

Study H-750

June 7, 2012

Memorandum 2012-21

**Community Redevelopment Law Cleanup:
Redevelopment Agency Governance**

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.” The Commission is using the following 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), 2011 Cal. Stat. ch. 5.
- 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 a provision of the community redevelopment statutes contains an apparent substantive defect or its meaning is unclear, the Commission may note the matter 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 from the appendix should not be construed to infer that the

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.

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 Commission's clean-up proposal will include a general "savings provision." 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; Minutes (April 2012), p. 9. The concept of the "savings provision" is explained in Memorandum 2012-11. For the current draft of the savings provision, see Memorandum 2012-20; see also Minutes (April 2012), pp. 3-6.

This memorandum provides preliminary analysis and staff recommendations regarding provisions in Chapter 2 of Part 1 of Division 24 of the Health and Safety Code (Sections 33114, 33114.5, 33126, 33127, 33129, and 33140-33142), Chapter 3 of Part 1 of Division 24 of the Health and Safety Code (Sections 33200-33221), and Part 1.7 of Division 24 of the Health & Safety Code (Sections 34100-34160). That statutory material is reproduced in the attached Exhibit. It relates to various forms of RDA governance.

In many places, this memorandum refers to the "transitional period," a term that is defined in the proposed savings provision. At the April meeting, the Commission decided to revise its definition of "transitional period" to refer to mediation, but it did not decide exactly how to implement that decision. See Minutes (April 2012), p. 5. The staff has since recommended the following language:

"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) A redevelopment-related proceeding is pending or may be legally commenced. For the purposes of this section, "proceeding" means any adjudicative, investigative, or dispute resolution proceeding, including, without limitation, a civil, criminal, or administrative action or proceeding, mediation, or arbitration.

See Memorandum 2012-20, pp. 3-4. Throughout this memorandum, the staff has used that definition of “transitional period.”

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 each article by subject matter. The staff will then analyze each subject matter group separately, using the same two-step process that we first described and applied in Memorandum 2012-12:

- (1) **Analyze the relevance of the provisions *after* the transitional period.** First, the staff will assess whether any of the provisions in the subject matter group 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 proceedings have been finally resolved, will any of the provisions in the group still be needed? If not, the provisions are obsolete and should be repealed. If any of the provisions in the group would serve some continuing purpose after the end of the transitional period, the staff will recommend that those 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 any of the provisions in the subject matter group 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.

ORGANIZATION OF MATERIAL

Section 33100 provides that in each community in this state there exists a public body known as a redevelopment agency. The Community Redevelopment Law provides for various types of governance of an RDA.

One means by which a community may govern its RDA is by appointing an independent board to direct the activities of the RDA. Sections 33110-33115. Provisions relating to an RDA that operates in this manner were previously presented to the Commission in Memorandum 2012-16, but a discussion of the presented provisions was not completed. Memorandum 2012-16, pp. 6-10,

Minutes (April 2012), p. 7. This memorandum republishes the portion of Memorandum 2012-16 that has not yet been considered by the Commission, specifically addressing provisions relating to compensation of former RDA employees, and the deactivation of an independently governed RDA.

As an alternative to creating an independent board to govern its RDA, a community may choose to have its RDA governed directly by the community's legislative body. Section 33200 (providing that a community's legislative body may "declare itself to be the agency"); see also Section 33003 (the term "agency" includes a legislative body that has elected to exercise the powers granted to an agency by this part).

A community's RDA may also enter into cooperative governance arrangements with other entities, such as another RDA, community, or public body, to assist in or take over aspects of the RDA's redevelopment authority. See Sections 33210-33221.

Finally, a community may govern its RDA through a "community development commission," which can be used to simultaneously govern the community's housing authority, if the community so elects. Sections 34110-34112, 34115, 34115.5.

The provisions that will be discussed in this memorandum have been divided into five subject matter groups:

- (1) Provisions relating to compensation of former RDA employees (Sections 33114, 33114.5, 33126, 33127, 33129).
- (2) Provisions relating to the deactivation of an independently governed RDA (Sections 33140-33142).
- (3) Provisions relating to a legislative body acting as a community's RDA (Sections 33200-33206).
- (4) Provisions relating to cooperative governance arrangements with other entities. (Sections 33210-33221).
- (5) Provisions relating to a community development commission (Sections 34100-34160).

FORMER RDA EMPLOYEE COMPENSATION

One of the guiding principles that the Commission adopted in February focuses on persons formerly employed by redevelopment agencies:

- The Commission's clean-up work will not alter the existing status of the employees of former redevelopment agencies, as established by ABx1 26.

Minutes (Feb. 2012), p. 6. Consistent with that principle, the Commission should pay special attention to any redevelopment statute relating to employment, compensation, benefits, reimbursement of expenses, or the like.

Several of the provisions relating to membership and powers of redevelopment agencies fall into that category. In particular, Section 33126(a) states that a redevelopment agency "may select, appoint, and employ such permanent and temporary officers, agents, counsel, and employees as it requires, and determine their qualifications, duties, benefits, and compensation, subject only to the conditions and restrictions imposed by the legislative body on the expenditure or encumbrance of the budgetary funds appropriated to the community redevelopment agency administrative fund." Each agency is required to adopt personnel rules and regulations, which must cover certain subjects and be of public record. *Id.* "To the greatest extent feasible, the opportunities for training and employment arising from a redevelopment project planning and execution shall be given to lower income residents of the project area." *Id.*

As an alternative to hiring its own employees, a redevelopment agency may contract with the Department of Housing and Community Development, or any other agency, to provide staff services "associated with or required by redevelopment." Section 33126(b).

Redevelopment agencies are also authorized to pay the travel expenses incurred by their employees on agency business, as well as the travel expenses of their members, officers, agents, and counsel. Section 33127; see also Sections 33114 (agency members shall receive all actual and necessary expenses incurred in discharge of their duties, not just travel expenses), 33114.5 (same).

Compensation of the members of a redevelopment agency (as opposed to the employees) is prescribed by the legislative body that creates the agency, not by the agency itself. See Section 33114; see also Section 33114.5 (establishing limits on compensation under specified circumstances).

Neither the employees, nor the officers, agents, or counsel, of a redevelopment agency are "under civil service of the community." Section 33129.

Relevance After Transitional Period

Under the first prong of our two-step methodology, we are to analyze the relevance of the above provisions *after* the transitional period. However, merely raising that question brings to light a number of related questions, as explained below.

Under Section 34190, a successor agency “shall become the employer of all employees of the redevelopment agency as of the date of the redevelopment agency’s dissolution.” Section 34190(e). The successor agency “shall be deemed to have assumed the obligations under any memorandum of understanding in effect between the redevelopment agency and [a] recognized employee organization as of the date of the redevelopment agency’s dissolution.” *Id.* Further, the successor agency “shall be deemed a successor employer and shall be obligated to recognize and to meet and confer” with any recognized employee organization that represented employees of the redevelopment agency. *Id.* “Individuals formerly employed by redevelopment agencies that are subsequently employed by successor agencies shall, for a minimum of two years, transfer their status and classification in the civil service system of the redevelopment agency to the successor agency” Section 34190(h).

In other words, upon dissolution of a redevelopment agency, the successor agency essentially steps into the redevelopment agency’s shoes as employer of the persons who previously worked for the redevelopment agency. That might be an oversimplification of the situation, but it is probably sufficient for purposes of this discussion.

In that role, a successor agency may not only have to compensate former RDA employees while those employees wind down the affairs of the RDA, but it may also bear responsibility for retirement benefits of RDA employees (whether currently employed or already retired), perhaps in conjunction with another entity such as CALPERS or a city or county retirement system. Such benefits would seem to constitute an “enforceable obligation” under Section 34171(d)(1)(C), which refers to “legally enforceable payments required in connection with the agencies’ employees, including, but not limited to, pension payments, pension obligation debt service, unemployment payments, or other obligations conferred through a collective bargaining agreement.” Under Section 34177(a), successor agencies are required to “[c]ontinue to make payments due for enforceable obligations,” including the types of payments just enumerated.

Our currently proposed definition of “transitional period” is as follows:

“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) A redevelopment-related proceeding is pending or may be legally commenced. For the purposes of this section, “proceeding” means any adjudicative, investigative, or dispute resolution proceeding, including, without limitation, a civil, criminal, or administrative action or proceeding, mediation, or arbitration.

See Memorandum 2012-20, p. 2. How that definition would apply to payment of retirement benefits earned by RDA employees is perhaps not sufficiently clear. Payment of such benefits would seem to constitute an aspect of “winding down the affairs of a former redevelopment agency,” and thus to fall within the definition of “transitional period.” But the obligation to pay retirement benefits is likely to continue for many years into the future, and might be borne (in whole or in part) by an entity other than a successor agency.

To eliminate any question as to whether the Commission’s definition of “transitional period” encompasses payment of retirement benefits earned by RDA employees, as well as similar types of obligations, **it may be appropriate to revise that definition as shown in strikeout and underscore below:**

“Transitional period” means the period during which ~~either or both~~ any or all of the following are true:

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

(B) A redevelopment-related proceeding is pending or may be legally commenced. For the purposes of this section, “proceeding” means any adjudicative, investigative, or dispute resolution proceeding, including, without limitation, a civil, criminal, or administrative action or proceeding, mediation, or arbitration.

(C) A former employee, officer, agent, or counsel of a redevelopment agency may legally enforce an obligation based on services rendered to a redevelopment agency, or to a successor agency winding down the affairs of a redevelopment agency, including but not limited to a legally enforceable right to pension payments or post-retirement health insurance.

If the Commission were to revise the definition of “transitional period” in this manner, then the employment-related and other compensation-related statutes described above (Sections 33114, 33114.5, 33126, 33127, and 33129) would clearly be obsolete by the end of the transitional period, because any legally enforceable obligations created by those statutes would have been extinguished. **Accordingly, those statutes would be unnecessary and should be repealed.**

Relevance During Transitional Period

During the transitional period, successor agencies and perhaps others will be responsible for fulfilling personnel-related obligations of the former redevelopment agencies. If one or more statutes giving rise to such obligations are to be repealed by the Commission's clean-up legislation, then the Commission must **make it crystal clear that the repeal is not intended to affect those obligations in any way.**

As currently drafted, the proposed savings provision would state:

(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:*

....

(3) *The rights of an employee of a former redevelopment agency who became an employee of a successor agency pursuant to Section 34190.*

(Emphasis added.) Paragraph (b)(3) would merely be *an illustration* of the types of "redevelopment-related matters" that the Redevelopment Clean-Up Act would not affect. It and the other numbered paragraphs in subdivision (b) are not intended to be a comprehensive list, as is clear from the phrase "including, *without limitation.*" (Emphasis added.)

Nonetheless, employment-related and other compensation-related obligations are likely to be of particular concern to a substantial number of people. Slightly streamlining a proposal made in Memorandum 2012-16, **the staff suggests it may therefore be helpful to broaden the language in paragraph (b)(3), along the following lines:**

(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:

....

(3) The rights or obligations of an employee, officer, agent, or counsel of a former redevelopment agency, regardless of whether that person ~~who~~ became an employee, officer, agent, or counsel of a successor agency pursuant to Section 34190.

Does the Commission agree with this approach in concept? If so, then Commissioners and other interested persons should carefully consider whether the language proposed above is sufficient, or could be improved upon in some manner. **Suggestions on this point would be helpful.**

DEACTIVATION OF REDEVELOPMENT AGENCY

Article 4 of Chapter 2 contains three sections that specify procedures by which a legislative body can suspend or deactivate an RDA, vacating its offices and removing its authority to transact business. Sections 33140-33142.

Relevance After Transitional Period

Once all successor agencies have completely wound down the affairs of the former RDAs, there will not be any need for procedures to suspend or deactivate RDAs. **Those provisions will be obsolete and should be repealed.**

Relevance During Transitional Period

The provisions governing suspension and deactivation of RDAs are probably not intended to have any application to successor agencies. However, even if those provisions do have some application to successor agencies, that application would be preserved by the savings provision, which provides 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, including

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 2012-20, p. 2 (emphasis added). That would include any powers held by a legislative body pursuant to the suspension and deactivation provisions.

The staff does not see any need to adjust the savings provision to account for the suspension and deactivation provisions.

However, in researching this issue, the staff could not find any provision in Part 1.85 of Division 24 that governs the dissolution of successor agencies, once

their work is completed. Compare Section 34179(m), which provides for the dissolution of oversight boards:

Any oversight board for a given successor agency shall cease to exist when all of the indebtedness of the dissolved redevelopment agency has been repaid.

Does a successor agency dissolve under the same circumstances? If so, what happens to its remaining assets and obligations? Its employees? Its records?

The Commission should consider adding the following item to its list of *Minor Issues for Possible Future Legislative Attention* (attached to Memorandum 2012-13):

- **Dissolution of Successor Agency.** Section 34179(m) provides that an oversight board “for a given successor agency shall cease to exist when all of the indebtedness of the dissolved redevelopment agency has been repaid.” However, the law does not appear to address the dissolution of a successor agency when its work is completed. Nor does the law specify the treatment of a dissolved successor agency’s assets, obligations, records, or employees.

LEGISLATIVE BODY ACTING AS RDA

According to one redevelopment treatise, most RDAs are governed by the community’s legislative body. See J. Coomes, Jr. et al, *Redevelopment in California*, p. 23 (4th ed. 2009). A legislative body may declare itself to be a community’s RDA only after following specified procedural steps, including adoption of an ordinance. Section 33200. A charter city is permitted to enact its own procedural ordinance and exercise the redevelopment powers provided for in Part 1 of Division 24. Section 33204.

