

Memorandum 2012-22

**Community Redevelopment Law Cleanup:
Preparation and Adoption of a Redevelopment Plan**

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 Articles 4, 4.5, 5, and 5.5 of Chapter 4 of Part 1 of Division 24 of the Health and Safety Code (Health & Safety Code §§ 33330-33354.6, 33355-33378.5). That statutory material is reproduced in the attached Exhibit. It relates to preparation and adoption of a redevelopment plan.

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.

ANALYSIS OF CHAPTER 4 — REDEVELOPMENT PROCEDURES AND ACTIVITIES

Chapter 4 of the Community Redevelopment Law (Health & Safety Code §§ 33300-33490) is entitled “Redevelopment Procedures and Activities.” The chapter consists of numerous articles, three of which were already analyzed in Memorandum 2012-15 (the articles entitled “Community Prerequisites,” “Designation of Survey Area,” and “Selection of Project Area and Formulation of Preliminary Plans”).

This memorandum focuses on Articles 4, 4.5, 5, and 5.5 (Health & Safety Code §§ 33330-33354.6, 33355-33378.5), which relate to preparation and adoption of a redevelopment plan. The remaining articles will be analyzed in future memoranda.

Of the four articles discussed in this memorandum, Article 4 is by far the longest. It describes the steps that a redevelopment agency (“RDA”) must take before submitting a redevelopment plan to the local legislative body for approval. We analyze that article first, and then turn to Article 5, which describes the process that a local legislative body must follow in reviewing a redevelopment plan proposed by an RDA. Next, we analyze Article 4.5, which authorizes an alternative procedure in which an RDA and a local legislative body jointly conduct a public hearing on a proposed redevelopment plan. Finally, we discuss Article 6, which concerns the referendum procedure applicable to a redevelopment plan.

ARTICLE 4. PREPARATION AND ADOPTION OF A REDEVELOPMENT PLAN BY AN RDA

Article 4 (Sections 33330-33354.6) is entitled “Preparation and Adoption of Redevelopment Plans by the Agency.” Some of the material in that article relates to subjects we plan to cover in other memoranda. Specifically,

- Sections 33333.10(g), 33334.2(a)-(c) & (h)-(k), 33334.3(a)-(b) & (i), 33334.6(b)-(i), 33334.9, 33334.10, 33334.12, 33334.15, and 33334.25 relate to the financial aspects of redevelopment. For coverage of that subject matter, see Memorandum 2012-23 (revenue) and Memorandum 2012-24 (funding obligations), which are on the agenda for the Commission’s June meeting.
- Sections 33339, 33340, 33345, and 33347.5 relate to owner participation and project area committees. We plan to discuss that subject matter in Memorandum 2012-25, for consideration at the upcoming June meeting.
- Sections 33354.5 and 33354.6 relate to amending a redevelopment plan. We plan to discuss that subject matter in a memorandum for the Commission’s August meeting.

For purposes of analysis, the remaining provisions in Article 4 can be organized into the following subject matter groups:

- General rules for preparation of a redevelopment plan.
- Geographically specific rules for preparation of a redevelopment plan.
- Time limits and fiscal limits relating to a redevelopment plan.
- Conditions for, and consequences of, extending time limits in a redevelopment plan adopted on or before December 31, 1993.
- Special time limit or fiscal limit for a specific geographic area.

- Affordable housing obligations.
- Geographically specific rules relating to affordable housing.
- Definitions.

There is some overlap between these groups, which we will address as needed. The discussion below applies the Commission's two-step methodology to each of these subject matter groups.

General Rules for Preparation of a Redevelopment Plan

Sections 33330-33331, 33332-33333, 33333.3, 33334, 33335-33338, 33339.5, 33341-33344.6, 33346-33347, 33348-33349, and 33350-33352 can be classified as general rules governing preparation of a redevelopment plan. We describe the content of those provisions below, and then apply the Commission's two-step methodology.

Description of Statutory Content

Section 33330 directs each RDA to prepare and approve a redevelopment plan for each project area. The plan must be consistent with the community's general plan and based on the preliminary plan, which was described in Memorandum 2012-15. See Sections 33331, 33332. Among other things, the redevelopment plan must contain a legal description of the project area (Section 33332) and must show by diagram and in general terms the street layout, approximate amount of open space and number of dwelling units, property to be devoted to public purposes and nature of those purposes, and limitations on the type, size, height, number, and proposed use of buildings (Section 33333).

Every redevelopment plan must describe the proposed method of financing for the redevelopment project. Section 33334. The plan may provide for the RDA to issue bonds and use the proceeds for the project, so long as it contains adequate provision for timely repayment of the principal and interest. Section 33341.

A redevelopment plan may provide for the RDA to acquire all or part of the real property in the project area, by gift, purchase, lease, or condemnation. Section 33342. The plan shall provide for the RDA to lease or sell all the real property it acquires, except property conveyed by it to the community. Section 33335. A plan adopted after January 1, 2007, must also describe the RDA's program to acquire real property by eminent domain. Section 33342.5. If a redevelopment plan was adopted earlier, it must be supplemented by an

ordinance describing the RDA's program to acquire real property by eminent domain. Section 33342.7.

The redevelopment plan must contain adequate safeguards and controls, including covenants running with land sold or leased for private use, to ensure that the redevelopment project will be carried out pursuant to the plan. Section 33336; see also Section 33338. In particular, the redevelopment plan must require certain nondiscrimination clauses in all deeds, leases, or other real estate contracts pertaining to the project. Section 33337. (These nondiscrimination clauses will be discussed in detail in a future memorandum.)

In preparing a redevelopment plan, an RDA may hold hearings and conduct examinations, investigations and other negotiations. Section 33330. The RDA is to consult with the local planning commission (*id.*), and must submit its proposed plan to the planning commission before it presents the plan to the legislative body for approval (Section 33346). The planning commission has 30 days to review the plan, assess whether it conforms to the community's general plan, and prepare a report recommending for or against approval. Sections 33346, 33347. If an RDA excludes land from a project area in response to the planning commission's report, the RDA must give the planning commission an opportunity to prepare an additional report evaluating the effect of that change. Section 33350.5.

In some cases, the RDA must also consult with a project area committee. Section 33330. The composition and role of a project area committee will be discussed in Memorandum 2012-25.

A redevelopment plan may provide for expenditure of money by the community, and may call on the community to undertake and complete any proceedings necessary to carry out the project. Sections 33342, 33344. In preparing a plan, the RDA is required to extend "reasonable preference" to existing local businesses to reenter the project area following redevelopment. Section 33339.5. The RDA must develop rules to implement this reentry requirement, and must make those rules available for public inspection before the plan is approved. *Id.*

The RDA must also prepare a draft of an environmental impact report ("EIR"), in accordance with the California Environmental Quality Act ("CEQA"). Section 33333.3. The RDA must send that draft to each "affected taxing entity" — i.e., each governmental entity that levies a property tax in the project area during the relevant time period. Sections 33333.3(a), 33353.2. If the project area contains

land in agricultural use, the RDA must also send the draft EIR to the Department of Conservation and various other agricultural entities. Section 33333.3(b).

In addition, if the proposed redevelopment plan involves tax increment financing, the RDA shall send each affected taxing entity a preliminary report that contains all of the following:

- The reasons for selection of the project area.
- A description of the physical and economic conditions in the project area.
- A description of the project area that is sufficiently detailed to permit determination of whether the area is predominantly urbanized.
- A preliminary assessment of the proposed method of financing the redevelopment project (including an assessment of economic feasibility and the reasons for using tax increment financing).
- A description of the specific project.
- A description of how the project will improve or alleviate the existing physical and economic conditions in the project area.

Section 33344.5. If the project area contains land in agricultural use, the RDA must also send this preliminary report to the Department of Conservation and various other agricultural entities. Section 33344.5(g). With certain exceptions, the RDA must send the preliminary report to the specified entities no later than 90 days before the legislative body conducts (or the legislative body and RDA jointly conduct) a public hearing on approval of the redevelopment plan. Section 33344.6.

Before an RDA approves a redevelopment plan, it must conduct a public hearing on the proposed plan. Section 33348. There are detailed requirements regarding who must receive notice of the hearing, when and how the RDA is to provide such notice, and the contents of the notices. Sections 33349, 33350.

Upon preparation and approval of a redevelopment plan, the RDA shall submit the plan to the local legislative body for evaluation. Section 33351. The RDA must also provide the legislative body with a detailed report on the proposed project, which must include numerous specified components. See Section 33352.

Relevance After Transitional Period

The provisions described above relate to the redevelopment process. Once all redevelopment activity has ceased and all related litigation has been resolved

(i.e., the “transitional period” has ended), there will no longer be any need to specify general rules for preparation of a redevelopment plan. Therefore, these provisions (Sections 33330-33331, 33332-33333, 33333.3, 33334, 33335-33338, 33339.5, 33341-33344.6, 33346-33347, 33348-33349, and 33350-33352) **will be obsolete and should be repealed.**

Relevance During Transitional Period

During the transitional period, successor agencies will be winding down the affairs of redevelopment agencies, not commencing new redevelopment projects. A successor agency does not appear to have authority to prepare a new redevelopment plan. *Compare* Section 34164(a) (RDAs shall no longer “[p]repare, approve, adopt, amend, or merge a redevelopment plan”) *with* Section 34173 (successor agency has all authority, rights, powers, duties, and obligations previously vested with redevelopment agency, “[e]xcept for those provisions of the Community Redevelopment Law that are repealed, restricted, or revised pursuant to the act adding this part”).

Although preparation of a new redevelopment plan seems unlikely, there might still be litigation relating to one or more existing redevelopment plans. To the extent that the general rules for preparation of a redevelopment plan remain relevant during the transitional period, however, the proposed savings provision appears sufficient to ensure that repeal of those rules by the Commission’s clean-up legislation (the “Redevelopment Clean-Up Act”) would have no substantive effect.

