6 agency which present the results of the operations and financial position of the
7 agency, including all financial activities with moneys required to be held in a
8 separate Low and Moderate Income Housing Fund pursuant to Section 33334.3.
9 This audit shall be conducted by a certified public accountant or public
10 accountant, licensed by the State of California, in accordance with Government
11 Auditing Standards adopted by the Comptroller General of the United States. The
12 audit report shall meet, at a minimum, the audit guidelines prescribed by the
13 Controller's office pursuant to Section 33080.3 and also include a report on the
14 agency's compliance with laws, regulations, and administrative requirements
15 governing activities of the agency, and a calculation of the excess surplus in the
16 Low and Moderate Income Housing Fund as defined in subdivision (g) of Section
17 33334.12.

18 (2) However, the legislative body may elect to omit from inclusion in the audit
19 report any distinct activity of the agency that is funded exclusively by the federal
20 government and that is subject to audit by the federal government.

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

23 (c) A description of the agency's activities in the previous fiscal year affecting
24 housing and displacement that contains the information required by Sections
25 33080.4 and 33080.7.

26 (d) A description of the agency's progress, including specific actions and
27 expenditures, in alleviating blight in the previous fiscal year.

28 (e) A list of, and status report on, all loans made by the redevelopment agency
29 that are fifty thousand dollars (\$50,000) or more, that in the previous fiscal year
30 were in default, or not in compliance with the terms of the loan approved by the
31 redevelopment agency.

32 (f) A description of the total number and nature of the properties that the agency
33 owns and those properties the agency has acquired in the previous fiscal year.

34 (g) A list of the fiscal years that the agency expects each of the following time
35 limits to expire:

36 (1) The time limit for the commencement for eminent domain proceedings to
37 acquire property within the project area.

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

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

41 (4) The time limit to repay indebtedness with the proceeds of property taxes.

1 (h) Any other information that the agency believes useful to explain its
2 programs, including, but not limited to, the number of jobs created and lost in the
3 previous fiscal year as a result of its activities.

4 **§ 33080.2. Review of report**

5 33080.2. (a) When the agency presents the annual report to the legislative body
6 pursuant to Section 33080.1, the agency shall inform the legislative body of any
7 major audit violations of this part based on the independent financial audit report.
8 The agency shall inform the legislative body that the failure to correct a major
9 audit violation of this part may result in the filing of an action by the Attorney
10 General pursuant to Section 33080.8.

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

15 **§ 33080.3. Controller guidelines**

16 33080.3. The Controller shall develop and periodically revise the guidelines for
17 the content of the report required by Section 33080.1. The Controller shall appoint
18 an advisory committee to advise in the development of the guidelines. The
19 advisory committee shall include representatives from among those persons
20 nominated by the department, the Legislative Analyst, the California Society of
21 Certified Public Accountants, the California Redevelopment Association, and any
22 other authorities in the field that the Controller deems necessary and appropriate.

23 **§ 33080.4. Description of agency activity**

24 33080.4. (a) For the purposes of compliance with subdivision (c) of Section
25 33080.1, the description of the agency's activities shall contain the following
26 information regardless of whether each activity is funded exclusively by the state
27 or federal government, for each project area and for the agency overall:

28 (1) Pursuant to Section 33413, the total number of nonelderly and elderly
29 households, including separate subtotals of the numbers of very low income
30 households, other lower income households, and persons and families of moderate
31 income, that were displaced or moved from their dwelling units as part of a
32 redevelopment project of the agency during the previous fiscal year.

33 (2) Pursuant to Section 33413.5, the total number of nonelderly and elderly
34 households, including separate subtotals of the numbers of very low income
35 households, other lower income households, and persons and families of moderate
36 income, that the agency estimates will be displaced or will move from their
37 dwellings as part of a redevelopment project of the agency during the present
38 fiscal year and the date of adoption of a replacement housing plan for each project
39 area subject to Section 33413.5.

1 (3) The total number of dwelling units housing very low income households,
2 other lower income households, and persons and families of moderate income,
3 respectively, which have been destroyed or removed from the low- or moderate-
4 income housing market during the previous fiscal year as part of a redevelopment
5 project of the agency, specifying the number of those units which are not subject
6 to Section 33413.