Rights and Responsibilities

Once empowered to act as an RDA, a legislative body is generally vested with the “rights, powers, duties, privileges and immunities” that otherwise vest with an independently governed RDA. Section 33200(a). The legislative body may also contract for staff services with the Department of Housing and Community Development, or with any other RDA or housing authority. Section 33206.

A legislative body acting as an RDA may at any time resolve to no longer act as its community’s RDA, at which time the community must appoint an

independent governing board to administer the community's RDA. Section 33203.

Delegation or Transfer of Redevelopment Authority

A legislative body acting as its community's RDA is authorized to create a "community redevelopment commission" to manage the redevelopment activity of the community. Section 33201. (This commission is *not* the same entity as the "community *development* commission" that will be discussed later in this memorandum.) The members of the redevelopment commission, determined by the legislative body, are subject to conflict of interest provisions similar to those applicable to RDA members. *Id*; see also Section 33130 (discussed in Memorandum 2012-16, pp. 8-9). The redevelopment commission must perform traditional redevelopment functions in compliance with statutory provisions governing the functions of an RDA, and may also be delegated other redevelopment responsibilities by the legislative body. Section 33202.

A legislative body serving as its community's RDA may also delegate back to its community any of the body's authorized powers or functions relating to the planning or undertaking of a redevelopment project in that community. Section 33205.

Relevance After Transitional Period

The first step in the Commission's analysis of provisions in a subject matter group calls for the Commission to assess whether any of the provisions in the group will have any relevance after the expiration of the "transitional period," as defined in the Commission's proposed savings provision.

All provisions in this subject matter group relate to a legislative body declaring itself to be its community's RDA and exercising redevelopment authority. However, all existing RDAs have now been dissolved, and legislative bodies are specifically prohibited from creating or otherwise establishing any new RDA. Sections 34166, 34172(a)(1).

Once all pending redevelopment activity has been wound down, and the time to commence any proceeding relating to any redevelopment-related matter has expired, **the provisions in this subject matter group will therefore be obsolete, and should be repealed.**

Relevance During Transitional Period

During the transitional period, it is possible that a dispute may arise as to whether a legislative body previously acting as its community's RDA had been properly authorized to do so, or had acted in accordance with the law. For that reason, the provisions governing a legislative body that acts as an RDA would remain relevant.

However, the proposed savings provision should be sufficient to avoid making any substantive change to this group of provisions, during the transitional period. The savings provision states generally that the repeal of a provision as part of the Commission's clean-up legislation would not affect the "substance, construction, or application" of the repealed provision, with regards to any redevelopment-related matter. See proposed Section 33090(b).

That broad language is supplemented by specific illustrative language relevant to the provisions in this subject matter group, making clear that "redevelopment-related matter" includes both of the following:

(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.

...
(6) The validity of any redevelopment-related ordinance, resolution, referendum, regulation, plan, report, map, boundary description, or other legally operative document promulgated by a former redevelopment agency, a successor agency, or any other person or entity.

Proposed Section 33090(b).

Together, this language should preserve the relevance of any provision in this subject matter group during the transitional period.

However, it might be helpful to revise proposed Section 33090(b)(6) to add another example of a "legally operative document," relevant to a provision in this group:

(6) The validity of any redevelopment-related ordinance, resolution, referendum, regulation, plan, report, map, boundary description, contract, or other legally operative document promulgated by a former redevelopment agency, a successor agency, or any other person or entity.

In this subject matter group, the term "contract" is used in Section 33206, which authorizes a legislative body to enter into a contract with various specified

entities for the furnishing of staff services. The revision proposed above was also recommended in Memorandum 2012-23, on page 13.

Does the Commission want to make that addition to proposed Section 33090(b)(6)?

COOPERATIVE GOVERNANCE ARRANGEMENTS

Sections 33210 to 33221 provide for a variety of means by which a community's redevelopment activity may be performed in cooperation with other entities.

Other RDAs

RDAs within two or more communities may jointly exercise RDA powers. Section 33210. In conjunction with that exercise, a community may designate one RDA to be the RDA for all interested communities. *Id.* See also Sections 33210.5 (declaration of legislative findings and agreement between RDAs representing city of San Leandro and county of Alameda), 33211 and 33212 (provisions specifying responsibilities of designated agency).

Neighboring Communities

A community may also authorize a redevelopment project to be performed by a neighboring community, located contiguous to the area to be redeveloped. Section 33213. The neighboring community may undertake the redevelopment as if the area was within its own territorial limits. *Id.* The authorization conveys a transfer of all "rights, powers, and privileges" of the authorizing community relating to the project, and releases the authorizing community from all obligations it otherwise would have under Part 1, other than approval of a redevelopment plan for the area. *Id.*

If a substantial portion of a redevelopment project area is subsequently annexed to or included within the boundaries of a new city, territorial jurisdiction over the project may be transferred from the RDA originating the project (the "creating agency") to the RDA for the new city (the "receiving agency") either by ordinance, or mutual agreement. Sections 33214, 33214.5, 33215, 33216, 33217. If such a transfer occurs, the receiving agency generally assumes all rights, powers, and responsibilities of the creating agency (including debts and other obligations) with respect to the affected area. Sections 33215(d),

33216(e). See also Sections 33214.7, 33216.1, 33216.5 (clarification of jurisdiction in specified circumstances involving multiple communities).

Other Public Bodies

For the purpose of assisting in a community redevelopment project, any public body may, with or without consideration, provide improved or unimproved property to a community's RDA, facilitate zoning, enter into agreements with other entities, purchase or invest in agency bonds, or purchase or otherwise acquire land in a project area. Section 33220.

Any bonds and obligations issued by an RDA may be legally purchased, invested in, or used for security as provided by Section 33663. Section 33221; see further discussion of Section 33663 in Memorandum 2012-23, pp. 8-9.

Relevance After Transitional Period

Again, the first step in the Commission's analysis of the provisions in this subject matter group is an assessment of whether any of the provisions in the group will have any relevance after the expiration of the "transitional period" as defined in the Commission's proposed savings provision.

All provisions in this subject matter group relate to entities providing assistance to a community's RDA, or taking over a redevelopment project for a community's RDA. As RDAs have now been dissolved, however, these provisions will have no application after the transitional period. Once all RDA activity has been wound down by successor agencies, and the time to commence any proceeding relating to any such activity has expired, **all provisions in this subject matter group will be obsolete, and should be repealed.**

Relevance During Transitional Period

During the transitional period, it is possible that a dispute may arise as to whether an entity exceeded its authority when assisting in or taking over the activities of an RDA.

In addition, provisions relating to redevelopment assistance provided by other entities may remain relevant to the operations of a successor agency, which may be required to make use of such assistance to complete a redevelopment project started by a former RDA. See Section 34177(c), (i).

For both of those reasons, the provisions in this subject matter group could remain relevant during the transitional period.

However, the proposed savings provision should again be sufficient to protect that relevance during the transitional period. The savings provision states generally that the repeal of a provision as part of the Commission’s clean-up legislation would not affect the “substance, construction, or application” of the repealed provision, with regards to any redevelopment-related matter. See proposed Section 33090(b).

Further, that broad language is supplemented by specific illustrative language also relevant to the provisions in this subject matter group, making clear “redevelopment-related matter” includes both of the following:

(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.

...
(6) The validity of any redevelopment-related ordinance, resolution, referendum, regulation, plan, report, map, boundary description, or other legally operative document promulgated by a former redevelopment agency, a successor agency, or any other person or entity.

Proposed Section 33090(b).

In light of this language, **no revision of the savings provision should be needed to accommodate the repeal of any of these provisions.**

COMMUNITY DEVELOPMENT COMMISSIONS

Part 1.7 of Division 24 allows a community to administer its RDA through a “community development commission” (hereafter, “CDC”), an entity that may also be authorized by the community to operate and govern the community’s housing authority. Sections 34110-34112. (A housing authority, an entity unrelated to an RDA, is responsible for addressing safe and sanitary dwelling accommodations in a community for persons of low income. Section 34201; see generally Sections 34200-34606.)

As of 2009, CDCs were used by only a few communities in California. J. Coomes, Jr. et al, *Redevelopment in California*, p. 23 (4th ed. 2009). However, a more recent non-exhaustive search by staff found at least ten established CDCs throughout the state, including one used by the County of Los Angeles.

The nature, power, authority, functions and jurisdiction of a CDC include, but are not limited to, the nature, power, authority, functions, and jurisdiction of

both a community's RDA and its housing authority. Section 34141. In addition, a legislative body may delegate to a CDC the power, authority, functions, and jurisdiction necessary to take on other "community development" responsibilities. *Id.*; see also Section 34112.

Once a community's CDC is operational, provisions of the Community Redevelopment Law and the law governing housing authorities that are inconsistent with the CDC's enacting ordinance generally become inoperative. Section 34160.

Establishment of a CDC

Before a CDC may commence operations, its community must enact and file a certified copy of an ordinance declaring the community's need for a CDC. Sections 34115, 34116. This filing creates a conclusive presumption of the CDC's authority. Section 34117. The ordinance must declare whether there is a need for the CDC to govern both the community's RDA and its housing authority, or govern only the community's RDA. Section 34115.5.

A charter city may adopt its own procedural ordinance before exercising the powers granted to a CDC under Part 1.7. Section 34151. Special rules apply to the formation of a CDC in any chartered city in San Bernardino County. Section 34120(a).

Governance of a CDC

Section 34130(a) provides procedures for the appointment of CDC commissioners. If the CDC is to have jurisdiction over the community's housing authority, Section 34130(b) imposes additional appointment requirements.

Once appointed, CDC commissioners assume the powers, duties, and responsibilities of the members of the community's RDA, and if the CDC has been charged with governing the community's housing authority, the powers, duties, and responsibilities of the commissioners of the housing authority. Sections 34130(c), 34140, 34141. Additional requirements are imposed before specified older CDCs may assume the rights, powers, duties, or responsibilities of the community's housing authority. Section 34118.

Section 34130.5 provides for compensation of CDC commissioners, which may vary depending on whether the CDC has been established to govern only the community's RDA, or to govern both the community's RDA and its housing authority.

A legislative body may declare that it will act as its community's CDC, in which case the legislative body is generally vested with the rights, powers, duties, privileges, and immunities that statutorily vest with the CDC. Section 34120(a). A legislative body acting as its community's CDC must either appoint two specified additional commissioners to the CDC, or it may establish a separate "community development committee" to review and make recommendations on matters before the CDC. Sections 34120(b)-(c), 34120.5.

Powers and Responsibilities of a CDC

The redevelopment-related powers and responsibilities of a CDC largely mirror the statutory powers and responsibilities of an independently governed RDA. See Sections 34140 (CDC functions "governmental" and "public"), 34143 (power to sue and be sued; adopt seal; make contracts; adopt regulations and bylaws), 34144(a) (CDC must adopt specified personnel rules, which shall be a public record), 34144(b) and 34145 (employment of personnel), 34146 (grants or loans to CDC from community do not make CDC a department of the community, nor place its personnel under the civil service of the community), and 33147 and 34148 (authority to receive assistance from private and public sources).

A CDC is also generally granted the power, authority, and jurisdiction of both RDAs and housing authorities, as well as that which may be delegated by the legislative body relating to other community development. Section 34141. See also Section 34149 (granting a CDC "such other powers as may be authorized by the legislative body of the community").

Delegation of Power

A CDC, or a legislative body acting as a CDC, may delegate to a general manager, executive director, or administrator of a community or of a CDC any or all of the power and authority of the CDC relating to administration of the activities of the CDC, the RDA, or the housing authority. Section 34150. A CDC may also delegate back to its community any of its authorized powers or functions. Section 34152.

Suspension of a CDC

After following specified procedures, the legislative body of the community may declare there to be no further need for a CDC to function in the community. Sections 34125, 34126.

Effect of ABx1 26 on CDCs

The provisions added by ABx1 26 had three main effects on community development commissions:

Redevelopment Activity Frozen

Part 1.8 (Sections 34161-34169.5) prohibits “agencies” from conducting a range of specified redevelopment activities. See Sections 34161 through 34165. For the purposes of those provisions, “agency” expressly includes a CDC. See Section 34167(b).

However, those prohibitions only apply to the redevelopment functions of a CDC. They have no effect on nonredevelopment CDC activities:

Nothing in this part in any way impairs the authority of a community development commission, other than in its authority to act as a redevelopment agency, to take any actions in its capacity as a housing authority or for any other community development purpose of the jurisdiction in which it operates.

Section 34167(c).

Redevelopment “Components” Dissolved

Section 34172(a)(1) dissolves all RDAs and all “redevelopment components” of CDCs. However, it does not disturb the nonredevelopment authority or purposes of CDCs (which are grounded in law other than the Community Redevelopment Act):

All ... redevelopment agency components of community development agencies created under ... Part 1.7 (commencing with Section 34100) that were in existence on the effective date of this part are hereby dissolved and shall no longer exist as a public body, corporate or politic. Nothing in this part dissolves or otherwise affects the authority of a community redevelopment commission, other than in its authority to act as a redevelopment agency, in its capacity as a housing authority or for any other community development purpose of the jurisdiction in which it operates. For those other nonredevelopment purposes, the community development commission derives its authority solely from federal

or local laws, or from state laws other than the Community Redevelopment Law (Part 1 (commencing with Section 33000)).

As a side note, use of the term “community *redevelopment* commission” in the second sentence of the passage above was probably a drafting error. As previously mentioned, a “community redevelopment commission” is a distinct entity whose sole function is to assist a legislative body acting as a redevelopment agency. See Sections 33201, 33202. Like Section 34167(c), which it otherwise parallels, the sentence was probably intended to govern CDCs. **Public comment is invited on whether the Commission should recommend correction of this apparent error.**

New CDCs Prohibited

Section 34166 appears to expressly prohibit the creation of new CDCs:

No legislative body or local governmental entity shall have any statutory authority to create or otherwise establish a new redevelopment agency or community development commission. No chartered city or chartered county shall exercise the powers granted in Part 1 (commencing with Section 33000) to create or otherwise establish a redevelopment agency.