In particular, the savings provision includes language specifically intended to ensure that the Redevelopment Clean-Up Act would have no effect on any litigation or similar proceeding relating to redevelopment. If revised as the staff recommends at page 4 of Memorandum 2012-20, paragraph (b)(4) would expressly state that the Act shall have no effect, during the transitional period, on:

- (4) Any provision of former law authorizing a redevelopment-related proceeding or specifying rules of evidence or procedure governing a redevelopment-related proceeding.

Further, the proposed savings provision broadly declares that “[t]he repeal or amendment of a provision of former law by the Redevelopment Clean-Up Act shall have no effect, during the transitional period, on the *policy, substance, construction, or application of former law with regard to any redevelopment-related*

matter” Proposed Section 33090(b) (emphasis added). That broad declaration would provide guidance not only in the event of litigation, but also in any other context where issues might arise.

In addition, the saving provision would specifically point out that the Redevelopment Clean-Up Act has no effect on:

- (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.

....

Because a successor agency essentially steps into the shoes of an RDA (see Section 34173), that language would encompass the rules governing the role of an RDA in preparing a redevelopment plan, as well as the rules specifying the rights or obligations of other entities, such as a planning commission, businesses in the project area, the local community, a project area committee, affected taxing entities, the Department of Conservation, and other agricultural entities.

The proposed savings provision would also specifically point out that the Redevelopment Clean-Up Act has no effect on:

- (5) The validity of any bond issued by a redevelopment agency.
- (6) The validity of any redevelopment-related ... 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.

That language would provide added assurance that repeal of the provisions relating to issuance of bonds, preparation of a redevelopment plan and various reports, and presentation of maps and boundary descriptions, would have no impact on the continued validity of any of those documents.

Finally, the proposed savings provision would state that the Redevelopment Clean-Up Act has no effect on:

- (7) *Any rule or procedure relating to any aspect of redevelopment, including, but not limited to, any rule relating to an ordinance, resolution, referendum, regulation, bylaw, or other legislative act in connection with redevelopment.*

....

(Emphasis added.) That language would help to ensure that repeal of the provisions specifying procedures for preparation of a redevelopment plan,

including procedures for the RDA's public hearing on the proposed plan, would have no substantive impact during the transitional period.

The current draft of the savings provision thus appears to be sufficient to ensure that repealing the general rules relating to preparation of a redevelopment plan (Sections 33330-33331, 33332-33333, 33333.3, 33334, 33335-33338, 33339.5, 33341-33344.6, 33346-33347, 33348-33349, and 33350-33352) would not result in any substantive change. However, the staff sees some possible ways to strengthen the savings provision to address this context.

In particular, we anticipate that people may especially desire assurance that repealing the provisions in question would have no effect on the following matters:

- The validity of any covenant, condition, or restriction relating to redeveloped property.
- CEQA compliance.
- The use of eminent domain.

To address those points, we suggest two changes to paragraphs in the proposed savings provision.

First, **we suggest revising paragraph (b)(6) to refer to a property use restriction, as follows:**

(b) The repeal or amendment of a provision of former law by the Redevelopment Clean-Up Act shall have no effect, during the transitional period, on the policy, substance, construction, or application of former law with regard to any redevelopment-related matter, including, but not limited to, any of the following redevelopment-related matters:

....

(6) The validity of any redevelopment-related ordinance, resolution, referendum, regulation, property use restriction, 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.

Another memorandum for the upcoming June meeting suggests the same change. See Memorandum 2012-23, p. 13.

Second, **we suggest adding two new paragraphs to subdivision (b), one on CEQA compliance and the other on the use of eminent domain:**

(b) The repeal or amendment of a provision of former law by the Redevelopment Clean-Up Act shall have no effect, during the transitional period, on the policy, substance, construction, or

application of former law with regard to any redevelopment-related matter, including, but not limited to, any of the following redevelopment-related matters:

....

(10) Any rule relating to the use of eminent domain.

(11) Any rule relating to compliance with the California Environmental Quality Act (Division 13 (commencing with Section 21000 of the Public Resources Code)).

Would the Commission like to make these revisions?

Geographically Specific Rules for Preparation of a Redevelopment Plan

In addition to the general rules discussed above, Article 4 includes some provisions that vary those rules for a particular geographic area. Those provisions are analyzed below.

Description of Statutory Content

For example, Section 33333.5 was enacted in 2000 to provide a special procedure for adoption of a redevelopment plan for a specified area in the City of South Gate. It exempts the City of South Gate from the provisions of Sections 33322-33327 (described in Memorandum 2012-15, pp. 7-20) and Section 33330 (described above) “related to the addition of new territory to existing project areas.” See Section 33333.5(a). Instead, Section 33333.5 requires the City of South Gate to conduct at least two public meetings for South Gate residents and property owners before adopting a proposed redevelopment plan for the area in question. The section also requires the City of South Gate to organize a citizens’ advisory committee “comprised of residents and property owners of the project, which shall advise the agency on development strategy and plans and other matters that may affect the residents of the project area.” Section 33333.5(b).

Similarly, Section 33349.5, enacted in 1964, establishes a special notice procedure for hearings conducted by Crescent City and its RDA on a proposed redevelopment plan. That procedure applies notwithstanding the requirements of Sections 33349 (described above) and 33361 (notice of public hearing by legislative body on redevelopment plan). Section 33349.5 also establishes a special statute of limitations for an action attacking the Crescent City redevelopment plan, which applies notwithstanding the statute of limitations stated in Section 33500 (discussed in Memorandum 2012-14).

Relevance After Transitional Period

Although Sections 33333.5 and 33349.5 state special rules for a particular geographic area, neither section includes a detailed description of the area in question. In this respect they differ from some of the provisions the Commission considered in April, which do include a detailed property description that might be worth preserving in some manner. See Memorandum 2012-15, pp. 11-12.

Further, the special rules stated in Sections 33333.5 and 33349.5 pertain to the redevelopment process and related litigation. Once the “transitional period” has ended, there will not be any need for such rules. Therefore, Sections 33333.5 and 33349.5 **will be obsolete and should be repealed.**

Relevance During Transitional Period

The staff does not know the status of the redevelopment projects in South Gate and Crescent City. It is possible that Sections 33333.5 and 33349.5 are already obsolete.

Even if the provisions have continuing relevance during the transitional period, the proposed savings provision appears satisfactory to ensure that repealing the provisions in the Redevelopment Clean-Up Act would have no substantive effect. The special procedures established by Sections 33333.5 and 33349.5 are similar in kind to the general procedures discussed earlier. **No adjustment of the savings provision appears necessary to address this context.**

Time Limits and Fiscal Limits Relating to a Redevelopment Plan

Article 4 includes a number of provisions that require a redevelopment plan to be subject to certain time limits or fiscal limits, or specify conditions for amending such limits, or both. Most of those provisions (Sections 33331.5, 33333.2, 33333.4, 33333.6, and 33334.1) are analyzed here. The lengthy provisions specifying the conditions for, and consequences of, extending certain time limits relating to a redevelopment plan adopted on or before December 31, 1993 (Sections 33333.10 and 33333.11), are discussed in the next section. A few special rules regarding time limits or fiscal limits for a specific geographic area (Sections 33333.10(h)(1) & (k), 33333.13, and 33333.14) are discussed after that.

The statutes governing time limits and fiscal limits on a redevelopment plan “have been frequently amended and are very complex.” Joseph Coomes, Jr., et al., *Redevelopment in California*, at 57 (4th ed. 2009). The requirements vary

depending on when the plan was adopted. We will try our best to describe them in a clear and understandable manner.

Description of Statutory Content

The five provisions analyzed in this section are as follows:

1. Limit on the amount of bonded indebtedness (Section 33334.1). If a redevelopment plan authorizes the issuance of bonds to be paid through tax increment financing, the plan must establish a limit on the amount of bonded indebtedness that can be outstanding at any time. See Section 33334.1. This requirement applies only to a redevelopment plan adopted on or after October 1, 1976.

2. Time limits for a redevelopment plan or territory-increasing amendment adopted on or after January 1, 1994 (Section 33333.2). Every redevelopment plan adopted on or after January 1, 1994, and every plan that is amended to add territory on or after January 1, 1994, must include a “time limit, not to exceed 12 years from the adoption of the redevelopment plan, for commencement of eminent domain proceedings to acquire property within the project area.” Section 33333.2(b)(4); see also Sections 33333.2(b) & (e), 33333.6(j). This time limit may be extended by amending the redevelopment plan, but only if the RDA finds, based on substantial evidence, that significant blight remains in the project area, and such blight cannot be eliminated without the use of eminent domain. *Id.*

If a redevelopment plan or territory-increasing amendment adopted on or after January 1, 1994, involves tax increment financing, it must also include:

- A time limit on establishing loans, advances, and indebtedness to be paid with tax increment. Section 33333.2(a)(1)(A). This limit may not exceed 20 years from adoption of the redevelopment plan. *Id.* It can be extended to as much as 30 years from plan adoption, but only if the plan is amended and the RDA finds, based on substantial evidence, that significant blight remains in the project area, and such blight cannot be eliminated without the establishment of additional debt. Section 33333.2(a)(1)(B). The limit does not prevent an RDA from incurring debt to be paid from the Low and Moderate Income Housing Fund, or establishing more debt to fulfill the RDA’s affordable housing obligations. Section 33333.2(a)(1)(A).
- A time limit on the effectiveness of the redevelopment plan, which shall not exceed 30 years from plan adoption. Section 33333.2(a)(2). After this time limit is reached, the RDA has no authority to act pursuant to the plan, except to pay previously incurred

indebtedness, enforce existing covenants and contracts, and comply with its affordable housing obligations. *Id.*

- A time limit on repaying indebtedness with tax increment, which shall not exceed 45 years from plan adoption. Section 33333.2(a)(3). After this time limit is reached, an RDA may not receive tax increment, except as necessary to comply with its affordable housing obligations. *Id.* This limit, and the preceding one, may be extended if the RDA was required to make a payment into the Educational Revenue Augmentation Fund (“ERAF”) for certain fiscal years. Section 33333.2(c), (d). Various conditions, limitations, and procedural requirements apply. *See id.*

3. Time limits for a redevelopment plan adopted on or before December 31, 1993 (Sections 33333.6). Every redevelopment plan adopted on or before December 31, 1993, is subject to the following time limits:

- A time limit on the effectiveness of the redevelopment plan, which shall not exceed 40 years from plan adoption or January 1, 2009, whichever is later. Section 33333.6(a); see also Section 33333.6(c), (d). After this time limit is reached, the RDA has no authority to act pursuant to the plan, except to pay previously incurred indebtedness, enforce existing covenants and contracts, and comply with its affordable housing obligations. Section 33333.6(a).
- A time limit on paying indebtedness and receiving tax increment pursuant to Section 33670, which shall not exceed ten years from termination of the effectiveness of the redevelopment plan. Section 33333.6(b); see also Section 33333.6(c), (d), (h).