7 (4) The total numbers of agency-assisted dwelling units which were constructed,
8 rehabilitated, acquired, or subsidized during the previous fiscal year for occupancy
9 at an affordable housing cost by elderly persons and families, but only if the units
10 are restricted by agreement or ordinance for occupancy by the elderly, and by very
11 low income households, other lower income households, and persons and families
12 of moderate income, respectively, specifying those units which are not currently
13 so occupied, those units which have replaced units destroyed or removed pursuant
14 to subdivision (a) of Section 33413, and the length of time any agency-assisted
15 units are required to remain available at affordable costs.

16 (5) The total numbers of new or rehabilitated units subject to paragraph (2) of
17 subdivision (b) of Section 33413, including separate subtotals of the number
18 originally affordable to and currently occupied by, elderly persons and families,
19 but only if the units are restricted by agreement or ordinance for occupancy by the
20 elderly, and by very low income households, other lower income households, and
21 persons and families of moderate income, respectively, and the length of time
22 these units are required to remain available at affordable costs.

23 (6) The status and use of the Low and Moderate Income Housing Fund created
24 pursuant to Section 33334.3, including information on the use of this fund for very
25 low income households, other lower income households, and persons and families
26 of moderate income, respectively. If the Low and Moderate Income Housing Fund
27 is used to subsidize the cost of onsite or offsite improvements, then the description
28 of the agency's activities shall include the number of housing units affordable to
29 persons and families of low or moderate income which have been directly
30 benefited by the onsite or offsite improvements.

31 (7) A compilation of the annual reports obtained by the agency under Section
32 33418 including identification of the number of units occupied by persons and
33 families of moderate income, other lower income households, and very low
34 income households, respectively, and identification of projects in violation of this
35 part or any agreements in relation to affordable units.

36 (8) The total amount of funds expended for planning and general administrative
37 costs as defined in subdivisions (d) and (e) of Section 33334.3.

38 (9) Any other information which the agency believes useful to explain its
39 housing programs, including, but not limited to, housing for persons and families
40 of other than low and moderate income.

41 (10) The total number of dwelling units for very low income households, other
42 lower income households, and persons and families of moderate income to be
43 constructed under the terms of an executed agreement or contract and the name

1 and execution date of the agreement or contract. These units may only be reported
2 for a period of two years from the execution date of the agreement or contract.

3 (11) The date and amount of all deposits and withdrawals of moneys deposited
4 to and withdrawn from the Low and Moderate Income Housing Fund.

5 (b) As used in this section:

6 (1) "Elderly," has the same meaning as specified in Section 50067.

7 (2) "Persons and families of moderate income," has the same meaning as
8 specified in subdivision (b) of Section 50093.

9 (3) "Other lower income households," has the same meaning as "lower income
10 households" as specified in Section 50079.5, exclusive of very low income
11 households.

12 (4) "Persons and families of low or moderate income," has the same meaning as
13 specified in Section 50093.

14 (5) "Very low income households," has the same meaning as specified in
15 Section 50105.

16 (c) Costs associated with preparing the report required by this section may be
17 paid with moneys from the Low and Moderate Income Housing Fund.

18 **§ 33080.5. Fiscal statement**

19 33080.5. For the purposes of compliance with subdivision (b) of Section
20 33080.1, the fiscal statement shall contain the following information:

21 (a) The amount of outstanding indebtedness of the agency and each project area.

22 (b) The amount of tax increment property tax revenues generated in the agency
23 and in each project area.

24 (c) The amount of tax increment revenues paid to, or spent on behalf of, a taxing
25 agency, other than a school or community college district, pursuant to subdivision
26 (b) of Section 33401 or Section 33676. Moneys expended on behalf of a taxing
27 agency shall be itemized per each individual capital improvement.

28 (d) The financial transactions report required pursuant to Section 53891 of the
29 Government Code.

30 (e) The amount allocated to school or community college districts pursuant to
31 each of the following provisions: (1) Section 33401; (2) Section 33445; (3)
32 Section 33445.5; (4) paragraph (2) of subdivision (a) of Section 33676; and (5)
33 Section 33681.

34 (f) The amount of existing indebtedness, as defined in Section 33682, and the
35 total amount of payments required to be paid on existing indebtedness for that
36 fiscal year.

37 (g) Any other fiscal information which the agency believes useful to describe its
38 programs.