Note however, that the second sentence of the section, referring specifically to chartered cities and counties, reiterates a more specific prohibition against creating new RDAs, but fails to include CDCs within this prohibition. That lack of parallelism leaves open the possibility that chartered cities and counties retain the authority to create new CDCs. The staff has done some general research to determine why the Legislature might have intended to treat charter cities and counties differently in this regard, but could not find anything dispositive.

In sum, Section 34166 makes clear that legislative bodies and local government entities are generally prohibited from creating new CDCs. However, it is possible this general prohibition does not apply to charter cities and counties. **Public comment on this issue would be helpful.**

Relevance After Transitional Period

As discussed, existing CDCs were not entirely dissolved by ABx1 26. They can continue to exist to the extent that they are authorized (by law other than the Community Development Law) to perform nonredevelopment duties. Consequently, those provisions will not be entirely obsolete after the transitional

period. Nonredevelopment CDCs may continue to exist in perpetuity. **For that reason, the provisions in Part 1.7 cannot be repealed in their entirety.**

However, the redevelopment-related provisions of Part 1.7 will be obsolete after the transitional period. At that time, the redevelopment affairs of CDCs will have been wound down, and any related litigation resolved. **All redevelopment elements of the sections contained in Part 1.7 should therefore be deleted.**

In some instances, untangling the redevelopment and nonredevelopment elements of the sections in Part 1.7 will be fairly straightforward. In other instances, it is somewhat complicated. The staff's recommendations on how to revise the CDC provisions are discussed and set out below.

Recommended Revision of Part 1.7

Incorporating these interrelated principles in a proposed revision of the sections of Part 1.7 will require a multi-faceted drafting approach, in some cases involving different types of revisions to the same section.

Following a discussion of the drafting considerations involved, the staff will present a recommended revision of the entirety of Part 1.7.

Provisions Requiring No Revision

Several provisions in Part 1.7 have general relevance to the continuing operation of a CDC, contain no specific reference to redevelopment, and cannot be reasonably construed as in any way authorizing the creation of a new CDC. See Sections 34100, 34101, 34103, 34104, 34110, 34120, 34121, 34125, 34126, 34131, 34143, 34144, 34146, 34147, 34148, 34149, 34151, 34152. These provisions will remain relevant to existing CDCs after the transitional period, and require no revision at all.

Provisions With Severable References to Redevelopment Matters

Several provisions in Part 1.7 relate in whole or part to redevelopment-related matters. See Sections 34102, 34111, 34112, 34115.5, 34130, 34140, 34141, 34145, 34150, 34160. To reflect the mandated dissolution of the "RDA components" of CDCs, these severable redevelopment-related provisions need to be deleted (with some minor conforming changes). The remainder of the revised sections would be left unaffected.

Provisions Dependent on a CDC's Authority to Govern a Housing Authority

Sections 34115.5 and 34130 provide for alternative statutory treatment based on whether or not a CDC has been authorized to govern its community's housing authority.

As discussed above, Part 1.7 provides that a community making use of a CDC must at minimum authorize the CDC to govern the community's RDA. Section 34115.5. In addition, a community may, *but is not required to*, authorize its CDC to govern the community's housing authority. *Id.* Finally, both types of CDCs are authorized to perform other community development responsibilities delegated by its legislative body. Sections 34112, 34141.

After the enactment of AB x1 26, CDCs authorized to govern only the community's RDA and not its housing authority are no longer permitted to engage in redevelopment activity. However, these "RDA only" CDCs *are* expressly authorized to continue to perform any "other" community development delegated to them by their legislative bodies. Section 34172(a)(1).

Therefore, following the enactment of ABx1 26, there may continue to exist two "classes" of CDCs: one authorized to govern its community's housing authority, and one that is not. Because that distinction may continue to exist, alternative statutory treatment based on the distinction will need to be preserved.

Provisions Relating to Making a CDC Operative

Several sections relate to how a CDC is initially authorized to begin operating. See Sections 34115, 34115.5, 34116, 34117, 34118. Notwithstanding the apparent prohibition against creating new CDCs contained in Section 34166, provisions in these sections need to be retained, for two reasons:

- (1) As discussed above, it may be that charter cities and counties are still authorized to create new CDCs.
- (2) The provisions may remain relevant in any litigation contesting the authority of *existing* CDCs. For example, Section 34117 provides a conclusive presumption that a CDC is authorized to transact business and exercises its powers, if the specified ordinance was filed with the Secretary of State and the Department of Housing and Community Development. (We also cannot rely on the proposed savings provision to preserve the relevance of these provisions, because CDCs may continue to operate after the transitional period has ended, and the savings provision no longer operates.)

At the same time, some of these sections contain redevelopment-related language that needs to be deleted. However, deleting only the redevelopment-related language from such a section while retaining the remainder of the section could be problematic, as the newly revised section, read alone, might appear to authorize the creation of a new CDC for *non*redevelopment-related purposes.

For these sections, the staff has recommended a layered approach: deleting the redevelopment-related language, while adding a new section expressly declaring that the sections do not authorize the creation of a CDC in violation of Section 34166. See proposed Section 34114 with accompanying Commission Comment below; see also Section 34189(c) (provisions of ABx1 26 trump contrary provisions of Part 1.7).

That approach would preserve the nonredevelopment elements of these sections, while making clear that the sections remain subordinate to ABx1 26 (including the prohibition against creating new CDCs in Section 34166, whatever the scope of that section may be).

Other Revisions and Proposed Commission Comments

In conjunction with the proposed revisions below, the staff has also proposed a few stylistic revisions to the existing statutory language. These revisions, consistent with long-standing Commission practice, are suggested to render the revised language gender-neutral, or to eliminate superfluous language or clarify ambiguous pronouns.

The staff has also proposed official Commission Comments to follow the text of the proposed revised sections. Commission Comments, an essential component of every final Commission recommendation proposing a revision of existing law, serve two important purposes:

- They provide guidance to legal practitioners and the public on the derivation and intended construction of the revised provision. Commission Comments are routinely reproduced by legal publishers in annotated codes and some treatises.
- They constitute an important source of legislative history. Courts have cited the Commission's materials in more than a thousand published opinions.

See also Memorandum 2012-1, pp. 6-7.

Recommended Revision of Part 1.7

The staff recommends that **the Commission revise the following sections in Part 1.7 as indicated below, and approve the proposed Comments, with or without changes:**

PART 1.7. COMMUNITY DEVELOPMENT COMMISSION

CHAPTER 1. DEFINITIONS

§ 34100. "Community"

34100. "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.

§ 34101. "Commission"

34101. "Commission" means a community development commission created by this part.

§ 34102. "Redevelopment agency"

~~34102. "Redevelopment agency" means a redevelopment agency created pursuant to the Community Redevelopment Law, Part 1 (commencing with Section 33000).~~

Comment. Section 34102 is repealed to reflect enactment of Section 34172(a)(1), which dissolved all redevelopment agency components of community development commissions created under Part 1.7.

§ 34103. "Housing authority"

34103. "Housing authority" means a housing authority created pursuant to the Housing Authorities Law, Chapter 1 (commencing with Section 34200) of Part 2.

§ 34104. "Legislative body"

34104. "Legislative body" means the city council, board of supervisors, or other legislative body of the community.

CHAPTER 2. ESTABLISHMENT, CREATION, AND SUSPENSION OF COMMISSION

Article 1. Declaration of Creation and Establishment

§ 34110. Community development commission

34110. There is hereby created and established in each community a public body, corporate and politic, known as the community development commission.

§ 34111. Existence of housing authority

34111. ~~There is also in each community a public body, corporate and politic, known as the redevelopment agency of the community.~~ There is ~~also~~ in each community a public body, corporate and politic, known as the housing authority of the community. Nothing in this part changes the existence of ~~such entities~~ the housing authority as a separate public ~~bodies~~ body, corporate and politic.

Comment. Section 34111 is amended to reflect enactment of Section 34172(a)(1), which dissolved all redevelopment agency components of community development commissions created under Part 1.7 but did not dissolve or otherwise affect the authority of a community development commission in its capacity as a housing authority or for any other community development purpose that has been delegated to it by the community's legislative body. For those nonredevelopment purposes, a community development commission derives its authority from laws other than the Community Redevelopment Law.

The section is also amended to make stylistic revisions.

See also Sections 34114 (subordination of this part to Section 34166), 34166 (restricting creation of new community development commissions), 34189(c) (declaring supremacy of Part 1.8 (commencing with Section 34161) over provisions of this part).

§ 34112. Purpose of commission

34112. The commission is created and established in order that a community may have the option of ~~operating and governing~~ having a commission operate and govern its redevelopment agency, or its redevelopment agency and its housing authority, ~~under a single operating entity and board.~~ The commission is also ~~created and established~~ and for the purpose of exercising any other powers regarding community development ~~which~~ that the legislative body of a community may desire to delegate to the commission subject to ~~such~~ any conditions as may be imposed by the legislative body.

Comment. Section 34112 is amended to reflect enactment of Section 34172(a)(1), which dissolved all redevelopment agency components of community development commissions created

under Part 1.7 but did not dissolve or otherwise affect the authority of a community development commission in its capacity as a housing authority or for any other community development purpose that has been delegated to it by the community's legislative body. For those nonredevelopment purposes, a community development commission derives its authority from laws other than the Community Redevelopment Law.

The section is also amended to make stylistic revisions.

See also Sections 34114 (subordination of this part to Section 34166), 34166 (restricting creation of new community development commissions), 34189(c) (declaring supremacy of Part 1.8 (commencing with Section 34161) over provisions of this part).

Article 2. Procedures Making Commission Operative

§ 34114. Subordination to Section 34166

34114. Nothing in this part authorizes the creation of a community development commission in violation of Section 34166.

Comment. Section 34114 is added to make clear that the provisions of this part do not authorize the creation of a community development commission to the extent that such creation is prohibited by Section 34166. See also Section 34189(c) (declaring supremacy of Part 1.8 (commencing with Section 34161) over provisions of this part).

§ 34115. Declaration of need for commission

34115. A commission may not transact any business or exercise any powers under this part unless, by ordinance, the legislative body declares that there is need for a commission to function in the community. The ordinance of the legislative body declaring that there is need for a commission to function in the community shall be subject to referendum as prescribed by law for a county or a city ordinance.

§ 34115.5. Declaration of commission function

34115.5. The ordinance of the legislative body declaring a need for a commission to function in the community may declare a need that the commission ~~function only with respect to a redevelopment agency or that the commission function with respect to a redevelopment agency and a~~ operate and govern the community's housing authority. ~~If the ordinance declares a need that the commission function only with respect to a redevelopment agency~~ does not declare a need that the commission operate and govern the community's housing authority, then the commission shall not have the powers, duties, and responsibilities of a housing authority and the provisions requiring that two of the commissioners be tenants of the housing authority shall be inapplicable.

Comment. Section 34115.5 is amended to reflect enactment of Section 34172(a)(1), which dissolved all redevelopment agency components of community development commissions created under Part 1.7 but did not dissolve or otherwise affect the authority of a community development commission in its capacity as a housing authority or for any other community development purpose that has been delegated to it by the community's legislative body. For those nonredevelopment purposes, a community development commission derives its authority from laws other than the Community Redevelopment Law.

See also Sections 34114 (subordination of this part to Section 34166), 34166 (restricting creation of new community development commissions), 34189(c) (declaring supremacy of Part 1.8 (commencing with Section 34161) over provisions of this part).

§ 34116. Filing of ordinance

34116. The commission shall cause a certified copy of the ordinance to be filed with the Department of Housing and Community Development.

§ 34117. Authority to act

34117. In any proceeding involving the validity or enforcement of, or relating to, any contract by a commission, the commission is conclusively deemed to have been established and authorized to transact business and exercise its powers upon proof of the filing with the Secretary of State and with the Department of Housing and Community Development of such an ordinance.

§ 34118. Commission established prior to 1978

34118. Notwithstanding Section 34140 or any other provision of this part, a commission established prior to January 1, 1978, shall not be vested with the powers, duties, and responsibilities of the commissioners of the housing authority, nor shall the commission operate and govern the housing authority, unless:

(a) The ordinance adopted by the legislative body declaring a need for the commission to function in the community declares, or is subsequently amended to declare, that the commission shall be vested with the rights, powers, duties, and responsibilities of the commissioners of the housing authority; or

(b) Prior to the effective date of this section, the commission has assumed and exercised the rights, powers, duties, and responsibilities of the commissioners of the housing authority.

Article 3. Legislative Body as Commission

§ 34120. Declaration of legislative body as commission

34120. (a) The legislative body may, at the time of the adoption of an ordinance declaring that there is a need for a commission to function in the community or at any time thereafter, by adoption of an ordinance, declare itself to be the commission, in which case all of the rights, powers, duties, privileges, and immunities vested by this part in a commission, except as otherwise provided in this part, shall be vested in the legislative body of the community.

However, in any community in San Bernardino County that is a charter city, the adoption of any order or resolution by the legislative body acting as the commission shall be governed by the same procedures as are set forth in the provisions of the charter, and the mayor shall be chairperson of the commission, having the same power and authority in the conduct of the commission and the meetings of the legislative body acting as the commission that the mayor has in the conduct of the affairs of the city.