Both of these limits may be extended if the RDA was required to make an ERAF payment for certain fiscal years. Section 33333.6(e)(2)(C)-(D), (3)(A). Various conditions, limitations, and procedural requirements apply. *See id.*

Both of these limits may also be extended, for up to ten years, under certain other circumstances. Sections 33333.10, 33333.11. Obtaining such an extension is a complicated process, subject to various restrictions and consequences. We therefore discuss it separately, in the next section.

In addition to the two time limits described above, Section 33333.6 used to require that a redevelopment plan include a time limit on establishing loans, advances, and indebtedness. The Legislature eliminated that statutory requirement as of January 1, 2002; the section now states how to amend a redevelopment plan to remove such a time limit, and how such a limit on establishing indebtedness interrelates with making ERAF payments for certain fiscal years. See Section 33333.6(e)(2)(B), (3)(B).

Neither a time limit on establishing loans, advances, and indebtedness, nor any of the other limits required by Section 33333.6, shall prevent an RDA from fulfilling its affordable housing obligations. See Section 33333.6(a), (e)(4), (f). Section 33333.6 also makes clear that it is not intended to affect any redevelopment bond or other indebtedness entered into on or before December 31, 2003, an RDA's right to receive tax increment to pay such obligations, or any litigation over whether a bond sale complied with the law as it existed on or before December 31, 2003. See Section 33333.6(g), (i).

4. Other limits for a redevelopment plan adopted on or before December 31, 1993 (Section 33333.4). A redevelopment plan involving tax increment financing, which was adopted on or after October 1, 1976, and before January 1, 1994, must contain both of the following:

- A "time limit, not to exceed 12 years from the adoption of the redevelopment plan, for commencement of eminent domain proceedings to acquire property within the project area." Section 33333.4(g)(2). This time limit may be extended by amending the redevelopment plan, but only if the RDA finds, based on substantial evidence, that significant blight remains in the project area, and such blight cannot be eliminated without the use of eminent domain. *Id.*
- A limit on the number of dollars of taxes that may be divided and allocated to the RDA pursuant to the plan. Section 33333.4(g)(1). After this time limit is reached, an RDA may not receive tax increment, except as necessary to comply with its affordable housing obligations. *Id.*

Likewise, if a redevelopment plan was adopted before October 1, 1976, the local legislative body was later statutorily required to adopt an ordinance containing limits like the two described above. See Section 33333.4(a)(1), (3). The ordinance must also contain a time limit on establishing loans, advances, and indebtedness to finance the redevelopment project. Section 33333.4(a)(2). The time and fiscal limits in the ordinance apply to the redevelopment plan as if the plan had been amended to include those limits. Section 33333.4(b). The limits shall not prevent an RDA from fulfilling its affordable housing obligations, nor be construed to allow impairment of an obligation incurred by the RDA or the local legislative body. See Section 33333.4(a)(1)-(2), (c), (d), (f). If the ordinance is challenged in litigation, the court must uphold the actions of the RDA and local legislative body, unless it finds that those actions were arbitrary or capricious. Section 33333.4(e).

5. Amendment of redevelopment plan to extend time limits due to supplemental ERAF payment (Section 33331.5). If an RDA paid a certain amount into a county's Supplemental ERAF for the 2009-10 fiscal year, the local legislative body may amend the redevelopment plan to extend the limit on its effectiveness, as well as the limit on repaying indebtedness with tax increment, by one year. Section 33331.5. The normal rules for amendment of redevelopment plans do not apply. *See id.*

Relevance After Transitional Period

The statutory provisions discussed in this section relate to the redevelopment process. Once the "transitional period" has ended, there will be no redevelopment plans, and no need to specify time limits and fiscal limits for such plans. Therefore, the above-described provisions governing such limits (Sections 33331.5, 33333.2, 33333.4, 33333.6, and 33334.1) **will be obsolete and should be repealed**.

Relevance During Transitional Period

During the transitional period, successor agencies will be winding down the affairs of redevelopment agencies, not commencing new redevelopment projects. It is questionable whether a successor agency has authority to prepare a new redevelopment plan, and or even amend an existing plan. *Compare* Section 34164(a) (RDAs shall no longer "[p]repare, approve, adopt, amend, or merge a redevelopment plan") *with* Section 34173 (successor agency has all authority, rights, powers, duties, and obligations previously vested with redevelopment agency, "[e]xcept for those provisions of the Community Redevelopment Law that are repealed, restricted, or revised pursuant to the act adding this part"). Consequently, successor agencies are unlikely to be making decisions about which time limits and fiscal limits to incorporate into a redevelopment plan.

A successor agency might still have to refer to some of the time limits and fiscal limits applicable to an existing redevelopment plan. For example, a time limit on the effectiveness of a redevelopment plan might still be relevant. But a time limit on establishing indebtedness might already be obsolete. See Sections 34161 (No RDA "shall incur new or expand existing monetary or legal obligations except as provided in this part"), 34162 (Notwithstanding any other law, an RDA "shall be unauthorized and shall not take any action to incur indebtedness"), 34173 (successor agency has all authority, rights, powers, duties, and obligations previously vested with redevelopment agency, "[e]xcept

for those provisions of the Community Redevelopment Law that are repealed, restricted, or revised pursuant to the act adding this part”), 34177 (authorizing successor agency to “continue to make payments due for enforceable obligations,” but providing no authority to incur new obligations), 34180(b) (authorizing successor agency to refund bonds or other debt of former RDA “provided, however, that no additional debt is created and debt service is not accelerated.”).

It is possible that there might still be litigation involving a time limit or fiscal limit on a redevelopment plan. In the event of such litigation, however, or other circumstances in which the above-described statutes governing time limits and fiscal limits remain relevant during the transitional period, the proposed savings provision should be sufficient to address the situation.

As previously described, the savings provision includes language specifically intended to ensure that the Commission’s clean-up legislation repealing redevelopment statutes would have no effect on any litigation or similar proceeding relating to redevelopment. See proposed Section 33090(b)(4). Further, the proposed savings provision broadly declares that the clean-up legislation “shall have no effect, during the transitional period, on the policy, substance, construction, or application of former law with regard to any redevelopment-related matter” Section 33090(b).

Supplementing that broad declaration are two illustrative provisions that are of particular importance in the context of time and fiscal limits relating to a redevelopment plan. Paragraph (b)(6) would specifically point out that the Redevelopment Clean-Up Act has no effect on “[t]he validity of any redevelopment-related ... plan,” and paragraph (b)(7) would state that the Act has no effect on “[a]ny rule or procedure relating to any aspect of redevelopment”

The current draft of the savings provision thus appears to be sufficient to ensure that repealing the above-described provisions governing time and fiscal limits on a redevelopment plan (Sections 33331.5, 33333.2, 33333.4, 33333.6, and 33334.1) would not result in any substantive change. **No adjustment of the savings provision appears necessary to address this context.**

Nonetheless, it is worth noting that some of the time periods referenced in these provisions are quite long, indicating that the redevelopment wind-down period is also likely to be lengthy. For example, the time limits on repaying indebtedness with tax increment can be as much as 45 years from plan adoption

for a plan adopted on or after January 1, 1994, and as much as 50 years from plan adoption for a plan adopted on or before December 31, 1993. It might thus be midway through the 21st century, or even later if the repayment limit has been extended, before all redevelopment-related indebtedness is repaid.

Despite this, **the staff continues to believe that the savings clause approach is advisable**, for the reasons discussed in Memorandum 2012-11. But the probable length of the transitional period, during which redevelopment statutes might remain relevant, *underscores the need for a good repository for those statutes*. Although it seems appropriate to take the statutes off the books, they must remain readily accessible to those who need to refer to them.

This reinforces the staff's previous recommendation to include a provision requiring the Legislative Counsel to publish the former redevelopment statutes on the Internet, for use as a reference. The staff suggested the following language, but solicited comment on the proposed length of the publication period:

The Legislative Counsel shall prepare and publish an electronic report comprised of the code provisions repealed by the act that added this section. *This report shall be made available on the Internet until January 1, 2023.*

Memorandum 2012-11, pp. 6-7 (emphasis added).

In April, the Commission did not resolve whether to propose such a provision, but the Legislative Counsel (Commissioner Boyer-Vine) agreed to “investigate the feasibility of maintaining an electronic compilation of former statutory redevelopment law on the Legislative Counsel website.” Minutes (April 2012), p. 6. **The Commission should pay close attention to whatever she reports about this matter.** If the Commission ultimately decides to propose such a requirement, **it should consider extending the publication period beyond the originally proposed termination date of January 1, 2023.**

Conditions for, and Consequences of, Extending Time Limits on a Redevelopment Plan Adopted On or Before December 31, 1993

As mentioned above, the time limit on the effectiveness of a redevelopment plan adopted on or before December 31, 1993, as well as the time limit on paying indebtedness and receiving tax increment pursuant to such a plan, may be extended for up to ten years pursuant to Sections 33333.10 and 33333.11. Those sections are analyzed here.