39 **§ 33080.6. Department's annual report**

40 33080.6. On or before May 1 of each year, the department shall compile and
41 publish reports of the activities of redevelopment agencies for the previous fiscal

1 year, based on the information reported pursuant to subdivision (c) of Section
2 33080.1 and reporting the types of findings made by agencies pursuant to
3 paragraph (1), (2), or (3) of subdivision (a) of Section 33334.2, including the date
4 of the findings. The department's compilation shall also report on the project area
5 mergers reported pursuant to Section 33488. The department shall publish this
6 information for each project area of each redevelopment agency. These reports
7 may also contain the biennial review of relocation assistance required by Section
8 50460. The first report published pursuant to this section shall be for the 1984–85
9 fiscal year. For fiscal year 1987–88 and succeeding fiscal years, the report shall
10 contain a list of those project areas which are not subject to the requirements of
11 Section 33413.

12 The department shall send a copy of the executive summary of its report to each
13 redevelopment agency for which information was reported pursuant to Section
14 33080.1 for the fiscal year covered by the report. The department shall send a copy
15 of its report to each redevelopment agency that requests a copy.

16 **§ 33080.7. Surplus in Low and Moderate Income Housing Fund**

17 33080.7. For purposes of compliance with subdivision (c) of Section 33080.1
18 and in addition to the requirements of Section 33080.4, the description of the
19 agency's activities shall identify the amount of excess surplus, as defined in
20 Section 33334.10, which has accumulated in the agency's Low and Moderate
21 Income Housing Fund. Of the total excess surplus, the description shall also
22 identify the amount that has accrued to the Low and Moderate Income Housing
23 Fund during each fiscal year. This component of the annual report shall also
24 include any plan required to be reported by subdivision (c) of Section 33334.10.

25 **§ 33080.8. Correction of audit violations**

26 33080.8. (a) On or before April 1 of each year, the Controller shall compile a list
27 of agencies that appear to have major audit violations as defined in this section,
28 based on the independent financial audit reports filed with the Controller pursuant
29 to Section 33080.

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

1 (c) For each agency that the Controller refers to the Attorney General pursuant
2 to subdivision (b), the Controller shall notify the agency and the legislative body
3 that the agency was on the list sent to the Attorney General. The Controller's
4 notice shall inform the agency and the legislative body of the duties imposed by
5 Section 33080.2.

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

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

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

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

29 (A) Encumbering any funds or expending any money derived from any source
30 except to pay the obligations designated in subparagraphs (A) to (G), inclusive, of
31 paragraph (1) of subdivision (e) of Section 33334.12.

32 (B) Adopting a redevelopment plan.

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

35 (D) Issuing, selling, offering for sale, or delivering any bonds or any other
36 evidence of indebtedness.

37 (E) Incurring any indebtedness.

38 (f) In a case that is subject to paragraph (3) of subdivision (e), the court shall
39 also set a hearing on the matter within 60 days.

40 (g) If, on the basis of that subsequent hearing, the court determines that the
41 agency has a major audit violation and has not corrected that violation, the court
42 shall order the agency to comply with this part within 30 days, and order the
43 agency to forfeit to the state no more than:

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

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

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

12 (h) The order issued by the court pursuant to paragraph (3) of subdivision (e)
13 shall continue in effect until the court determines that the agency has corrected the
14 major audit violation. If the court determines that the agency has corrected the
15 major audit violation, the court may dissolve its order issued pursuant to paragraph
16 (3) of subdivision (e) at any time.

17 (i) An action filed pursuant to this section to compel an agency to comply with
18 this part is in addition to any other remedy, and is not an exclusive means to
19 compel compliance.

20 (j) As used in this section, "major audit violation" means that, for the fiscal year
21 in question, an agency did not:

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

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

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

27 (4) Deposit all required tax increment revenues directly into the Low and
28 Moderate Income Housing Fund upon receipt, as required by Section 33334.3,
29 33334.6, 33487, or 33492.16.

30 (5) Establish a Low and Moderate Income Housing Fund, as required by
31 subdivision (a) of Section 33334.3.

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

34 (7) Determine that the planning and administrative costs charged to the Low and
35 Moderate Income Housing Fund are necessary for the production, improvement,
36 or preservation of low- and moderate-income housing, as required by subdivision
37 (d) of Section 33334.3.

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

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