(b) If the legislative body has declared itself to be the commission, the legislative body shall appoint two additional commissioners who are tenants of the housing authority if the housing authority has tenants. One tenant commissioner shall be over 62 years of age if the housing authority has tenants of that age. If the housing authority does not have tenants, the legislative body shall, by ordinance, provide for the appointment to the commission of two tenants of the housing authority, one of whom shall be over 62 years of age if the housing authority has tenants of that age, within one year after the housing authority first has tenants. The term of any tenant appointed pursuant to this subdivision shall be two years from the date of appointment. If a tenant commissioner ceases to be a tenant of the housing authority, he or she shall be disqualified from serving as a commissioner and another tenant of the housing authority shall be appointed to the remainder of the unexpired term. A tenant commissioner shall have all the powers, duties, privileges, and immunities of any other commissioner.

(c) As an alternative to the appointment of tenants of the housing authority as commissioners pursuant to subdivision (b), if a community development committee is created as provided in Section 34120.5, the governing body may make tenant appointments pursuant to subdivision (b) to the committee, rather than to the commission.

§ 34120.5. Community development committee

34120.5. (a) A legislative body which has declared itself to be the commission pursuant to Section 34120 may, by ordinance, create a community development committee of not more than seven members, or not more than nine members if tenant appointments are made pursuant to Section 34120. The terms of office,

qualifications, and method of appointment and removal shall be as provided by ordinance.

(b) If a community development committee is created, its function shall be to review and make recommendations on all matters to come before the commission prior to commission action, except emergency matters, and matters which the committee, by resolution, excludes from committee review and recommendation. The legislative body may provide for procedures for review and recommendation, and for further functions of the committee, by ordinance or resolution, and may delegate any of its functions as the community development commission to the committee.

§ 34121. Cessation of legislative body as commission

34121. A legislative body which has declared itself to be the commission pursuant to Section 34120 may at any time by resolution determine that it shall no longer function as the commission, in which event, the mayor or chairman of the board of supervisors or similar official, with the approval of the legislative body, shall appoint resident electors of the community as members of the commission, including two tenant commissioners as provided in Section 34130.

Article 4. Suspension of Commission

§ 34125. Declaration of no further need for commission

34125. The legislative body of the community may by ordinance declare that there is no further need for the commission. Upon adoption of the ordinance the offices of the commissioners are vacated and the capacity of the commission to transact business or exercise any powers is suspended until the legislative body subsequently adopts an ordinance declaring the need for the commission to function. If the commission has outstanding bonded indebtedness issued in the name of the commission, the legislative body of the community may adopt an ordinance declaring there is no further need for the commission only if the unanimous consent of the commissioners is first obtained.

§ 34126. Filing of ordinance

34126. The legislative body of the community shall file with the Secretary of State and with the Department of Housing and Community Development a certified copy of any ordinance suspending a commission.

CHAPTER 3. APPOINTMENT, COMPENSATION, AND REMOVAL OF COMMISSIONERS

§ 34130. Appointment of commissioners

34130. (a) When the legislative body adopts an ordinance declaring the need for a commission, the mayor or chairman of the board of supervisors or similar official, with the approval of the legislative body, shall appoint the number of resident electors of the community as commissioners as the legislative body prescribe by ordinance. The legislative body by ordinance may increase or decrease the number of commissioners. The legislative body, except as otherwise expressly provided in subdivision (b), shall establish and provide for the terms, and removal of the commissioners. The legislative body shall provide procedures for appointment or election of the officers of the commission.

(b) Two of the commissioners shall be tenants of the housing authority if the housing authority has tenants. One ~~such~~ tenant commissioner shall be over the age of 62 years if the housing authority has tenants of ~~such~~ that age. If the housing authority does not have tenants, the legislative body shall, by ordinance, provide for appointment to the commission of two tenants of the housing authority within one year after the housing authority first does have tenants. The term of any tenant commissioner appointed pursuant to this subdivision shall be two years from the date of appointment. If a tenant commissioner ceases to be a tenant of the housing authority, ~~he~~ that person shall be disqualified from serving as a commissioner and another tenant of the housing authority shall be appointed to serve the remainder of the unexpired term. A tenant commissioner shall have all the powers, duties, privileges, and immunities of any other commissioner.

(c) ~~Upon~~ If the ordinance of the legislative body declaring a need for a commission to function within the community declares a need that the commission operate and govern the community's housing authority, then upon the appointment and qualification of a majority of the commissioners, the commission shall be vested with all the powers, duties, and responsibilities of the members of the redevelopment agency and, if the legislative body so elects, the commissioners of the housing authority. Members of the redevelopment agency and commissioners Commissioners of a housing authority ~~which~~ that has been placed under the jurisdiction of ~~the~~ a commission shall have no powers, duties, ~~and~~ or responsibilities as long as the commission functions.

Comment. Subdivision (c) of Section 34130 is amended to reflect enactment of Section 34172(a)(1), which dissolved all redevelopment agency components of community development commissions created under Part 1.7 but did not dissolve or otherwise affect the authority of a community development commission in its capacity as a housing authority or for any other

community development purpose that has been delegated to it by the community's legislative body. For those nonredevelopment purposes, a community development commission derives its authority from laws other than the Community Redevelopment Law.

Section 34130 is also amended to make it gender neutral and to make stylistic revisions.

§ 34131. Conflict of interest

34131. A commissioner, unless the legislative body is the commission, may not be an elective officer or an employee of the community, but may be a member, commissioner, or employee of any other agency or authority in the community.

**CHAPTER 4. NATURE, JURISDICTION, AND
GENERAL POWERS OF COMMISSION**

§ 34140. Vesting of powers

34140. The powers duties, and responsibilities of the commission, ~~the redevelopment agency,~~ and the housing authority are vested in the commissioners in office. Each commission exercises governmental functions and has the powers prescribed in this part. Each commission is performing a public function of the community.

Comment. Section 34140 is amended to reflect enactment of Section 34172(a)(1), which dissolved all redevelopment agency components of community development commissions created under Part 1.7 but did not dissolve or otherwise affect the authority of a community development commission in its capacity as a housing authority or for any other community development purpose that has been delegated to it by the community's legislative body. For those nonredevelopment purposes, a community development commission derives its authority from laws other than the Community Redevelopment Law.

§ 34141. Nature of powers

34141. The nature, power, authority, functions and jurisdiction of the commission include, but are not limited to, all of the nature, power, authority, functions, and jurisdiction of ~~redevelopment agencies and~~ housing authorities. The commission also has the nature, power, authority, functions, and jurisdiction relating to community development as may be delegated to the commission by the legislative body, subject to such conditions as may be imposed by the legislative body.

Comment. Section 34141 is amended to reflect enactment of Section 34172(a)(1), which dissolved all redevelopment agency components of community development commissions created

under Part 1.7 but did not dissolve or otherwise affect the authority of a community development commission in its capacity as a housing authority or for any other community development purpose that has been delegated to it by the community's legislative body. For those nonredevelopment purposes, a community development commission derives its authority from laws other than the Community Redevelopment Law.

§ 34143. Powers of commission

34143. A commission may:

(a) Sue and be sued.

(b) Have a seal.

(c) Make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(d) Make, amend, and repeal bylaws and regulations not inconsistent with, and to carry into effect the powers and purposes of this part and all other powers and purposes delegated to them by the legislative body.

§ 34144. Personnel of commission

34144. (a) A commission may select, appoint, and employ such permanent and temporary officers, agents, counsel, and employees as it requires, and determine their qualifications, duties, benefits, and compensation, subject only to the conditions and restrictions imposed by the legislative body on the expenditure or encumbrance of the budgetary funds appropriated to the commission. The commission shall adopt personnel rules and regulations applicable to all its employees. Such rules shall contain procedures affecting conflicts of interest, use of funds, personnel procedures on hiring and firing including removal of personnel for inefficiency, neglect of duties, or misconduct in office. Such rules and regulations shall be a public record.

(b) A commission may contract with the Department of Housing and Community Development or any other agency or entity for the furnishing by the department, agency, or entity of any necessary staff services associated with or required and which could be performed by the staff of a commission.

§ 34145. Other personnel assistance

34145. In addition to all other powers and authorities of the commission, the commission may hire, employ, or contract for staff, contractors, and consultants, or the commission may use community staff, contractors or consultants under contract or other arrangements with the community at the expense of the commission, the community, ~~the redevelopment agency,~~ or the housing authority.

Comment. Section 34145 is amended to reflect enactment of Section 34172(a)(1), which dissolved all redevelopment agency components of community development commissions created under Part 1.7 but did not dissolve or otherwise affect the authority of a community development commission in its capacity as a housing authority or for any other community development purpose that has been delegated to it by the community's legislative body. For those nonredevelopment purposes, a community development commission derives its authority from laws other than the Community Redevelopment Law.

§ 34146. Grants or loans

34146. Any grants or loans of money appropriated by the legislative body of the community to the commission is not to be construed as making the commission a department of the community or placing the officers, agents, counsel, and employees under civil service of the community.

§ 34147. Financial assistance

34147. The commission may accept financial assistance from public or private sources for the purposes of this part.

§ 34148. Other financial assistance

34148. The commission may accept any other assistance from the state or federal government or any public or private source for any of the commission's activities, powers, and duties.

§ 34149. Other powers

34149. The commission shall have such other powers as may be authorized by the legislative body of the community.

§ 34150. Delegation of power and authority

34150. The legislative body of the community may delegate to or establish in a general manager, executive director, or administrator of the community or of the commission any or all of the power and authority of the commission for the administration of the activities of the commission, ~~the redevelopment agency,~~ or the housing authority. The commission may also delegate and establish any or all of the power and authority of the commission in a general manager, executive director, or administrator of the community or commission.

Comment. Section 34150 is amended to reflect enactment of Section 34172(a)(1), which dissolved all redevelopment agency components of community development commissions created under Part 1.7 but did not dissolve or otherwise affect the authority of a community development commission in its capacity as a housing authority or for any other community development

purpose that has been delegated to it by the community's legislative body. For those nonredevelopment purposes, a community development commission derives its authority from laws other than the Community Redevelopment Law.

§ 34151. Power of chartered city

34151. A chartered city may enact its own procedural ordinance and exercise powers granted by this part.

§ 34152. Delegation of powers or functions to community

34152. A commission is authorized to delegate to a community any of the powers or functions of the commission and such community is hereby authorized to carry out or perform such powers or functions for the commission.

**CHAPTER 5. ~~COMMUNITY REDEVELOPMENT LAW AND~~
HOUSING AUTHORITIES LAW**

Comment. The heading of Chapter 5 is amended to reflect enactment of Section 34172(a)(1), which dissolved all redevelopment agency components of community development commissions created under Part 1.7 but did not dissolve or otherwise affect the authority of a community development commission in its capacity as a housing authority or for any other community development purpose that has been delegated to it by the community's legislative body. For those nonredevelopment purposes, a community development commission derives its authority from laws other than the Community Redevelopment Law.

§ 34160. Inconsistent provisions of law

34160. Inconsistent provisions of ~~the Community Redevelopment Law Part 1 (commencing with Section 33000) and~~ the Housing Authorities Law Chapter 1 (commencing with Section 34200) of Part 2 are inoperative during the time that an ordinance has been adopted declaring a need for the commission to function, the commissioners have been appointed and qualified or the legislative body has declared itself to be the commission, and no suspension ordinance has been adopted.

Comment. Section 34160 is amended to reflect enactment of Section 34172(a)(1), which dissolved all redevelopment agency components of community development commissions created under Part 1.7 but did not dissolve or otherwise affect the authority of a community development commission in its capacity as a housing authority or for any other community development purpose that has been delegated to it by the community's legislative body. For those nonredevelopment purposes, a

community development commission derives its authority from laws other than the Community Redevelopment Law.

Section Relating to Commissioner Compensation

One last section in Part 1.7, relating to CDC commissioner compensation, requires separate analysis.

Section 34130.5 provides that CDC commissioners are entitled to receive payment for their “actual and necessary expenses, including travel expenses” incurred in discharging their duties. In addition, a legislative body may pay CDC commissioners other compensation for attending meetings, up to specified amounts:

§ 34130.5. Expenses and compensation

34130.5. (a) Commissioners shall receive their actual and necessary expenses, including traveling expenses incurred in the discharge of their duties. The legislative body may also provide for other compensation pursuant to either subdivision (b) or (c).

(b) If the ordinance of the legislative body declaring the need for a commission to function within the community declares that need only with respect to a redevelopment agency, the compensation provided by the legislative body shall not exceed seventy-five dollars (\$75) for each commissioner for each meeting of the commission attended by that commissioner. No commissioner shall receive compensation for attending more than two meetings of the commission in any calendar month.

(c) If the ordinance of the legislative body declaring the need for a commission to function within the community declares that need with respect to a redevelopment agency and a housing authority, the compensation provided by the legislative body shall not exceed one hundred fifty dollars (\$150) for each commissioner for each meeting of the commission attended by that commissioner. No commissioner shall receive compensation for attending more than two meetings of the commission in any calendar month.

As can be seen, in capping the compensation that communities may pay their CDC commissioners, Section 34130.5 draws a distinction between a CDC authorized to operate as an RDA only, and one that is authorized to operate as both an RDA and a housing authority. In the first case, the compensation a commissioner receives can be up to \$75. In the latter case, it cannot exceed \$150.

Now that the RDA components of a CDC have been dissolved, should the per meeting compensation amounts be adjusted?

Presumably, the compensation provided for in Section 34130.5 should be reduced. The section is structured to provide different amounts of compensation based on the duties performed by a CDC commissioner. If the CDC on which a commissioner serves governs an RDA only, its commissioners are authorized to receive a maximum of \$75 per meeting. If a CDC is set up to govern a community's RDA *and* its housing authority, its commissioners receive an additional \$75, for a maximum of \$150.

Now that the RDA components of a CDC have been dissolved, a CDC that formerly governed both entities now governs only one. It would therefore seem to make sense to reduce its maximum compensation to the amount set for a CDC that, under former law, governed only a single entity (i.e., \$75). In other words, now that the redevelopment components of a CDC have been dissolved, a CDC that was authorized to conduct both redevelopment and housing authority functions now has only one main function, housing. The appropriate compensation for that work would seem to be \$75.