Description of Statutory Content

Obtaining an extension pursuant to Sections 33333.10 and 33333.11 is a complicated process, involving the following steps:

- The RDA must consult with each affected taxing agency, the project area committee (if any), residents, and community organizations. Section 33333.11(c), (d).
- The RDA must prepare and distribute to each affected taxing agency, the Department of Finance, and the Department of Housing and Community Development, a preliminary report containing specified information. Section 33333.11(e).
- The RDA must send the proposed amendment of the redevelopment plan to the planning commission, and give the planning commission an opportunity to prepare a report and recommendations. Section 33333.11(f).
- If the redevelopment plan was adopted before January 1, 1976, the proposed amendment must not only extend the time limits, but must also make the affordable housing requirements of Section 33413(b) applicable to the plan. Section 33333.10(i).
- The RDA must prepare a report for the local legislative body, which must satisfy all of the requirements for the preliminary report, as well as several additional requirements. Section 33333.11(h).
- If an affected taxing entity, the Department of Finance, or the Department of Housing and Community Development believes that significant remaining blight does not exist in the portion of the project area designated as blighted in the report to the legislative body, that entity may ask the Attorney General to participate in the amendment process. If the Attorney General decides to participate, the Attorney General may gather information, meet with the RDA and any affected taxing entity, consult with other state entities and redevelopment experts, and submit written evidence or present oral testimony for consideration at the public hearing on the proposed amendment. Section 33333.11(k).
- The RDA must hold a duly-noticed public hearing on the proposed amendment, and must find that significant blight remains in the project area, which cannot be eliminated without extending the effectiveness of the redevelopment plan and the receipt of property taxes. Sections 33333.10(a)-(b), 33333.11(b). The RDA must also adopt a resolution finding that (1) the community has adopted a housing element that the Department of Housing and Community Development deems in substantial compliance with the Housing Element Law, (2) during the three preceding fiscal years the Controller has not reported the RDA for a major audit violation, and (3) the Department of Housing and Community Development has issued a letter confirming that the

RDA has not accumulated an “excess surplus” in its Low and Moderate Income Housing Fund. Section 33333.10(h).

- The local legislative body must hold a duly-noticed public hearing on the proposed amendment, or conduct such a hearing jointly with the RDA. Section 33333.11(g), (i), (j). If the legislative body favors the amendment, it must pass an ordinance to that effect. Section 33333.10(j), 33333.11(j).
- The ordinance is subject to referendum. Section 33333.10(j). Additionally, the Attorney General may bring a civil action pursuant to Section 33501 to determine the validity of the amendment. Section 33333.11(l). Such an action is in addition to any other action that the Attorney General or other person may bring. *Id.*

Amending a redevelopment plan in this manner has a number of consequences aside from extending the time limits. First, after the original time limit on payment of indebtedness and receipt of property taxes has passed, the RDA can only spend tax increment funds on the portion of the project area that it identified as blighted, or as “necessary and essential parcels,” in its report to the legislative body on the proposed amendment. Section 33333.10(e); see also Section 33333.10(c). Second, although the RDA may continue to spend funds deposited in the Low and Moderate Income Housing Fund, some special rules apply. Section 33333.10(f). Third, the RDA is subject to a set of special rules governing how much it must contribute to the Low and Moderate Income Housing Fund. See Section 33333.10(g). For further discussion of these special rules, see Memorandum 2012-24.

The new time limits established in an ordinance adopted pursuant to the above-described procedure “shall not be applied to limit allocation of taxes to an [RDA] to the extent required to comply with Section 33333.8,” which relates to affordable housing. Section 33333.10(l). If those time limits conflict with an RDA’s obligations under Section 33333.8, they must be suspended as necessary to resolve the conflict. Section 33333.10(l).

Relevance After Transitional Period

Like the other provisions governing time limits for a redevelopment plan, the statutory provisions discussed in this section relate to the redevelopment process. Once the “transitional period” has ended, there will be no redevelopment plans, and no need to specify time limits for such plans.

Therefore, Sections 33333.10 and 33333.11 **will be obsolete and should be repealed.**

Relevance During Transitional Period

During the transitional period, successor agencies will be winding down the affairs of redevelopment agencies. As discussed in the preceding section, there probably will not be much need to refer to the statutes governing time limits for a redevelopment plan.

That is perhaps especially true with regard to the procedures in Sections 33333.10 and 33333.11 for *extending* the time limit on the effectiveness of a redevelopment plan or the time limit on repaying indebtedness and receiving tax increment. Seeking such an extension might be considered inconsistent with the legislative directive to “[e]xpediently wind down the affairs of the redevelopment agency” Section 34177(h) (emphasis added).

However, Sections 33333.10 and 33333.11 also specify consequences of having obtained such an extension. At least some of those rules might still have some relevance with regard to a redevelopment plan that was subject to such an extension. For example, it might be necessary for some purposes to determine whether the RDA properly contributed to the Low and Moderate Income Housing Fund during the period when such contributions were required. If so, the special rules stated in Section 33333.10(g) would be relevant. Similarly, a successor agency is supposed to “[c]ontinue to oversee development of properties until the contracted work has been completed or the contractual obligations of the former redevelopment agency can be transferred to other parties.” Section 34177(i). In overseeing such activity, it might be necessary to refer to Section 33333.10(e)’s requirement that tax increment funds can only be spent on the portion of the project area that the RDA identified as blighted, or as “necessary and essential parcels,” in its report to the legislative body on the proposed amendment.

To the extent that Sections 33333.10 and 33333.11 remain relevant during the transitional period, however, the proposed savings provision appears sufficient to ensure that repealing those sections would have no substantive effect. Although Sections 33333.10 and 33333.11 state numerous conditions, consequences, limitations, and requirements, and describe many procedural rules involving a variety of different entities, the savings provision already

includes language that seems to cover each of those points. In particular, the savings provision

- Broadly declares that the Commission’s clean-up legislation would have no effect on “the policy, substance, construction, or application of former law with regard to any redevelopment-related matter.” See proposed Section 33090(b).
- Encompasses the authority, rights, powers, duties, and obligations of all persons and entities with respect to redevelopment. See proposed Section 33090(b)(1).
- Specifically points out that the Commission’s clean-up legislation would not affect the allocation of revenue pursuant to Part 1.85 (commencing with Section 34170). See proposed Section 33090(b)(2).
- Includes language specifically intended to ensure that the Commission’s clean-up legislation would have no effect on any litigation relating to redevelopment. See proposed Section 33090(b)(4).
- Specifically points out that the Commission’s clean-up legislation would not affect “[t]he validity of any redevelopment-related ordinance, resolution, referendum, regulation, plan, report, map, boundary description, or other legally operative document” See proposed Section 33090(b)(6).
- States that the Commission’s clean-up legislation would not affect “[a]ny rule or procedure relating to any aspect of redevelopment, including, but not limited to, any rule relating to an ordinance, resolution, referendum, regulation, bylaw, or other legislative act in connection with redevelopment.” See proposed Section 33090(b)(7).

The staff does not see any gap that needs to be filled to properly account for Sections 33333.10 and 33333.11. **No adjustment of the savings provision appears necessary to address this context.**

Special Time Limit or Fiscal Limit For a Specific Geographic Area

In addition to the general provisions governing time limits and fiscal limits for a redevelopment plan, Article 4 includes some provisions that vary one or more limits for a particular geographic area.

Description of Statutory Content

In Section 33333.13(a), the Legislature “finds and declares that the Glendora Community Redevelopment Agency’s Redevelopment Plan for Glendora Project Area No. 3, as adopted on November 23, 1976, contains an unrealistically low

dollar limit on the receipt of tax increment,” which “severely restricts the ability of the Glendora Community Redevelopment Agency to address conditions of blight which remain within its Project Area No. 3.” Section 33333.13(b) therefore establishes a different dollar limit on the receipt of tax increment for Glendora Project Area No. 3, which is subject to a yearly adjustment and is to remain in effect until the expiration of the time limit on the receipt of taxes and repayment of indebtedness in the redevelopment plan for that area.

Similarly, in Section 33333.14(a) the Legislature finds and declares that the Centre City redevelopment plan approved by the City of San Diego contains an unrealistically low dollar limit on the receipt of tax increment, which severely restricts the RDA’s ability “to address conditions of blight which remain within its Centre City Redevelopment Project.” Section 33333.14(b) therefore eliminates that dollar limit altogether, until the expiration of the time limit on the receipt of taxes and repayment of indebtedness in the redevelopment plan for that area.

Section 33333.7 presents a different variation. It permits the San Francisco RDA to incur indebtedness for certain Low and Moderate Income Housing Fund activities “[n]otwithstanding the time limits in paragraph (1) of subdivision (a) of Section 33333.6, as that paragraph (1) read on December 31, 2001” — i.e., the former statutory requirement that a redevelopment plan include a time limit of up to 20 years on establishing loans, advances, and indebtedness (see 2000 Cal. Stat. ch. 135, § 97; 2001 Cal. Stat. ch. 741, § 5). Because Section 33333.7 primarily relates to affordable housing, we analyze it with several other geographically specific affordable housing provisions later in this memorandum, rather than here.

Notably, however, Section 33333.7 is referenced in Section 33333.10, one of the lengthy provisions on extending the time limit on the effectiveness of a redevelopment plan adopted on or before December 31, 1993, and the time limit on repaying indebtedness and receiving tax increment pursuant to such a plan. Specifically, subdivision (k) of Section 33333.10 makes that section inapplicable to “a project area that retains its eligibility to incur indebtedness and receive tax increment revenues pursuant to Section 33333.7.”

Section 33333.10 also contains another geographically specific rule: In San Diego, an RDA proposing to extend a time limit pursuant to that section is, in some circumstances, excused from establishing that the community has adopted a housing element that the Department of Housing and Community Development deems in substantial compliance with the Housing Element Law.

Instead, it is enough for the RDA to find that “an eligible city or county within the jurisdiction of the San Diego Association of Governments has adopted a self-certification of compliance with its adopted housing element pursuant to Section 65585.1 of the Government Code.” Section 33333.10(h)(1).

Relevance After Transitional Period

Although Sections 33333.10(h)(1) & (k), 33333.13, and 33333.14 state special rules for a particular geographic area, none of those provisions includes a detailed description of the area in question. Further, the special rules stated in those sections pertain to the redevelopment process and related litigation. Once the “transitional period” has ended, there will not be any need for such rules. Therefore, **Sections 33333.10(h)(1) & (k), 33333.13, and 33333.14 will be obsolete and should be repealed.**

Relevance During Transitional Period

The staff does not know the status of the redevelopment projects referenced in Sections 33333.13 and 33333.14. It is possible that one or both of those sections are already obsolete. It also seems unlikely that there will be much need to refer to Sections 33333.10(h)(1) and (k) during the transitional period, because successor agencies will be winding down the affairs of redevelopment agencies, and probably will not be endeavoring to extend any redevelopment time limits.

Even if some or all of these provisions have continuing relevance during the transitional period, the proposed savings provision appears satisfactory to ensure that repealing them in the Commission’s clean-up legislation would have no substantive effect. The special dollar limits established by Sections 33333.13 and 33333.14 are similar to the dollar limits discussed earlier. The special finding that Section 33333.10(h)(1) allows for San Diego is comparable to the finding that it requires for other jurisdictions. Section 33333.10(k) simply limits the application of that section; it does not establish any new statutory requirement that requires consideration. **No adjustment of the savings provision appears necessary to address this context.**

Affordable Housing Obligations

Article 4 includes numerous provisions establishing general rules relating to affordable housing. Many of those provisions (Sections 33331.4, 33333.8, 33334.2(d)-(g)(1), (i), 33334.3(c)-(h), 33334.4, 33334.5, 33334.7, 33334.8, 33334.13, 33334.14, 33334.16, 33334.19, and 33334.25) are discussed below. The rules

governing RDA contributions to the Low and Moderate Income Housing Fund, accounting rules applicable to that fund, and similar funding matters (Sections 33334.2(a)-(c), (h), (j)-(k), 33334.3(a)-(b), (i), 33334.6, 33334.9-33334.12, 33334.15, and 33334.25) are discussed in Memorandum 2012-24. Geographically specific rules relating to affordable housing (Sections 33333.7, 33334.2(g)(2), 33334.2a, and 33334.22) are discussed later in this memorandum.

Description of Statutory Content

In Article 4, the Legislature “finds and declares that the provision of housing is itself a fundamental purpose of the Community Redevelopment Law and that a generally inadequate statewide supply of decent, safe, and sanitary housing affordable to persons and families of low or moderate income ... threatens the accomplishment of the primary purposes of the Community Redevelopment Law, including job creation, attracting new private investments, and creating physical, economic, social, and environmental conditions to remove and prevent the recurrence of blight.” Section 33334.6(a). The Legislature also finds and determines that having RDAs provide affordable housing through tax increment funds is “of statewide benefit and of particular benefit and assistance to all local governmental agencies in the areas where the housing is provided.” *Id.*

Consistent with those findings, the Legislature established several different types of affordable housing obligations in the redevelopment context, including:

- The obligation to make deposits to and expenditures from the Low and Moderate Income Housing Fund.
- The obligation to eliminate shortfalls in deposits to the Low and Moderate Income Housing Fund (“project deficits”).
- The obligation to expend or transfer “excess surplus” funds in the Low and Moderate Income Housing Fund.
- The obligation to provide relocation assistance to persons displaced by redevelopment.
- The obligation to provide replacement housing.
- The obligation to provide “inclusionary housing.”

Section 33333.8(a). In seeking assistance pursuant to a housing program administered by the California Housing Finance Agency, the Department of Housing and Community Development, or another state entity, most of the above-described affordable housing programs are entitled to priority. Section 33334.7.

Of the types of affordable housing obligations mentioned above, Article 4 primarily focuses on the ones involving the Low and Moderate Income Housing Fund. This memorandum analyzes the obligation to make expenditures from that fund. The obligation to make deposits to that fund is discussed in Memorandum 2012-24. The obligation to eliminate project deficits and the obligation to expend “excess surplus” funds will be discussed in a supplement to that memorandum.

In general, the obligations to provide relocation assistance, replacement housing, and “inclusionary housing” are located in Article 9 of Chapter 4 of the Community Redevelopment Law (Sections 33410-33418). That article will be discussed in a future memorandum.

There are, however, a few references to replacement housing obligations in Article 4, besides the reference in Section 33333.8 mentioned above. In particular, Section 33334.5 cross-refers to the replacement housing obligations of Article 9:

33334.5. Every redevelopment plan adopted or amended to expand the project area after January 1, 1977, shall contain a provision that whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project, the [RDA] shall, within four years of such destruction or removal, rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or constructed, for rental or sale to persons and families of low or moderate income *an equal number of replacement dwelling units at affordable housing costs, ... within the project area or within the territorial jurisdiction of the agency, in accordance with all of the provisions of Sections 33413 and 33413.5.*

(Emphasis added.)

Somewhat similarly, Section 33331.4 provides that when an RDA undertakes redevelopment involving housing that was constructed as a government-owned project before January 1, 1960, the redevelopment project “shall include the replacement, on at least a one-to-one basis, of all existing public housing units.” Those units “shall be affordable to, and occupied by, extremely low, very low, and lower income households ..., at the same or lower income level as the household displaced from the public housing units, for at least 55 years. *Id.* Any person displaced from the government-owned project must be “given priority for a permanent replacement dwelling unit created ... at the initial time of relocation.” *Id.*

The bulk of the affordable housing provisions in Article 4 relate not to replacement housing but to the Low and Moderate Income Housing Fund. The cornerstone is a requirement that a specified percentage (typically 20%) of the tax increment funds allocated to an RDA be used by the RDA “for the purposes of increasing, improving, and preserving the community’s supply of low- and moderate-income housing available at affordable housing cost, ... to persons and families of low or moderate income, ... lower income households, ... very low income households, ... and extremely low income households, ... that is occupied by these persons and families” Section 33334.2(a); see also Section 33334.6(c). The funds that are required to be used for this purpose “shall be held in a separate Low and Moderate Income Housing Fund until used.” Section 33334.3(a).

In fulfilling its obligation to use a specified percentage of tax increment funds for affordable housing, an RDA “may exercise any or all of its powers.” Section 33334.2(e). This includes, among other things, the power to provide subsidies to, or for the benefit of, households of limited means, “to the extent those households cannot obtain housing at affordable costs on the open market.” Section 33334.2(e)(8). Such subsidies “may include payment of a portion of the principal and interest on bonds issued by a public agency to finance housing for [low income] persons and families ... if the [RDA] ensures by contract that the benefit of the subsidy will be passed on to those persons and families in the form of lower housing costs.” Section 33334.15. Multifamily rental housing that receives financial assistance pursuant to Sections 33334.2, 33334.3, and 33334.6 is subject to special notice requirements regarding termination of such assistance. See Section 33334.8; see also Gov’t Code § 65863.10.

An RDA must spend funds in the Low and Moderate Income Housing Fund to assist with housing for persons of low income and housing for persons of very low income “in at least the same proportion as the total number of housing units for each of those income groups bears to the total number of units needed for persons of moderate, low, and very low income within the community” Section 33334.4(a). A similar proportionate spending requirement applies with regard to the amount of assistance for “low-income households with a member under age 65 years.” Section 33334.4(b).

For all new or substantially rehabilitated housing units developed or otherwise assisted with moneys from the Low and Moderate Income Housing Fund pursuant to an agreement approved by an RDA on or after January 1, 1988,

the RDA must require that the units “shall remain available at affordable housing cost to, and occupied by, persons and families of low or moderate income and very low income and extremely low income households for *the longest feasible time ...*” Section 33334.3(f)(1) (emphasis added). With some exceptions, that time period must be at least 55 years for rental units, 45 years for owner-occupied units, and 15 years for mutual self-help housing units that are occupied by and affordable to very low and low-income households. *Id.*

The RDA must require that covenants or restrictions implementing these requirements be recorded in the office of the county recorder. Section 33334.3(f)(3)(A). The RDA must also require recording of a separate document called “Notice of Affordability Restrictions on Transfer of Property,” which must contain specified information. Section 33334.3(f)(3)(B). In addition, the RDA must “obtain and maintain a copy of the recorded covenants or restrictions for *not less than the life of the covenant or restriction.*” Section 33334.3(f)(3)(A) (emphasis added).

The recorded covenants or restrictions “run with the land and shall be enforceable against any owner who violates a covenant or restriction and each successor in interest who continues the violation” Section 33334.3(f)(7). The RDA and a variety of other persons and entities have standing to enforce the covenant or restriction. *Id.* Under specified circumstances, an affordability covenant or restriction may be subordinated to certain types of liens, encumbrances, and regulatory agreements. Section 33334.14.

An RDA may permit an owner-occupied unit to be sold for an amount exceeding the applicable affordability requirement before the 45-year affordability period expires, so long as the sale is made pursuant to an “adopted program” that protects the RDA’s investment of moneys from the Low and Moderate Income Housing Fund. For example, the sale may be made pursuant to an equity sharing program, in which some of the excess sale proceeds are allocated to the owner based on length of occupancy, and the remaining proceeds are allocated to the Low and Moderate Income Housing Fund. See Section 33334.3(f)(1)(B). A similar rule applies with regard to sale of a mutual self-help housing unit that is subject to an affordability covenant or restriction. See Section 33334.3(f)(1)(C).

An RDA may use the Low and Moderate Income Housing Fund in satisfying the replacement housing obligations of Article 9, but the replacement housing obligations are distinct from, and are not lessened by, the obligations relating to

the fund. Section 33334.2(d), (f). An RDA may not use the Low and Moderate Income Housing Fund when there are “other reasonable means of private or commercial financing of the new or substantially rehabilitated units at the same level of affordability and quantity.” Section 33334.3(j). There are also restrictions on using the Low and Moderate Income Housing Fund for administrative expenses (Section 33334.3(d)-(e)), and for activities outside the project area (Section 33334.2(g)). Special rules apply to using the Low and Moderate Income Housing Fund for merged project areas (Section 33334.14(b)), and for affordable housing located within a transit village plan (Section 33334.19). There are also statutory consequences of using the Low and Moderate Income Housing Fund to assist mortgagors whose income exceeds certain limits. See Section 33334.13(b).