However, there is a second scenario, which presents a more difficult question. If, under former law, a CDC was *not* approved to perform housing functions, its main function was redevelopment. However, a CDC could also perform other community development functions as delegated by the legislative body.

If a CDC performed *only* redevelopment functions, then the CDC was presumably entirely dissolved by Section 34172(a)(1). But if a CDC performed both redevelopment and delegated community development functions, it appears that the CDC was not entirely dissolved. It continues to perform the delegated nonredevelopment functions. See Section 34172(a)(1).

What is the appropriate compensation for a CDC that performs only delegated nonredevelopment functions? The staff sees no clear basis for setting a compensation limit for such a CDC. We do not know the value of such work, which may vary from CDC to CDC, based on the nature and extent of the delegation. There is no evidence in Section 34130.5 or the legislative analyses of the bill that added the section of any legislative intention to factor the value of delegated work into the compensation limits.

The simplest approach to the issue would be to apply the lower compensation cap from Section 34130.5 (i.e., \$75). We do know that the Legislature intended that to be the amount provided to CDC commissioners who provide less than the full gamut of possible CDC work. Recall, too, that the statutory amount is a maximum. A legislative body has discretion to set a

compensation amount of less than that amount if the work performed by the CDC warrants smaller compensation. (The legislative body could also abolish a CDC that is left with only vestigial delegated nonredevelopment duties to perform.)

Any alternative approach would require the Commission to make an educated guess about the appropriate maximum compensation for a nonredevelopment-only CDC. The staff believes that such a decision would be better left to the Legislature.

The staff recommends that Section 34130.5 be revised to provide that the maximum compensation be \$75 for any CDC, regardless of its assigned duties, thus:

§ 34130.5. Expenses and compensation

34130.5. (a) Commissioners shall receive their actual and necessary expenses, including traveling expenses incurred in the discharge of their duties. The legislative body may also provide for other compensation pursuant to either subdivision (b) or (c).

~~(b) If the ordinance of the legislative body declaring the need for a commission to function within the community declares that need only with respect to a redevelopment agency the~~ The compensation provided by the legislative body shall not exceed seventy-five dollars (\$75) for each commissioner for each meeting of the commission attended by that commissioner. No commissioner shall receive compensation for attending more than two meetings of the commission in any calendar month.

~~(c) If the ordinance of the legislative body declaring the need for a commission to function within the community declares that need with respect to a redevelopment agency and a housing authority, the compensation provided by the legislative body shall not exceed one hundred fifty dollars (\$150) for each commissioner for each meeting of the commission attended by that commissioner. No commissioner shall receive compensation for attending more than two meetings of the commission in any calendar month.~~

Comment. Section 34130.5 is amended to reflect enactment of Section 34172(a)(1), which dissolved all redevelopment agency components of community development commissions created under Part 1.7 but did not dissolve or otherwise affect the authority of a community development commission in its capacity as a housing authority or for any other community development purpose that has been delegated to it by the community's legislative body. For those nonredevelopment purposes, a community development commission derives its authority from laws other than the Community Redevelopment Law.

Relevance During Transitional Period

During the transitional period, any provisions of Part 1.7 that the Commission proposes to repeal or delete may remain relevant, as a claim might be made that a CDC previously acting as an RDA had been improperly formed, or had violated the law governing CDCs.

The Commission's proposed savings provision should be adequate to preserve the application of these provisions during this period.

As has been discussed, Section 33090(b) of the savings provision would make clear that the repeal of a provision by the proposed law would have no effect during the transitional period on the "substance, construction, or application" of former law with regards to any redevelopment-related matter.

And again, that broad language is supplemented by more specific language indicating that, during the transitional period, the proposed law would have no impact on:

- The authority, rights, powers, duties, and obligations of any ... entity who is granted or charged with authority, rights, powers, duties, and obligations relating to redevelopment. Section 33090(b)(1).
- The validity of any redevelopment-related ordinance ... or other legally operative document promulgated by a former redevelopment agency... or other entity. Section 33090(b)(6).

Together, this language should preserve the relevance of any provision in Part 1.7 that the Commission proposes to revise or repeal during the transitional period, and **no revision of the savings provision appears to be needed to accommodate any such revision or repeal.**

Respectfully submitted,

Steve Cohen
Staff Counsel

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HEALTH AND SAFETY CODE

1 DIVISION 24. COMMUNITY DEVELOPMENT AND HOUSING

2 PART 1. COMMUNITY REDEVELOPMENT LAW

3

4 CHAPTER 2. REDEVELOPMENT AGENCIES

5

6 Article 2. Appointment, Compensation, and Removal of Agency Members

7

8 **§ 33114. Expenses and compensation of members**

9 33114. Members shall receive their actual and necessary expenses, including
10 traveling expenses incurred in the discharge of their duties. They may receive such
11 other compensation as the legislative body prescribes.

12 **§ 33114.5. Compensation of members of legislative body of city or county**

13 33114.5. Notwithstanding any other provision of law, whenever the legislative
14 body of a city having a population of less than 200,000 or the legislative body of a
15 county declares itself to be the agency pursuant to Section 33200, the
16 compensation provided for in Section 33114 shall not exceed thirty dollars (\$30)
17 per member for each meeting of the agency attended by the member. No member
18 shall receive compensation for attending more than four meetings of the agency
19 during any calendar month. In addition, members shall receive their actual and
20 necessary expenses incurred in the discharge of their duties.

21

22 Article 3. Nature, Jurisdiction, and General Powers of Agencies

23

24 **§ 33126. Personnel**

25 33126. (a) An agency may select, appoint, and employ such permanent and
26 temporary officers, agents, counsel, and employees as it requires, and determine
27 their qualifications, duties, benefits, and compensation, subject only to the
28 conditions and restrictions imposed by the legislative body on the expenditure or

1 encumbrance of the budgetary funds appropriated to the community
2 redevelopment agency administrative fund. To the greatest extent feasible, the
3 opportunities for training and employment arising from a redevelopment project
4 planning and execution shall be given to lower income residents of the project
5 area. The agency shall adopt personnel rules and regulations applicable to all
6 employees. Such rules shall contain procedures affecting conflicts of interest, use
7 of funds, personnel procedures on hiring and firing including removal of personnel
8 for inefficiency, neglect of duties, or misconduct in office. Such rules and
9 regulations shall be of public record.

10 (b) An agency may contract with the Department of Housing and Community
11 Development, or any other agency, for the furnishing by the department, or
12 agency, of any necessary staff services associated with or required by
13 redevelopment and which could be performed by the staff of an agency.

14 **§ 33127. Additional agency powers**

15 33127. An agency may:

16 (a) Obtain, hire, purchase, or rent office space, equipment, supplies, insurance,
17 or services.

18 (b) Authorize and pay the travel expenses of agency members, officers, agents,
19 counsel, and employees on agency business.

20

21 **§ 33129. Agency not department of community**

22 33129. The grant of money appropriated by the legislative body of the
23 community to the community redevelopment agency administrative fund is not to
24 be construed as making the agency a department of the community or placing the
25 officers, agents, counsel, and employees under civil service of the community.

26

27 **Article 4. Suspension and Dissolution of Agencies**

28 **§ 33140. Suspension of agency**

29 33140. If an agency has not redeveloped or acquired land for, or commenced the
30 redevelopment of, a project, or entered into contracts for redevelopment within
31 two years after the adoption of an ordinance pursuant to Section 33101, or, in the
32 case of an agency authorized to transact business and exercise powers by
33 resolution adopted pursuant to the provisions of Section 33101 that were in effect
34 prior to the adoption of that resolution, the legislative body may, by ordinance,
35 declare that there is no further need for the agency. A legislative body shall not
36 adopt an ordinance declaring that there is no further need for the agency if, in one
37 or more project areas, the agency has not complied with subdivision (a) of Section

1 33333.8. Upon the adoption of the ordinance, the offices of the agency members
2 are vacated and the capacity of the agency to transact business or exercise any
3 powers is suspended until the legislative body adopts an ordinance declaring the
4 need for the agency to function.

5 **§ 33141. Deactivation of agency**

6 33141. Upon the motion of the legislative body or upon recommendation of the
7 agency, the legislative body of the community may, by ordinance, order the
8 deactivation of an agency by declaring that there is no need for an agency to
9 function in the community, if the agency has no outstanding bonded indebtedness,
10 no other unpaid loans, indebtedness, or advances, and no legally binding
11 contractual obligations with persons or entities other than the community, unless
12 the community assumes the bonded indebtedness, unpaid loans, indebtedness, and
13 advances, and legally binding contractual obligations. A legislative body shall not
14 adopt an ordinance declaring that there is no need for the agency, if in one or more
15 project areas, the agency has not complied with subdivision (a) of Section
16 33333.8. An ordinance of a legislative body declaring there is no need for an
17 agency to function in the community shall be subject to referendum as prescribed
18 by law for the ordinances of the legislative body.

19 **§ 33142. Filing of ordinance**

20 33142. The legislative body of the community shall file with the Secretary of
21 State a certified copy of any ordinance suspending or dissolving an agency
22 pursuant to Section 33140 or 33141.

23 **CHAPTER 3. OTHER ENTITIES UNDERTAKING OR**
24 **ASSISTING REDEVELOPMENT**

25 **Article 1. Legislative Body as the Agency**

26 **§ 33200. Legislative body as agency**

27 33200. (a) As an alternative to the appointment of five members of the agency,
28 the legislative body may, at the time of the adoption of an ordinance pursuant to
29 Section 33101 or 33140 of this part, or at any time thereafter by adoption of an
30 ordinance, declare itself to be the agency; in which case, all the rights, powers,
31 duties, privileges and immunities, vested by this part in an agency, except as
32 otherwise provided in this article, shall be vested in the legislative body of the
33 community. If a member of the legislative body of a city or county does not wish
34 to serve on the agency, the members may so notify the legislative body of the city
35 or county, and the legislative body of the city or county shall appoint a

1 replacement who is an elector of the city or county to serve out the term of the
2 replaced member.

3 However, in any community in San Bernardino County which is a charter city,
4 the adoption of any order or resolution by the legislative body acting as the agency
5 shall be governed by the same procedures as are set forth in the provisions of the
6 charter, and the mayor shall be the chairperson of the agency, having the same
7 power and authority in the conduct of the agency and the meetings of the
8 legislative body acting as the agency, that the mayor has in the conduct of the
9 affairs of the city.

10 As part of the legislative body's ordinance declaring itself to be the
11 redevelopment agency pursuant to this subdivision, the legislative body shall make
12 findings that the action shall serve the public interest and promote the public
13 safety and welfare in an effective manner.

14 (b) In the event an appointive agency has been designated and has been in
15 existence for at least three years, the legislative body shall not adopt an ordinance
16 declaring itself to be the agency without first conducting a public hearing on the
17 proposed ordinance.

18 Notice of the public hearing required by this subdivision shall be published not
19 less than once during the 10 calendar days immediately prior to the hearing in a
20 newspaper of general circulation, printed and published in the community, or if
21 there is none, in a newspaper selected by the legislative body. The notice of
22 hearing shall include a general statement of the procedure and effect of the
23 legislative body's declaring itself to be the agency. Copies of the notice shall be
24 posted throughout the affected project area or areas at least 10 calendar days prior
25 to the hearing. The legislative body shall also mail by first-class mail copies of the
26 notice at least 10 calendar days prior to the hearing, to all persons who have
27 expressed to the agency or the legislative body an interest in receiving information
28 on redevelopment activities.

29 The legislative body shall cause the preparation of any report or reports or
30 proposals, as are necessary to substantiate and explain the determination that the
31 legislative body shall declare itself the redevelopment agency, to be presented at
32 the public hearing.

33 As part of the legislative body's ordinance declaring itself to be the
34 redevelopment agency pursuant to this subdivision, the legislative body shall make
35 findings that (1) the action will serve the public interest and promote the public
36 safety and welfare in a more effective manner than the current organization, and
37 (2) there has been full public disclosure of all reports and proposals relating to the
38 legislative body's intent to declare itself the redevelopment agency.

39 **§ 33201. Community redevelopment commission**

40 33201. (a) A legislative body which has declared itself to be the agency pursuant
41 to Section 33200 may by ordinance create a community redevelopment
42 commission. The ordinance shall establish the number of members of the

1 commission, but not less than seven, their terms of office, and the method of their
2 appointment and removal.

3 (b) (1) No member of the commission shall acquire any interest in any property
4 included within a project area. Any member who owns or has any direct or
5 indirect financial interest in any property within a project area shall immediately
6 make a written disclosure of that interest to the legislative body.

7 (2) A rental agreement or lease of property which meets all of the following
8 conditions is not an interest in property for purposes of paragraph (1):

9 (A) The rental or lease agreement contains terms that are substantially
10 equivalent to the terms of a rental or lease agreement available to any member of
11 the general public for comparable property in the project area.

12 (B) The rental or lease agreement includes a provision which prohibits any
13 subletting, sublease, or other assignment at a rate in excess of the rate in the
14 original rental or lease agreement.

15 (C) The property which is subject to the rental or lease agreement is used in the
16 pursuit of the principal business, occupation, or profession of the member of the
17 commission.

18 (D) The member of the commission who obtains the rental or lease agreement
19 immediately makes a written disclosure of that fact to the commission and the
20 legislative body.

21 **§ 33202. Functions of community redevelopment commission**

22 33202. If a community redevelopment commission is created as provided in
23 Section 33201, its functions shall be to prepare a redevelopment plan for each
24 project area, hold and conduct hearings thereon, adopt and submit such plan,
25 together with a report, to the legislative body, pursuant to all of the provisions,
26 requirements and procedures of Article 4 (commencing with Section 33330) of
27 Chapter 4 of this part; and the agency, in such case, shall not be required to
28 perform such functions. The legislative body may additionally delegate any of its
29 functions as the governing body of the agency to the community redevelopment
30 commission.