If an RDA acquires property with funds from the Low and Moderate Income Housing Fund, it has five years to initiate activities consistent with the development of affordable housing on that property. Section 33334.16. The legislative body may extend the initial five-year period only once, for an additional five years, by adopting a resolution affirming its intent to use the property for affordable housing. *Id.*

If an RDA has any funds left in the Low and Moderate Income Housing Fund after complying with its affordable housing obligations for a project area and reaching the time limit on repayment of indebtedness, Section 33333.8(d) directs the RDA to transfer the funds to a Low and Moderate Income Housing Fund for a different project area in its jurisdiction. If no such project area exists, the RDA must transfer the funds to a special fund of the community, community housing authority, or county housing authority, which must be used for affordable housing. *Id.*

If an RDA has not complied with its affordable housing obligations for a project area, neither the RDA nor the legislative body may adopt an ordinance terminating the project area. Section 33333.8(a). If necessary, the time limit on the effectiveness of a redevelopment plan, the time limit on repayment of indebtedness, and any limit on receipt of tax increment funds will be suspended until the RDA achieves compliance. Section 33333.8(b)-(c), (e). Any person may seek judicial relief for an RDA’s failure to comply with its affordable housing obligations. Section 33333.8(f).

Under specified circumstances, contiguous RDAs located within adjoining cities within a single metropolitan statistical area may pool their resources and

create a joint powers authority to satisfy their affordable housing obligations. Section 33334.25.

Changes Made By ABx1 26

In analyzing the affordable housing provisions described above, the Commission needs to be aware of the changes made by Assembly Bill 26 (Blumenfield), 2011 Cal. Stat. ch. 5 (2011-2012 1st Ex. Sess.) (hereafter, "ABx1 26"), which eliminated the RDAs. As explained in previous staff memoranda, that legislation has both a "freeze" component and a "dissolution" component.

The "freeze" component (Part 1.8 (commencing with Section 34161) of Division 24 of the Health and Safety Code) imposed restrictions on RDA activities. Its stated purpose was to "preserve, to the maximum extent possible, the revenues and assets of [RDAs] so that those assets and revenues that are not needed to pay for enforceable obligations may be used by local governments to fund core governmental services including police and fire protection services and schools." Section 34167(a).

Among other things, an RDA was prohibited from preparing, formulating, amending, or otherwise modifying a redevelopment housing plan. Section 34164(h); see also Section 34264(g) (relocation plan). An RDA was also forbidden from increasing its deposits to the Low and Moderate Income Housing Fund beyond the minimum level that applied to it as of January 1, 2011, and from transferring money out of that fund except for certain purposes. Section 34163(c)(4)-(5). Funds that an RDA borrowed from the Low and Moderate Income Housing Fund were to be treated as an "enforceable obligation" so long as they were "legally required to be repaid pursuant to a required repayment schedule or other mandatory loan terms." Section 34167(d)(2).

The "dissolution" component of ABx1 26 (Part 1.85 (commencing with Section 34169) of Division 24 of the Health and Safety Code) dissolved the RDAs and provides guidance on identifying a successor agency for each RDA. Sections 34172(a), 34173. All of the authority, rights, powers, duties, and obligations of a former RDA are vested in the successor agency, except for the provisions of the Community Redevelopment Law that are repealed, restricted, or revised pursuant to ABx1 26. Section 34173(b).

As explained at pages 5-6 of Memorandum 2012-23, the "dissolution" component of ABx1 26 also rendered inoperative all of the statutory provisions that depend on the allocation of tax increment to RDAs. Section 34189(a). Instead,

“[r]evenues equivalent to those that would have been allocated pursuant to subdivision (b) of Section 16 of Article XVI of the California Constitution shall be allocated to the Redevelopment Property Tax Trust Fund of each successor agency for making payments on the principal of and interest on loans, and moneys advanced to or indebtedness incurred by the dissolved redevelopment agencies.” Section 34172(d). Any excess tax increment funds are to be treated as property tax revenues and divided accordingly. *Id.*

Each successor agency has various duties, and must report to an oversight board. See Sections 34177, 34179-34180. One of the main duties is to “[c]ontinue to make payments due for enforceable obligations.” Section 34177(a). For this purpose, the term “enforceable obligation” includes “[a]mounts borrowed from or payments owing to the Low and Moderate Income Housing Fund of [an RDA], which had been deferred as of the effective date of the act adding this part; provided, however, that the repayment schedule is approved by the oversight board.” Section 34171(d)(1)(G).

In fulfilling its duty to make payments due for enforceable obligations, the successor agency must prepare a Recognized Obligation Payment Schedule before each six-month fiscal period, which must identify a specified source of payment for each recognized obligation. Section 34177(l). One of those specified sources of payment is the Low and Moderate Income Housing Fund. *Id.*

A successor agency also has a duty to “[r]emit unencumbered balances of [RDA] funds to the county auditor-controller for distribution to the taxing entities, including, but not limited to, the *unencumbered balance* of the Low and Moderate Income Housing Fund of a former [RDA].” Section 34177(d) (emphasis added). The county auditor-controller is to distribute those funds to local entities using “the same methodology for allocation and distribution of property tax revenues provided in Section 34188.” *Id.*

Although a successor agency is initially vested with all of the authority, rights, powers, duties, and obligations of a former RDA, it must “[e]ffectuate transfer of housing functions and assets to the appropriate entity designated pursuant to Section 34176.” Section 34177(g); see also Section 34181(c) (requiring oversight board to direct successor agency to “[t]ransfer housing responsibilities and all rights, powers, duties, and obligations along with any amounts on deposit in the Low and Moderate Income Housing Fund to the appropriate entity pursuant to Section 34176”).

Under Section 34176(a), the city, county, or city and county that authorized creation of the RDA “may elect to retain the housing assets and functions previously performed by the [RDA].” If the city, county, or city and county decides to do so, “all housing responsibilities and all rights, powers, duties, and obligations, excluding any amounts on deposit in the Low and Moderate Income Housing Fund,” must be transferred to it. *Id.* If it declines the opportunity, then Section 34176(b) specifies how to select another entity to fill that role (i.e., the role of “housing successor”). Whichever entity becomes the housing successor “may enforce affordability covenants and perform related activities pursuant to applicable provisions of the Community Redevelopment Law....” Section 34176(c).

Impact of the Changes Made By ABx1 26

The precise impact of the changes made by ABx1 26 on the fate of the Low and Moderate Income Housing Fund and the various affordable housing obligations is a subject of intense discussion and debate. See, e.g., Cal. Redevelopment Ass’n, ABx1 26 Affordable Housing Provisions, *available at* <<http://www.calredevelop.org/external/wcpages/wcwebcontent/webcontentpage.aspx?contentid=438>> (“The disposition of the existing Housing Fund balance is somewhat unclear in the law”); Legislative Analyst’s Office, *The 2012-13 Budget: Unwinding Redevelopment* (Feb. 17, 2012), p. 16 (describing uncertainty in calculation of “unencumbered balance” of Low and Moderate Income Housing Fund); Letter from R. Cervantes, Interim General Manager, Los Angeles Housing Dep’t, to A. Matosantos, Director, Cal. Dep’t of Finance (April 18, 2012) (challenging DOF’s interpretation of the term “housing assets” in ABx1 26). Efforts are also underway to change existing law in this area. See, e.g., AB 1585 (Perez); SB 1156 (Steinberg); Dep’t of Finance, *Redevelopment Agencies Dissolution Clean-up and Liquid Asset Provisions (May Revision)*, *available at* <http://www.dof.ca.gov/budgeting/trailer_bill_language/business_transportation_and_housing/documents/>.

In preparing its RDA clean-up legislation, **the Commission must be very careful to make sure its proposal would have no impact on any of these matters.** This is a prime example of why it is necessary to use the savings provision approach described in Memorandum 2012-11. **The Commission should stick with that approach.**

Relevance After Transitional Period

As currently drafted, the proposed savings provision would define “transitional period” 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, pp. 3-4 (emphasis added). Under this definition, the “transitional period” might not encompass the full period during which *housing successors*, as opposed to *successor agencies*, are performing the housing functions of the former RDAs. That is problematic because the savings provision must provide assurance that the Commission’s clean-up legislation would have no impact on such activities.

To remedy that problem, **the Commission could revise the definition of “transitional period” along the following lines:**

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

(A) A successor agency, housing successor, or other entity or individual 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.

Assuming that the Commission makes this change, then it follows that the bulk of the redevelopment-related affordable housing provisions described above will not be needed once the “transitional period” ends. The only possible exception are the two provisions (Sections 33333.8 and 33334.5) that cross-refer to the replacement housing provisions in Article 9, which we have not yet examined. The Commission should **revisit those two provisions once it has examined Article 9**. The remaining provisions (Sections 33331.4, 33334.2(d)-(g)(1), (i), 33334.3(c)-(h), 33334.4, 33334.7, 33334.8, 33334.13, 33334.14, 33334.16, 33334.19, and 33334.25) **will be obsolete and should be repealed**.

(**Note.** This does not necessarily mean that affordable housing will revert to market-rate housing at the end of the transitional period. There could be new affordability restrictions or requirements, unrelated to RDA activities. But those requirements would not depend on the statutes at issue here.)

Relevance During Transitional Period

During the transitional period, housing successors will be performing the housing functions of the former RDAs. That is likely to be a long process, given the length of the affordability covenants and restrictions in question (at least 55 years for rental units and 45 years for owner-occupied units). See Section 33334.3(f); see also Section 33331.4 (replacement units for public housing constructed before 1960 must serve as affordable housing for at least 55 years). In the process, or in litigation relating to that process, it might still be necessary to refer to one or more of the affordable housing provisions described.

That brings to mind two points. First, **here again it will be important to have a good repository for the redevelopment statutes.** As previously discussed, the Legislative Counsel seems well-suited to fill that role, but we are awaiting further information from her on this matter.

Second, the proposed savings clause must be sufficient to ensure that repealing the affordable housing provisions we have identified for such treatment (Sections 33331.4, 33334.2(d)-(g)(1), (i), 33334.3(c)-(h), 33334.4, 33334.7, 33334.8, 33334.13, 33334.14, 33334.16, 33334.19, and 33334.25) would have no substantive effect. **That appears to be the case.** Of particular note in this context, the savings provision would:

- Broadly declare that the Commission’s clean-up legislation would have no effect on “the policy, substance, construction, or application of former law with regard to any redevelopment-related matter.” See proposed Section 33090(b).
- Specifically point out that the Commission’s clean-up legislation would not affect the allocation of revenue pursuant to Part 1.85 (commencing with Section 34170). See proposed Section 33090(b)(2).

The savings provision would be further strengthened if the Commission decides to revise paragraph (b)(6) to refer to a “property use restriction” as recommended earlier in this memorandum:

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

transitional period, on the policy, substance, construction, or application of former law with regard to any redevelopment-related matter, including, but not limited to, any of the following redevelopment-related matters:

....
(6) The validity of any redevelopment-related ordinance, resolution, referendum, regulation, property use restriction, 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.

The affordability covenants and restrictions required by Section 33334.3 **reinforce the importance of making this revision.**

Finally, it might be advisable to add some questions relating to affordable housing to the Commission's list of "Minor Issues for Possible Future Legislative Attention." There are many such questions, both major and minor, some of which are already receiving considerable attention. Rather than attempting to list issues that are already being debated, which might somehow inadvertently add fuel to a fire, it may be better just to point out a few issues that might otherwise escape attention until it is too late to prevent confusion or other harm. In particular, **the staff suggests the following additions to the Commission's list:**

- (1) **Affordable Housing Requirements for Termination of a Project Area.** Under Section 33333.8, neither an RDA nor a legislative body may adopt an ordinance terminating a project area until the RDA has complied with all six types of affordable housing obligations listed in that section. Which affordable housing obligations must now be satisfied in order to terminate a project area? If the successor agency and the housing successor are different entities, what process applies in determining whether those affordable housing obligations are satisfied?
- (2) **Treatment of Funds Derived from Sale of Owner-Occupied Unit or Mutual Self-Help Housing Unit Pursuant to Section 33334.3(f)(1).** Under Section 33334.3(f)(1), an RDA must require an owner-occupied unit to remain available at affordable housing cost, and be occupied by persons of limited means, for at least 45 years. An RDA may permit an owner-occupied unit to be sold for an amount exceeding the applicable affordability requirement before the 45-year affordability period expires, so long as the sale is made pursuant to an "adopted program" that protects the RDA's investment of moneys from the Low and Moderate Income Housing Fund. For example, the sale may be made pursuant to an equity sharing program, in which some of the excess sale proceeds are allocated to the owner based on length of occupancy, and the remaining proceeds are allocated to the Low and Moderate Income

Housing Fund. See Section 33334.3(f)(1)(B). A similar rule applies with regard to sale of a mutual self-help housing unit that is subject to an affordability covenant or restriction. See Section 33334.3(f)(1)(C). What impact does ABx1 26 have on these rules? May a successor agency adopt an equity sharing program or other program for conducting such sales, or follow a program that was previously adopted by the RDA? If so, what restrictions apply? What happens to the proceeds that used to go to the Low and Moderate Income Housing Fund?

- (3) **Duties Relating to Affordable Housing Records.** Section 33334.3(f)(3)(A) requires an RDA to “obtain and maintain a copy of the recorded covenants or restrictions for *not less than the life of the covenant or restriction.*” (Emphasis added.) When a successor agency transfers housing responsibilities to the housing successor, is the successor agency also supposed to transfer the RDA’s housing-related records to the housing successor? Does the duty to maintain a copy of the recorded covenants or restrictions for “not less than the life of the covenant or restriction” become a duty of the housing successor?

Would the Commission like to make these additions to its list?

Geographically Specific Rules Relating to Affordable Housing

In addition to the above-described rules on affordable housing, Article 4 includes some provisions that vary those rules for a particular geographic area. See Sections 33333.7, 33334.2(g)(2), 33334.2a, and 33334.22. Those provisions are discussed below.

Description of Statutory Content

Section 33333.7 allows the San Francisco RDA, with approval of the Board of Supervisors, to “retain its ability to incur indebtedness exclusively for Low and Moderate Income Housing Fund activities ... until January 1, 2012, or until the [RDA] replaces all of the housing units demolished prior to the enactment of the replacement housing obligations in Chapter 970 of the Statutes of 1975, whichever occurs earlier.” In addition, the RDA’s ability “to receive tax increment revenues to repay indebtedness incurred for these Low and Moderate Income Housing Fund activities may be extended until no later than January 1, 2044.” Section 33333.7(a). In other words, the section authorizes special time limits applicable to affordable housing activities in San Francisco. Various conditions and special rules apply. See Section 33333.7(b)-(e).

Section 33334.2(g)(2) establishes special rules and conditions regarding where (outside the project area, within the incorporated limits of the City of Walnut

Creek, etc.) the Contra Costa RDA may spend funds from the Low and Moderate Income Housing Fund. Similarly, Section 33334.2a establishes special rules and conditions regarding where the Orange County RDA may spend funds from the Low and Moderate Income Housing Fund.

Finally, Section 33334.22 establishes special rules regarding affordable housing activities of “any redevelopment agency located within Santa Cruz County, the Contra Costa Redevelopment Agency, and the Monterey County Redevelopment Agency.” There is no need to describe those special rules here, because the section will be repealed by its own terms on January 1, 2013, “unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.” Section 33334.22(e). There does not seem to be any pending bill to extend the sunset date. The staff will keep an eye out for such legislation, and notify the Commission if we become aware of such a bill. **Until and unless that occurs, there is no need to analyze Section 33334.22 further.**

Relevance After Transitional Period

Although Sections 33333.7, 33334.2(g)(2), and 33334.2a state special rules for a particular geographic area, none of them includes a detailed description of the area in question. Further, these sections pertain to the affordable housing obligations of RDAs. Assuming that the “transitional period” is redefined to encompass the activities of a housing successor as suggested above, there will not be any need for these provisions once the “transitional period” ends. Therefore, **Sections 33333.7, 33334.2(g)(2), and 33334.2a will be obsolete and should be repealed.**

Relevance During Transitional Period

If Sections 33333.7, 33334.2(g)(2), and 33334.2a have any continuing relevance during the transitional period, the proposed savings provision appears satisfactory to ensure that repealing these sections in the Redevelopment Clean-Up Act would have no substantive effect. The special rules established by these sections are similar in kind to the general rules on affordable housing discussed earlier. **No adjustment of the savings provision appears necessary to address this context.**

Definitions

The last subject matter group to analyze from Article 4 consists of definitions, which are sprinkled throughout the article.

Description of Statutory Content

Some provisions in Article 4 borrow a definition that is stated in another section. For example, Section 33333.10(c)(1) says that for purposes of that section, the term “blight” has “the same meaning as that term is given in Section 33030.”

If a section contains this type of statement, there is no reason to treat that statement any differently from the remainder of the section, because it simply relies on content provided elsewhere. If the section should be repealed, there is no reason to spare the statement about borrowing a definition. Accordingly, we do not attempt to list and analyze such provisions here.

In other places, however, Article 4 contains real definitions, with substantive content. For example, Section 33353.2 provides the following definition of “affected taxing entity”:

33353.2. “Affected taxing entity” means any governmental taxing agency that levies a property tax on all or any portion of the property located in the adopted project area in the fiscal year prior to the fiscal year in which the report prepared pursuant to Section 33328 is issued or in any fiscal year after the date the redevelopment plan is adopted. To the extent that a new governmental taxing agency wholly or partially replaces the geographic jurisdiction of a preexisting governmental taxing agency, the new taxing agency shall be an “affected taxing entity” and the preexisting taxing agency shall no longer be an “affected taxing entity.”

Other real definitions in Article 4 include:

- “Area median income” (Section 33334.13(a)).
- “Excess surplus” (Section 33334.12). This definition will be discussed in a supplement to Memorandum 2012-24. It will not be analyzed here.
- “Existing obligations” (Section 33334.6).
- “Housing” (Section 33334.3(g)).
- “Housing funds” (Section 33334.25).
- “Increasing, improving, and preserving the community’s supply of low- and moderate-income housing” (Section 33334.3(h)).
- “Joint powers authority” (Section 33334.25).
- “Locally controlled” (Section 33334.4(d)).
- “Longest feasible time” (Section 33334.3(g)).
- “Mitigation measures” (Section 33352(n)).
- “Mutual self-help housing unit” (Section 33334.3(f)(1)(C)).
- “Necessary and essential parcels” (Section 33333.10(c)(3)).

- “Receiving entity” (Section 33334.25).
- “Significant” (Section 33333.10(c)(2)).

Relevance After Transitional Period

When a section contains a real definition, it is important to assess whether the definition is used solely for purposes of the section that contains it. If so, the definition can be treated the same way as the rest of the section. If the definition is also used elsewhere, however, it might be necessary to preserve the definition even though the rest of the section will be obsolete at the end of the “transitional period” and can be repealed.