31 **§ 33203. Cessation of legislative body as agency**

32 33203. A legislative body which has declared itself to be the agency pursuant to
33 Section 33200 may at any time by resolution determine that it shall no longer
34 function as an agency, in which event, the mayor or chairman of the board of
35 supervisors with the approval of the legislative body shall appoint five or seven
36 resident electors of the community as members of the agency, and, upon such
37 appointment, the community redevelopment commission, if any, shall no longer
38 function.

1 **§ 33204. Powers of chartered city**

2 33204. A chartered city may enact its own procedural ordinance and exercise the
3 powers granted by this part.

4 **§ 33205. Delegation of agency powers**

5 33205. An agency is authorized to delegate to a community any of the powers or
6 functions of the agency with respect to the planning or undertaking of a
7 redevelopment project in the area in which such community is authorized to act,
8 and such community is hereby authorized to carry out or perform such powers or
9 functions for the agency.

10 **§ 33206. Contracting for staff services**

11 33206. Notwithstanding any other provision of law, a legislative body, at the
12 time of the adoption of an ordinance pursuant to Section 33101 or 33140, and
13 pursuant to a resolution authorizing such an action, may contract with the
14 Department of Housing and Community Development, or any other agency or
15 housing authority, for the furnishing by the department, agency, or housing
16 authority of any necessary staff services associated with or required by
17 redevelopment and which could be performed by the staff of an agency. In such a
18 case the legislative body shall be vested with all of the rights, powers, duties, and
19 privileges and immunities vested by this part in an agency.

20 Article 2. Joint Exercise or Delegation of Power to Redevelop

21 **§ 33210. Joint exercise of powers**

22 33210. Two or more agencies within two or more communities may jointly
23 exercise the powers granted under this part. In such case the agencies, the planning
24 commissions, and the legislative bodies may hold joint hearings and meetings, or
25 the legislative bodies of the communities acting separately may each designate the
26 agency of one of the communities to act as the agency for all of the interested
27 communities.

28 **§ 33210.5. Joint redevelopment plan between City of San Leandro and County of Alameda**

29 33210.5. (a) As used in this section, the following terms have the following
30 meanings:

31 (1) “Joint Redevelopment Plan” means the Redevelopment Plan for the Alameda
32 County-City of San Leandro Redevelopment Project, adopted pursuant to this part
33 by the City of San Leandro by ordinance dated July 12, 1993, as amended.

34 (2) “Joint Project Area” means the redevelopment project area established by the
35 Joint Redevelopment Plan, which includes territory within both the City of San
36 Leandro and the unincorporated territory of the County of Alameda.

37 (b) The Legislature finds and declares all of the following:

1 (1) Pursuant to Section 33213, the Board of Supervisors of the County of
2 Alameda has authorized the redevelopment of the portion of the Joint Project Area
3 within its territorial limits by the San Leandro Redevelopment Agency pursuant to
4 the Joint Redevelopment Plan.

5 (2) Since adoption of the Joint Redevelopment Plan, the San Leandro
6 Redevelopment Agency has exercised powers granted in this part in the entire
7 Joint Project Area.

8 (c) By ordinance, the legislative bodies of the City of San Leandro and the
9 County of Alameda may designate the Alameda County Redevelopment Agency
10 to exercise exclusively any of the powers granted under this part, including, but
11 not limited to, the power of eminent domain, within that portion of the Joint
12 Project Area within the unincorporated territory of the County of Alameda.

13 (d) Notwithstanding subdivision (c), by ordinance, the legislative bodies of the
14 City of San Leandro and the County of Alameda may further declare that insofar
15 as it is necessary or convenient for the San Leandro Redevelopment Agency to
16 continue to exercise certain specified powers granted under this part within or for
17 the portion of the Joint Project Area within the unincorporated territory of the
18 County of Alameda, including, but not limited to, those relating to the receipt of
19 tax increment revenue, the San Leandro Redevelopment Agency shall continue to
20 exercise those powers.

21 (e) For the purposes of this part, the legislative body of the community with
22 respect to actions taken by the San Leandro Redevelopment Agency pursuant to
23 the Joint Redevelopment Plan shall mean the City Council of the City of San
24 Leandro, and the legislative body of the community with respect to actions taken
25 by the Alameda County Redevelopment Agency pursuant to the Joint
26 Redevelopment Plan shall mean the Board of Supervisors of the County of
27 Alameda.

28 (f) No action taken in accordance with and in furtherance of this section shall
29 affect the calculation of tax increment revenue to be allocated pursuant to Section
30 33670 or Section 33676 in effect at the time of the adoption of the Joint
31 Redevelopment Plan or the validity of any agreement entered into by the San
32 Leandro Redevelopment Agency with an affected taxing entity pursuant to Section
33 33401 in effect at the time of execution of that agreement.

34 (g) The legislative body of the County of Alameda may amend, by ordinance,
35 the Joint Redevelopment Plan without any further action of the legislative body,
36 redevelopment agency, or planning commission of the City of San Leandro. Any
37 amendment adopted pursuant to this subdivision shall affect only property within
38 that portion of the Joint Project Area within the unincorporated territory of
39 Alameda County and shall otherwise be processed in accordance with the
40 applicable procedures and requirements of this part for such an amendment.

41 (h) The legislative body of the City of San Leandro may amend, by ordinance,
42 the Joint Redevelopment Plan without any further action of the legislative body,
43 redevelopment agency, or planning commission of the County of Alameda. Any

1 amendment adopted pursuant to this subdivision shall affect only property within
2 that portion of the Joint Project Area within the City of San Leandro and shall
3 otherwise be prepared and processed in accordance with the applicable procedures
4 and requirements of this part for such an amendment.

5 (i) The legislative body of the City of San Leandro and the legislative body of
6 the County of Alameda shall not take any action pursuant to this section until the
7 San Leandro Redevelopment Agency files with the Controller a corrected report
8 required by Section 33080.1 for the 1999-2000 fiscal year.

9 **§ 33211. Responsibilities of designated agency**

10 33211. If one agency is designated, it shall obtain the report and
11 recommendation of the planning commission of each community on the
12 redevelopment plan and its conformity to the general plan of each community
13 before presenting the redevelopment plan to the respective legislative bodies for
14 adoption.

15 **§ 33212. Redevelopment plans**

16 33212. The designated agency and each planning commission shall cooperate in
17 formulating redevelopment plans.

18 **§ 33213. Redevelopment of area contiguous to another community**

19 33213. By ordinance the legislative body of a community may authorize the
20 redevelopment of an area within its territorial limits by another community if such
21 area is contiguous to such other community. The ordinance shall designate the
22 community to undertake such redevelopment. The community so authorized may
23 undertake the redevelopment of such area in all respects as if the area was within
24 its territorial limits and its legislative body, agency, and planning commission
25 shall have all the rights, powers, and privileges with respect to such area as if it
26 was within the territorial limits of the community so authorized. Neither the
27 legislative body, agency nor planning commission of the community so
28 authorizing shall be required to comply with any requirements of this part except
29 as set forth in this section. Any redevelopment plan for such area shall be
30 approved by ordinance enacted by the legislative body of the community so
31 authorizing.

32 **§ 33214. Territorial jurisdiction of agency**

33 33214. (a) Notwithstanding Section 33120, the territorial jurisdiction of an
34 agency in the county shall include all of the unincorporated territory that was
35 included in a project area selected pursuant to Section 33322 or 34004 even if that
36 territory is subsequently annexed to a city or included within the boundaries of a
37 new city, unless territorial jurisdiction over the project area is transferred from a
38 county to a city pursuant to Section 33215 , 33216, or 33217.

1 (b) Notwithstanding Section 33120, the territorial jurisdiction of an agency in a
2 city shall include all of the territory within the limits of the city that was included
3 in a project area selected pursuant to Section 33322 or 34004 even if that territory
4 is subsequently annexed to another city or included within the boundaries of a new
5 city, unless territorial jurisdiction over the project area is transferred to the other
6 city pursuant to Section 33215, 33216, or 33217.

7 **§ 33214.5. Definitions**

8 33214.5. As used in Sections 33215 and 33216:

9 (a) “Creating agency” means the community redevelopment agency that created
10 the project area that is to be transferred pursuant to Section 33215 or 33216.

11 (b) “Receiving agency” means the community redevelopment agency that will
12 acquire jurisdiction over a project area pursuant to Section 33215 or 33216.

13 **§ 33214.7. Territorial jurisdiction of Redevelopment Agency of County of Riverside**

14 33214.7. (a) Notwithstanding any law to the contrary, the territorial jurisdiction
15 of the Redevelopment Agency of the County of Riverside shall include all of the
16 following:

17 (1) Former agency territory within the geographic boundaries of the City of
18 Menifee or the City of Wildomar with respect to which the agency, prior to the
19 incorporation of the applicable city, (A) entered into a binding agreement with a
20 third party in furtherance of the purposes set forth in Section 33334.2 and (B)
21 acquired land or otherwise expended money from its Low and Moderate Income
22 Housing Fund established pursuant to Section 33334.3.

23 (2) Territory currently within an island of unincorporated territory that is
24 surrounded or substantially surrounded by the City of Indio, after the city’s
25 annexation of that territory, with respect to which the agency, prior to that
26 annexation, (A) entered into a binding agreement with a third party in furtherance
27 of the purposes set forth in Section 33334.2 and (B) acquired land or otherwise
28 expended money from its Low and Moderate Income Housing Fund established
29 pursuant to Section 33334.3.

30 (b) This section shall apply retroactively and prospectively to the territory
31 specified in subdivision (a).

32 (c) The agency may apply towards its obligations under subdivision (b) of
33 Section 33413 units described in clause (ii) of subparagraph (A) of paragraph (2)
34 of subdivision (b) of Section 33413 that are located within the territory specified
35 in subdivision (a).

36 **§ 33215. Transfer of territorial jurisdiction**

37 33215. (a) If all of the territory included within a project area, including any
38 noncontiguous territory within the project area, selected pursuant to Section 33322
39 or 34004 is subsequently annexed to a city or included within the boundaries of a
40 new city, the territorial jurisdiction of the creating agency over all of the territory

1 in that project area may be transferred from the creating agency to a receiving
2 agency pursuant to this section.

3 (b) The legislative body of the community of the receiving agency, in which the
4 territory described in subdivision (a) is located, may unilaterally transfer the
5 territorial jurisdiction described in subdivision (a) if that legislative body agrees to
6 reimburse the community of the creating agency for all costs incurred by the
7 community of the creating agency in conducting the transfer and adopts, or has
8 adopted, both of the following ordinances:

9 (1) An ordinance pursuant to Section 33101 declaring the need for an agency to
10 function in the city.

11 (2) An ordinance adopting the same redevelopment plan for the project area that
12 was previously adopted by the legislative body of the creating agency or an
13 ordinance adopting that redevelopment plan, with amendments. However, no
14 amendment to a redevelopment plan may be adopted if the amendment would
15 violate any agreement entered into by the creating agency or its legislative body,
16 as determined by that legislative body, prior to the effective date of the transfer of
17 territorial jurisdiction, as determined pursuant to subdivision (c).

18 (c) The effective date of the transfer of territorial jurisdiction is the first day of
19 the fiscal year that begins following the effective date of the later enacted of the
20 ordinances adopted pursuant to subdivision (b).

21 (d) The transfer of territorial jurisdiction shall have all of the following effects
22 on and after the effective date of the transfer of territorial jurisdiction, as
23 determined pursuant to subdivision (c):

24 (1) The receiving agency and its legislative body shall have all of the rights,
25 powers, and responsibilities provided by this part with respect to the project area
26 and the redevelopment plan for that project area.

27 (2) The debts and any other obligations of the creating agency or its legislative
28 body in connection with the project area or the redevelopment plan for that project
29 area shall be assumed by the receiving agency.

30 (3) For the purposes of this part, including Section 33670, the redevelopment
31 plan for the project area for which territorial jurisdiction is transferred from the
32 creating agency to the receiving agency pursuant to this section shall be
33 considered to have been adopted by the legislative body of the receiving agency
34 on the date the redevelopment plan was originally adopted by the legislative body
35 of the creating agency.

36 (e) The creating agency, the receiving agency, and their respective legislative
37 bodies may enter into any agreements which those entities mutually determine to
38 be necessary or desirable to facilitate the transfer of territorial jurisdiction
39 provided for by this section.

40 **§ 33216. Agreement to transfer territorial jurisdiction**

41 33216. (a) If all, or a substantial portion, of the territory included within a
42 project area selected pursuant to Section 33322 or 34004 is subsequently annexed

1 to a city or included within the boundaries of a new city, the territorial jurisdiction
2 of the creating agency over all, or a substantial portion, of the territory in that
3 project area may be transferred from the creating agency to the receiving agency
4 pursuant to this section. If all, or a substantial portion, of the noncontiguous
5 territory of a project area of a creating agency is subsequently annexed to a city or
6 included within the boundaries of a new city, the jurisdiction of the creating
7 agency over all, or a substantial portion, of the noncontiguous territory may be
8 transferred to the receiving agency pursuant to this section.

9 (b) The transfer of territorial jurisdiction described in subdivision (a) is not
10 effective unless all of the following occur:

11 (1) The creating agency and the receiving agency enter into the agreement
12 described in subdivision (c), and their respective legislative bodies both adopt a
13 resolution approving that agreement.

14 (2) The legislative body of the receiving agency adopts, or has adopted, both of
15 the following ordinances:

16 (A) An ordinance pursuant to Section 33101 declaring the need for an agency to
17 function in the city.

18 (B) An ordinance adopting the same redevelopment plan for the project area that
19 was previously adopted by the legislative body of the creating agency.

20 (c) The agreement required to be entered into between the creating agency and
21 the receiving agency pursuant to paragraph (1) of subdivision (b) shall contain all
22 of the provisions described in paragraphs (1), (2), (3), and (4), and may contain the
23 provisions described in paragraphs (5) and (6):

24 (1) A provision specifying that all of the territory included within the project
25 area is transferred from the creating agency to the receiving agency, or a provision
26 specifying the portions of the project area over which each agency will have
27 territorial jurisdiction.

28 (2) (A) If all of the territory included within the project area is transferred from
29 the creating agency to the receiving agency, a provision for the allocation of all of
30 the taxes payable from the project area pursuant to subdivision (b) of Section
31 33670 to the receiving agency.

32 (B) If a substantial portion of the territory included within the project area is
33 transferred from the creating agency to the receiving agency, a provision for the
34 allocation of taxes payable from the project area pursuant to subdivision (b) of
35 Section 33670 between the receiving agency and the creating agency. That
36 allocation of taxes shall be reasonably related to the costs that the community of
37 the creating agency and the community of the receiving agency expect to incur in
38 carrying out the redevelopment plan and the outstanding indebtedness that the
39 creating agency has incurred in carrying out the redevelopment plan. That
40 indebtedness shall include repayment of expenditures to, or on behalf of, the
41 redevelopment project area from other resources or borrowing of the creating
42 agency. That allocation of taxes may differ from the allocation that would have
43 been made if the portion of the project area under the territorial jurisdiction of the

1 creating agency and the portion of the project area under the territorial jurisdiction
2 of the receiving agency had been separate project areas at the time of adoption of
3 the redevelopment plan by the legislative body of the creating agency.

4 (3) A requirement that all taxes payable from the project area pursuant to
5 subdivision (b) of Section 33670 that are allocated to the receiving agency, as
6 required by subparagraph (B) of paragraph (2), shall be available if necessary to
7 pay any indebtedness incurred by the creating agency prior to the effective date of
8 the transfer of jurisdiction in connection with the project area and the
9 redevelopment plan if that indebtedness was secured by the taxes payable from the
10 project area pursuant to subdivision (b) of Section 33670.

11 (4) If a substantial portion of the territory included within the project area is
12 transferred from the creating agency to the receiving agency, a requirement that
13 any amendment to the redevelopment plan for that portion of the territory of the
14 project area under the jurisdiction of the creating agency shall, in addition to any
15 other requirements under this part, be approved by an ordinance adopted by the
16 legislative body of the receiving agency, and that any amendment to the
17 redevelopment plan for that portion of the territory of the project area under the
18 jurisdiction of the receiving agency shall, in addition to any other requirements
19 under this part, be approved by an ordinance adopted by the legislative body of the
20 creating agency.

21 (5) If a substantial portion of the territory included within the project area is
22 transferred from the creating agency to the receiving agency, a provision
23 permitting the creating agency to undertake activities to implement the
24 redevelopment plan in portions of the project area under the territorial jurisdiction
25 of the receiving agency or for the receiving agency to undertake activities to
26 implement the redevelopment plan in portions of the project area under the
27 territorial jurisdiction of the creating agency.

28 (6) Any other terms and conditions that the creating agency, the receiving
29 agency, or their respective legislative bodies mutually determine to be necessary
30 or desirable to facilitate the transfer of territorial jurisdiction over all, or a
31 substantial portion, of the project area and the implementation of the
32 redevelopment plan.

33 (d) The effective date of the transfer of territorial jurisdiction is the first day of
34 the fiscal year that begins following the effective date of the resolution adopted
35 pursuant to paragraph (1) of subdivision (b), or the effective date of the later
36 enacted of the ordinances adopted pursuant to paragraph (2) of subdivision (b),
37 whichever date is later.

38 (e) On and after the effective date of the transfer of territorial jurisdiction:

39 (1) Except as otherwise provided by the agreement entered into pursuant to
40 paragraph (1) of subdivision (b), the receiving agency and its legislative body shall
41 have all of the rights, powers, and responsibilities provided by this part with
42 respect to all, or the portion, of the project area for which the territorial jurisdiction

1 has been transferred to the receiving agency and with respect to all, or the portion,
2 of the redevelopment plan for all, or that portion, of the project area.

3 (2) The debts and any other obligations of the creating agency or its legislative
4 body in connection with the project area, or a substantial portion of the project
5 area transferred to the receiving agency, as the case may be, or the redevelopment
6 plan for that project area, or portion of the project area, shall be assumed by the
7 receiving agency.

8 (3) For the purposes of this part, including Section 33670, the redevelopment
9 plan for all, or a substantial portion, of the project area for which territorial
10 jurisdiction is transferred from the creating agency to the receiving agency
11 pursuant to this section shall be considered to have been adopted by the legislative
12 body of the receiving agency on the date the redevelopment plan was originally
13 adopted by the legislative body of the creating agency.

14 **§ 33216.1. Territorial jurisdiction of Orange County Neighborhood Development and**
15 **Preservation Project**

16 33216.1. (a) The Legislature finds and declares all of the following:

17 (1) The Orange County Board of Supervisors established the Neighborhood
18 Development and Preservation Project on June 28, 1988.

19 (2) The Orange County Neighborhood Development and Preservation Project
20 consists of 13 independent areas either within the territorial jurisdiction of
21 incorporated cities or the sphere of influence of existing cities.

22 (3) The County of Orange and affected cities are in agreement that the territorial
23 jurisdiction for the Neighborhood Development and Preservation Project areas for
24 those areas presently within the boundaries of an incorporated city, and areas
25 which upon their annexation or inclusion otherwise are included within the
26 boundaries of an incorporated city should be transferred to the appropriate city.

27 (b) If any portion, including a subarea of the Orange County Neighborhood
28 Development and Preservation Project, of the territory is currently within the
29 boundaries of a city, or is subsequently annexed to a city or otherwise included
30 within the boundaries of a city, the territorial jurisdiction of the agency of the
31 county over that portion including a subarea of the project area, of the territory in
32 the Orange County Neighborhood Development and Preservation Project may be
33 transferred from the agency of the county to the agency of the city pursuant to
34 Section 33216, except as provided below:

35 (1) If any portion, including a subarea of the Orange County Neighborhood
36 Development and Preservation Project is transferred from the agency of the county
37 to the agency of the city pursuant to this subdivision, the city ordinance adopting
38 the same redevelopment plan as adopted by the board of supervisors may include
39 an amendment to the plan. Any public notice required to amend the plan shall
40 apply only to the portion, including a subarea, jurisdictionally transferred to the
41 agency of the city.

1 (2) Notwithstanding paragraph (4) of subdivision (c) of Section 33216, any
2 amendment adopted by the agency of the city shall not require the approval of the
3 board of supervisors, unless that amendment would violate any agreement entered
4 into by the agency of the county or the board of supervisors, as determined by the
5 board of supervisors, prior to the effective date of the transfer of territorial
6 jurisdiction.

7 **§ 33216.5. Territorial jurisdiction of Shasta Dam Area Redevelopment Project**

8 33216.5. (a) The Legislature finds and declares all of the following:

9 (1) The City of Shasta Lake, which is located in the County of Shasta, was
10 incorporated on July 2, 1993.

11 (2) The Shasta Dam Area Redevelopment Project, which was established in July
12 1991, is located within the City of Shasta Lake.

13 (3) The City of Shasta Lake and the County of Shasta are in agreement that
14 territorial jurisdiction for the Shasta Dam Area Redevelopment Project should be
15 transferred from the redevelopment agency of the County of Shasta to the
16 redevelopment agency of the City of Shasta Lake. Pursuant to subdivision (b) of
17 Section 33215, the city council has adopted an ordinance declaring the need for an
18 agency to function in the city.

19 (4) Under subdivision (c) of Section 33215, however, the transfer of jurisdiction
20 for the Shasta Dam Area Redevelopment Project cannot become effective until the
21 first day of the first fiscal year beginning after the adoption of the later of the
22 required ordinances.

23 (5) Because the City of Shasta Lake was incorporated on the second day of the
24 current fiscal year, the city is uniquely burdened by the requirement of existing
25 law, which delays until July 1, 1994, the effectiveness of the agreement to transfer
26 the redevelopment project from the agency of the county to the agency of the city.

27 (6) Therefore, to effectuate the purposes of the Community Redevelopment
28 Law, the transfer of the territorial jurisdiction for the Shasta Dam Area
29 Redevelopment Project from the redevelopment agency of the County of Shasta to
30 the redevelopment agency of the City of Shasta Lake should be authorized
31 forthwith.

32 (b) Notwithstanding Section 33215 or any other provision of law, territorial
33 jurisdiction for the Shasta Dam Area Redevelopment Project is hereby transferred,
34 as of the effective date of the act that adds this section, from the redevelopment
35 agency of the County of Shasta to the redevelopment agency of the City of Shasta
36 Lake under the terms and conditions agreed upon by the city and county.

37 **§ 33217. Agreement between creating and receiving agency**

38 33217. If a portion of a city containing a portion of a redevelopment project area
39 is incorporated as a new city, and the new city establishes an agency to be the
40 receiving agency for that portion of the project area, the creating agency and the
41 receiving agency shall have six months from the date of the establishment of that

1 receiving agency to enter into an agreement pursuant to Section 33216. If that
2 agreement is not entered into within that six-month period, the creating agency
3 shall not thereafter expend any money pursuant to this part or Part 1.5
4 (commencing with Section 34000) within the project area, except to repay existing
5 indebtedness, until those agencies have entered into that agreement. That
6 indebtedness shall include outstanding bonded indebtedness, existing agreements,
7 contracts, leases, and expenditures made to, or on behalf of, the project area from
8 other resources or borrowings of the creating agency.

9 Article 3. Aid, Assistance, and Cooperation

10 **§ 33220. Assistance in redevelopment by public body**

11 33220. For the purpose of aiding and co-operating in the planning, undertaking,
12 construction, or operation of redevelopment projects located within the area in
13 which it is authorized to act, any public body, upon the terms and with or without
14 consideration as it determines, may:

15 (a) Dedicate, sell, convey, or lease any of its property to a redevelopment
16 agency.

17 (b) Cause parks, playgrounds, recreational, community, educational, water,
18 sewer or drainage facilities, or any other works which it is otherwise empowered
19 to undertake, to be furnished adjacent to or in connection with redevelopment
20 projects.

21 (c) Furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan
22 streets, roads, roadways, alleys, sidewalks, or other places which it is otherwise
23 empowered to undertake.

24 (d) Plan or replan, zone or rezone any part of such area and make any legal
25 exceptions from building regulations and ordinances.

26 (e) Enter into agreements with the federal government, an agency, or any other
27 public body respecting action to be taken pursuant to any of the powers granted by
28 this part or any other law; such agreements may extend over any period,
29 notwithstanding any law to the contrary.

30 (f) Purchase or legally invest in any of the bonds of an agency and exercise all of
31 the rights of any holder of such bonds.

32 (g) Purchase and buy or otherwise acquire land in a project area from an agency
33 for redevelopment in accordance with the plan, and in connection therewith, is
34 hereby authorized to become obligated in accordance with Section 33437 except
35 that subdivision (b) of Section 33437 shall apply to a public body only to the
36 extent that it is authorized (and funds have been made available) to make the
37 redevelopment improvements or structures required.

1 § 33221. **Agency bonds and obligations**
2 33221. The bonds and obligations issued by an agency also may be purchased,
3 invested in, or used for security as authorized in Section 33663.

4

5 PART 1.7. COMMUNITY DEVELOPMENT
6 COMMISSION

7 CHAPTER 1. DEFINITIONS

8 § 34100. **“Community”**

9 34100. “Community” means a city, county, city and county, or Indian tribe,
10 band or group which is incorporated or which otherwise exercises some local
11 governmental powers.

12 § 34101. **“Commission”**

13 34101. “Commission” means a community development commission created by
14 this part.

15 § 34102. **“Redevelopment agency”**

16 34102. “Redevelopment agency” means a redevelopment agency created
17 pursuant to the Community Redevelopment Law, Part 1 (commencing with
18 Section 33000).

19 § 34103. **“Housing authority”**

20 34103. “Housing authority” means a housing authority created pursuant to the
21 Housing Authorities Law, Chapter 1 (commencing with Section 34200) of Part 2.

22 § 34104. **“Legislative body”**

23 34104. “Legislative body” means the city council, board of supervisors, or other
24 legislative body of the community.

1 CHAPTER 2. ESTABLISHMENT, CREATION, AND
2 SUSPENSION OF COMMISSION

3 Article 1. Declaration of Creation and Establishment

4 **§ 34110. Community development commission**

5 34110. There is hereby created and established in each community a public
6 body, corporate and politic, known as the community development commission.

7 **§ 34111. Redevelopment agency and housing authority**

8 34111. There is also in each community a public body, corporate and politic,
9 known as the redevelopment agency of the community. There is also in each
10 community a public body, corporate and politic, known as the housing authority of
11 the community. Nothing in this part changes the existence of such entities as
12 separate public bodies, corporate and politic.

13 **§ 34112. Purpose of commission**

14 34112. The commission is created and established in order that a community
15 may have the option of operating and governing its redevelopment agency, or its
16 redevelopment agency and its housing authority, under a single operating entity
17 and board. The commission is also created and established for the purpose of
18 exercising any other powers regarding community development which the
19 legislative body of a community may desire to delegate to the commission subject
20 to such conditions as may be imposed by the legislative body.

21 Article 2. Procedures Making Commission Operative

22 **§ 34115. Declaration of need for commission**

23 34115. A commission may not transact any business or exercise any powers
24 under this part unless, by ordinance, the legislative body declares that there is need
25 for a commission to function in the community. The ordinance of the legislative
26 body declaring that there is need for a commission to function in the community
27 shall be subject to referendum as prescribed by law for a county or a city
28 ordinance.

29 **§ 34115.5. Declaration of commission function**

30 34115.5. The ordinance of the legislative body declaring a need for a
31 commission to function in the community may declare a need that the commission
32 function only with respect to a redevelopment agency or that the commission
33 function with respect to a redevelopment agency and a housing authority. If the
34 ordinance declares a need that the commission function only with respect to a

1 redevelopment agency, then the commission shall not have the powers, duties, and
2 responsibilities of a housing authority and the provisions requiring that two of the
3 commissioners be tenants of the housing authority shall be inapplicable.

4 **§ 34116. Filing of ordinance**

5 34116. The commission shall cause a certified copy of the ordinance to be filed
6 with the Department of Housing and Community Development.

7 **§ 34117. Authority to act**

8 34117. In any proceeding involving the validity or enforcement of, or relating
9 to, any contract by a commission, the commission is conclusively deemed to have
10 been established and authorized to transact business and exercise its powers upon
11 proof of the filing with the Secretary of State and with the Department of Housing
12 and Community Development of such an ordinance.

13 **§ 34118. Commission established prior to 1978**

14 34118. Notwithstanding Section 34140 or any other provision of this part, a
15 commission established prior to January 1, 1978, shall not be vested with the
16 powers, duties, and responsibilities of the commissioners of the housing authority,
17 nor shall the commission operate and govern the housing authority, unless:

18 (a) The ordinance adopted by the legislative body declaring a need for the
19 commission to function in the community declares, or is subsequently amended to
20 declare, that the commission shall be vested with the rights, powers, duties, and
21 responsibilities of the commissioners of the housing authority; or

22 (b) Prior to the effective date of this section, the commission has assumed and
23 exercised the rights, powers, duties, and responsibilities of the commissioners of
24 the housing authority.

25 **Article 3. Legislative Body as Commission**

26 **§ 34120. Declaration of legislative body as commission**

27 34120. (a) The legislative body may, at the time of the adoption of an ordinance
28 declaring that there is a need for a commission to function in the community or at
29 any time thereafter, by adoption of an ordinance, declare itself to be the
30 commission, in which case all of the rights, powers, duties, privileges, and
31 immunities vested by this part in a commission, except as otherwise provided in
32 this part, shall be vested in the legislative body of the community.

33 However, in any community in San Bernardino County that is a charter city, the
34 adoption of any order or resolution by the legislative body acting as the
35 commission shall be governed by the same procedures as are set forth in the
36 provisions of the charter, and the mayor shall be chairperson of the commission,
37 having the same power and authority in the conduct of the commission and the

1 meetings of the legislative body acting as the commission that the mayor has in the
2 conduct of the affairs of the city.

3 (b) If the legislative body has declared itself to be the commission, the
4 legislative body shall appoint two additional commissioners who are tenants of the
5 housing authority if the housing authority has tenants. One tenant commissioner
6 shall be over 62 years of age if the housing authority has tenants of that age. If the
7 housing authority does not have tenants, the legislative body shall, by ordinance,
8 provide for the appointment to the commission of two tenants of the housing
9 authority, one of whom shall be over 62 years of age if the housing authority has
10 tenants of that age, within one year after the housing authority first has tenants.
11 The term of any tenant appointed pursuant to this subdivision shall be two years
12 from the date of appointment. If a tenant commissioner ceases to be a tenant of the
13 housing authority, he or she shall be disqualified from serving as a commissioner
14 and another tenant of the housing authority shall be appointed to the remainder of
15 the unexpired term. A tenant commissioner shall have all the powers, duties,
16 privileges, and immunities of any other commissioner.

17 (c) As an alternative to the appointment of tenants of the housing authority as
18 commissioners pursuant to subdivision (b), if a community development
19 committee is created as provided in Section 34120.5, the governing body may
20 make tenant appointments pursuant to subdivision (b) to the committee, rather
21 than to the commission.

22 **§ 34120.5. Community development committee**

23 34120.5. (a) A legislative body which has declared itself to be the commission
24 pursuant to Section 34120 may, by ordinance, create a community development
25 committee of not more than seven members, or not more than nine members if
26 tenant appointments are made pursuant to Section 34120. The terms of office,
27 qualifications, and method of appointment and removal shall be as provided by
28 ordinance.

29 (b) If a community development committee is created, its function shall be to
30 review and make recommendations on all matters to come before the commission
31 prior to commission action, except emergency matters, and matters which the
32 committee, by resolution, excludes from committee review and recommendation.
33 The legislative body may provide for procedures for review and recommendation,
34 and for further functions of the committee, by ordinance or resolution, and may
35 delegate any of its functions as the community development commission to the
36 committee.

37 **§ 34121. Cessation of legislative body as commission**

38 34121. A legislative body which has declared itself to be the commission
39 pursuant to Section 34120 may at any time by resolution determine that it shall no
40 longer function as the commission, in which event, the mayor or chairman of the
41 board of supervisors or similar official, with the approval of the legislative body,

1 shall appoint resident electors of the community as members of the commission,
2 including two tenant commissioners as provided in Section 34130.

3 Article 4. Suspension of Commission

4 **§ 34125. Declaration of no further need for commission**

5 34125. The legislative body of the community may by ordinance declare that
6 there is no further need for the commission. Upon adoption of the ordinance the
7 offices of the commissioners are vacated and the capacity of the commission to
8 transact business or exercise any powers is suspended until the legislative body
9 subsequently adopts an ordinance declaring the need for the commission to
10 function. If the commission has outstanding bonded indebtedness issued in the
11 name of the commission, the legislative body of the community may adopt an
12 ordinance declaring there is no further need for the commission only if the
13 unanimous consent of the commissioners is first obtained.

14 **§ 34126. Filing of ordinance**

15 34126. The legislative body of the community shall file with the Secretary of
16 State and with the Department of Housing and Community Development a
17 certified copy of any ordinance suspending a commission.

18 CHAPTER 3. APPOINTMENT, COMPENSATION, AND
19 REMOVAL OF COMMISSIONERS

20 **§ 34130. Appointment of commissioners**

21 34130. (a) When the legislative body adopts an ordinance declaring the need for
22 a commission, the mayor or chairman of the board of supervisors or similar
23 official, with the approval of the legislative body, shall appoint the number of
24 resident electors of the community as commissioners as the legislative body
25 prescribe by ordinance. The legislative body by ordinance may increase or
26 decrease the number of commissioners. The legislative body, except as otherwise
27 expressly provided in subdivision (b), shall establish and provide for the terms,
28 and removal of the commissioners. The legislative body shall provide procedures
29 for appointment or election of the officers of the commission.

30 (b) Two of the commissioners shall be tenants of the housing authority if the
31 housing authority has tenants. One such tenant commissioner shall be over the age
32 of 62 years if the housing authority has tenants of such age. If the housing
33 authority does not have tenants, the legislative body shall, by ordinance, provide
34 for appointment to the commission of two tenants of the housing authority within
35 one year after the housing authority first does have tenants. The term of any tenant
36 commissioner appointed pursuant to this subdivision shall be two years from the

1 date of appointment. If a tenant commissioner ceases to be a tenant of the housing
2 authority, he shall be disqualified from serving as a commissioner and another
3 tenant of the housing authority shall be appointed to serve the remainder of the
4 unexpired term. A tenant commissioner shall have all the powers, duties,
5 privileges, and immunities of any other commissioner.

6 (c) Upon the appointment and qualification of a majority of the commissioners,
7 the commission shall be vested with all the powers, duties, and responsibilities of
8 the members of the redevelopment agency and, if the legislative body so elects,
9 the commissioners of the housing authority. Members of the redevelopment
10 agency and commissioners of a housing authority which has been placed under the
11 jurisdiction of the commission shall have no powers, duties, and responsibilities as
12 long as the commission functions.

13 **§ 34130.5. Expenses and compensation**

14 34130.5. (a) Commissioners shall receive their actual and necessary expenses,
15 including traveling expenses incurred in the discharge of their duties. The
16 legislative body may also provide for other compensation pursuant to either
17 subdivision (b) or (c).

18 (b) If the ordinance of the legislative body declaring the need for a commission
19 to function within the community declares that need only with respect to a
20 redevelopment agency, the compensation provided by the legislative body shall
21 not exceed seventy-five dollars (\$75) for each commissioner for each meeting of
22 the commission attended by that commissioner. No commissioner shall receive
23 compensation for attending more than two meetings of the commission in any
24 calendar month.

25 (c) If the ordinance of the legislative body declaring the need for a commission
26 to function within the community declares that need with respect to a
27 redevelopment agency and a housing authority, the compensation provided by the
28 legislative body shall not exceed one hundred fifty dollars (\$150) for each
29 commissioner for each meeting of the commission attended by that commissioner.
30 No commissioner shall receive compensation for attending more than two
31 meetings of the commission in any calendar month.

32 **§ 34131. Conflict of interest**

33 34131. A commissioner, unless the legislative body is the commission, may not
34 be an elective officer or an employee of the community, but may be a member,
35 commissioner, or employee of any other agency or authority in the community.

1 CHAPTER 4. NATURE, JURISDICTION, AND GENERAL
2 POWERS OF COMMISSION

3 **§ 34140. Vesting of powers**

4 34140. The powers duties, and responsibilities of the commission, the
5 redevelopment agency, and the housing authority are vested in the commissioners
6 in office. Each commission exercises governmental functions and has the powers
7 prescribed in this part. Each commission is performing a public function of the
8 community.

9 **§ 34141. Nature of powers**

10 34141. The nature, power, authority, functions and jurisdiction of the
11 commission include, but are not limited to, all of the nature, power, authority,
12 functions, and jurisdiction of redevelopment agencies and housing authorities. The
13 commission also has the nature, power, authority, functions, and jurisdiction
14 relating to community development as may be delegated to the commission by the
15 legislative body, subject to such conditions as may be imposed by the legislative
16 body.

17 **§ 34143. Powers of commission**

18 34143. A commission may:

19 (a) Sue and be sued.

20 (b) Have a seal.

21 (c) Make and execute contracts and other instruments necessary or convenient to
22 the exercise of its powers.

23 (d) Make, amend, and repeal bylaws and regulations not inconsistent with, and
24 to carry into effect the powers and purposes of this part and all other powers and
25 purposes delegated to them by the legislative body.

26 **§ 34144. Personnel of commission**

27 34144. (a) A commission may select, appoint, and employ such permanent and
28 temporary officers, agents, counsel, and employees as it requires, and determine
29 their qualifications, duties, benefits, and compensation, subject only to the
30 conditions and restrictions imposed by the legislative body on the expenditure or
31 encumbrance of the budgetary funds appropriated to the commission. The
32 commission shall adopt personnel rules and regulations applicable to all its
33 employees. Such rules shall contain procedures affecting conflicts of interest, use
34 of funds, personnel procedures on hiring and firing including removal of personnel
35 for inefficiency, neglect of duties, or misconduct in office. Such rules and
36 regulations shall be a public record.

37 (b) A commission may contract with the Department of Housing and
38 Community Development or any other agency or entity for the furnishing by the

1 department, agency, or entity of any necessary staff services associated with or
2 required and which could be performed by the staff of a commission.

3 **§ 34145. Other personnel assistance**

4 34145. In addition to all other powers and authorities of the commission, the
5 commission may hire, employ, or contract for staff, contractors, and consultants,
6 or the commission may use community staff, contractors or consultants under
7 contract or other arrangements with the community at the expense of the
8 commission, the community, the redevelopment agency, or the housing authority.

9 **§ 34146. Grants or loans**

10 34146. Any grants or loans of money appropriated by the legislative body of the
11 community to the commission is not to be construed as making the commission a
12 department of the community or placing the officers, agents, counsel, and
13 employees under civil service of the community.

14 **§ 34147. Financial assistance**

15 34147. The commission may accept financial assistance from public or private
16 sources for the purposes of this part.

17 **§ 34148. Other financial assistance**

18 34148. The commission may accept any other assistance from the state or
19 federal government or any public or private source for any of the commission's
20 activities, powers, and duties.

21 **§ 34149. Other powers**

22 34149. The commission shall have such other powers as may be authorized by
23 the legislative body of the community.

24 **§ 34150. Delegation of power and authority**

25 34150. The legislative body of the community may delegate to or establish in a
26 general manager, executive director, or administrator of the community or of the
27 commission any or all of the power and authority of the commission for the
28 administration of the activities of the commission, the redevelopment agency, or
29 the housing authority. The commission may also delegate and establish any or all
30 of the power and authority of the commission in a general manager, executive
31 director, or administrator of the community or commission.

32 **§ 34151. Power of chartered city**

33 34151. A chartered city may enact its own procedural ordinance and exercise
34 powers granted by this part.

1 **§ 34152. Delegation of powers or functions to community**

2 34152. A commission is authorized to delegate to a community any of the
3 powers or functions of the commission and such community is hereby authorized
4 to carry out or perform such powers or functions for the commission.

5 **CHAPTER 5. COMMUNITY REDEVELOPMENT LAW AND**
6 **HOUSING AUTHORITIES LAW**

7 **§ 34160. Inconsistent provisions of law**

8 34160. Inconsistent provisions of the Community Redevelopment Law Part 1
9 (commencing with Section 33000) and the Housing Authorities Law Chapter 1
10 (commencing with Section 34200) of Part 2 are inoperative during the time that an
11 ordinance has been adopted declaring a need for the commission to function, the
12 commissioners have been appointed and qualified or the legislative body has
13 declared itself to be the commission, and no suspension ordinance has been
14 adopted.

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