Of the definitions in Article 4, the definitions of “existing obligations,” “housing,” “housing funds,” “joint powers authority,” “locally controlled,” “longest feasible time,” “receiving entity,” and “significant” are expressly limited to the section that contains the definition. Moreover, the staff did not find any section that borrows any of these definitions by cross-referring to it. **Each of these definitions can therefore be treated the same way as the section that contains it.** All of those sections are recommended for repeal in this memorandum or in Memorandum 2012-24, **so that is the appropriate treatment of the definitions as well.**

The same is true of the definition of “mitigation measures,” which expressly applies only to subdivision (n) of Section 33352, and is not cross-referenced in any other section. There does not appear to be any need to preserve that definition for use in a context other than Section 33352. Because we have recommended that Section 33352 be repealed, **it follows that the definition in it should suffer the same fate.**

Similarly, the definition of “increasing, improving, and preserving the community’s supply of low- and moderate-income housing” expressly applies only to the section that contains it (Section 33334.3) and Section 33334.2, both of which are recommended for repeal. The staff did not find any section that borrows this definition by cross-referring to it. Again, **there is no reason to preserve the definition, so it can be simply be repealed along with the rest of the statute.**

The remaining definitions are not as easy to dispose of as the ones just described. For example, the definition of “necessary and essential parcels” in Section 33333.10(c)(3) expressly applies “[a]s used in this section.” No other code

section borrows that definition by cross-referring to it. However, the term “necessary and essential parcels” is used without definition in:

- Section 33333.11, which is adjacent to and interrelated with Section 33333.10.
- Section 33451.5(c)(1), which is not closely tied to Section 33333.10. It says that when an RDA seeks to amend a redevelopment plan, the RDA must prepare a report containing a map that identifies, among other things, “the portion of the project area that contains necessary and essential parcels for the elimination of the remaining blight.”

Although Section 33333.11 does not cross-refer to Section 33333.10’s definition of “necessary and essential parcels,” it seems likely that a court would look to that definition in construing Section 33333.11. That is not a reason for preserving the definition, because both of those sections are recommended for repeal. But a court might also look to Section 33333.10’s definition of “necessary and essential parcels” in construing Section 33451.5, which we have not yet examined. It therefore seems prudent to **wait until we examine Section 33451.5 before resolving whether what to do with Section 33333.10’s definition of “necessary and essential parcels.”**

Similarly, the definition of “mutual self-help housing unit” is expressly cross-referenced in Section 33413, which we have not yet examined. **The Commission should wait until later in this study to resolve what to do with that definition.**

Finally, the definitions of “affected taxing entity” and “area median income” are widely used and are not expressly limited in scope. It would be premature to resolve whether to retain those definitions. **The Commission should revisit them later in this study.**

Relevance During Transitional Period

As explained at page 5 of Memorandum 2012-12, the proposed savings provision seems adequate to ensure that no substantive impact would result from clean-up legislation repealing definitions such as the ones discussed above. **No adjustment of the savings provision appears necessary to address this context.**

ARTICLE 5. PROCEDURE FOR ADOPTION OF REDEVELOPMENT PLANS
BY THE LEGISLATIVE BODY

Article 4, which we have just analyzed, describes the steps that an RDA must take before submitting a redevelopment plan to the local legislative body for approval. Article 5 (Sections 33360-33376) describes the process that a local legislative body must follow in reviewing a redevelopment plan proposed by an RDA. That article is analyzed below.

Description of Statutory Content

If an RDA submits a proposed redevelopment plan to a legislative body for approval, the legislative body must conduct a public hearing regarding the proposal. Section 33360. No later than 45 days before that hearing, the RDA must deliver a copy of the RDA's preliminary report to the Department of Finance and the Department of Housing and Community Development. Section 33360.5(a). Both of those entities may submit comments in writing to the RDA and the legislative body; they may also send their comments to the Attorney General for possible legal action if they deem that appropriate. Section 33360.5(c)-(d). The Department of Finance is expressly charged with determining how the proposed plan would affect the General Fund, and whether adoption of the plan would affect the need for school facilities. Section 33360.5(b).

Notice of the public hearing "shall be given by publication not less than once a week for four successive weeks in a newspaper of general circulation published in the county in which the land lies." Section 33361. Before the hearing, any person may file written objections to the proposed plan. Section 33362. The legislative body must make detailed written findings in response to each written objection of an affected property owner or taxing entity. Section 33363. Until it adopts the plan, the legislative body may make changes to the plan or to the project area boundaries, subject to certain conditions. Section 33363.5.

The legislative body may adopt the proposed plan by ordinance. Section 33365; see also Sections 33364 (specifying when legislative body may adopt plan), 33368 (specifying finality of legislative body's decision). If the planning commission or project area committee has recommended against approval of the plan, a two-thirds vote is required. Otherwise, a majority vote "of the entire membership eligible and qualified to vote on such plan" is sufficient. Section 33366.

The ordinance adopting a redevelopment plan must contain various items, including numerous specific findings and determinations of the legislative body, “which shall be based on clearly articulated and documented evidence.” Section 33367. For example, the legislative body must find that the RDA “has a feasible method or plan for the relocation of families and persons displaced from the project area, if the redevelopment plan may result in the temporary or permanent displacement of any occupants of housing facilities in the project area.” Section 33367(d)(7).

At the time of adopting a redevelopment plan, the legislative body must declare “its intention to undertake and complete any proceedings necessary to be carried out by the community under the provisions of the plan.” Section 33370. If the plan calls for the expenditure of money by the community, the legislative body must also provide for such expenditure. Section 33369. The legislative body may also require the RDA to submit any redevelopment contracts to the legislative body for approval. Section 33371.

Upon filing of an ordinance adopting a redevelopment plan, a copy of the plan must be sent to the RDA, and the RDA is vested with responsibility for carrying out the plan. Section 33372. Information about the redevelopment plan must be recorded with the county recorder (Section 33373), and all applicants for building permits in the area must be informed about the plan (Section 33374). Within 30 days of adopting a redevelopment plan, the ordinance and related materials must be provided to the State Board of Equalization and various other tax officials and entities. Section 33375.

In general, an ordinance adopting a redevelopment plan is subject to referendum. Section 33365. However, an ordinance adopting a redevelopment plan for the Crescent City disaster area “may be adopted as an emergency ordinance and shall not be subject to referendum.” Section 33376.

Relevance After Transitional Period

The provisions described above relate to the redevelopment process. Once all redevelopment activity has ceased and all related litigation has been resolved (i.e., the “transitional period” has ended), there will no longer be any need to specify rules for adoption of a redevelopment plan by a legislative body. Therefore, these provisions (Sections 33360-33376) **will be obsolete and should be repealed.**

Relevance During Transitional Period

During the transitional period, successor agencies will be winding down the affairs of redevelopment agencies, not commencing new redevelopment projects. As previously discussed, adoption of a new redevelopment plan seems unlikely. However, there might still be litigation relating to one or more existing redevelopment plans, or other reasons to refer to such plans.

To the extent that the rules governing adoption of a redevelopment plan by a legislative body remain relevant during the transitional period, the proposed savings provision appears sufficient to ensure that repeal of those rules by the Commission's clean-up legislation would have no substantive effect. The rules in Article 5 are similar in nature to Article 4's general rules governing preparation and adoption of a redevelopment plan by an RDA, which are discussed earlier in this memorandum.

In connection with the general rules from Article 4, the staff recommends revising the savings provision to refer a property use restriction, and to address CEQA compliance and the use of eminent domain. Although those suggested revisions may strengthen the savings provision, the existing language already seems sufficient to cover Article 5. **No further adjustment of the savings provision appears necessary to address this context.**

ARTICLE 4.5. ALTERNATIVE PROCEDURES FOR A JOINT PUBLIC HEARING BY THE AGENCY AND THE LEGISLATIVE BODY

Article 4.5 (Sections 33355-33359) is a short article authorizing an alternative procedure in which an RDA and a local legislative body jointly conduct a public hearing on a proposed redevelopment plan.

Description of Statutory Content

If both an RDA and a legislative body consent, those entities may hold a joint public hearing on a proposed redevelopment plan, instead of conducting separate public hearings. Section 33355. Many of the procedural requirements for a joint public hearing are the same as when an RDA and a legislative body conduct public hearings separately. See Section 33356.

After the close of the joint public hearing, the RDA may approve the plan and submit its approval, together with any recommended changes, to the legislative body. Section 33357. If the RDA recommends any changes, the planning commission must be given an opportunity to prepare a report and

recommendation regarding those changes. *Id.* The legislative body may act upon the proposed plan after the RDA submits its approval and the planning commission provides its input, if any, on the RDA's recommended changes. Section 33358.

If the RDA and the legislative body are one and the same, the legislative body may simply adopt a redevelopment plan at the conclusion of the joint public hearing on the plan. No further action by the RDA is needed. Section 33359.

Relevance After Transitional Period

Again, the provisions described above relate to the redevelopment process. Once the "transitional period" has ended, there will no longer be any need to specify rules for conducting a joint hearing on a redevelopment plan. Therefore, these provisions (Sections 33355-33359) **will be obsolete and should be repealed.**

Relevance During Transitional Period

Although redevelopment will be winding down during the transitional period, it is possible that the provisions on conducting a joint public hearing will remain relevant for some purpose. However, the proposed savings provision appears sufficient to address this context. The staff does not see any material in Article 4.5 that calls for new or different language in the savings provision. **No adjustment of the savings provision appears necessary to address this context.**

ARTICLE 5.5. REFERENDUMS

Article 5.5 (Sections 33378-33378.5) consists of just two provisions on conducting a referendum on a redevelopment plan. It requires only brief discussion.

Description of Statutory Content

Section 33378 describes the process for a referendum on a redevelopment plan that has been adopted by ordinance. In a city or county with over 500,000 people, a referendum petition must "bear valid signatures numbering not less than 10 percent of the total votes cast within the city or county for Governor at the last gubernatorial election." Section 33378(b)(1). The petitions must be submitted to the clerk of the legislative body within 90 days of the adoption of the ordinance. Section 33378(b)(2).

If the ordinance provides for tax increment financing or expands a project area that is subject to tax increment financing, the ballot pamphlet must include an analysis by the county auditor-controller with an estimate of (1) the potential impact of the redevelopment project on property taxes of taxpayers who are located within the city or county but outside the project area, and (2) what would happen to the project area in the absence of the project. Section 33378(c). At the option of the legislative body, the ballot pamphlet may also include a separate analysis by the RDA of the same two points. *Id.*

The ballot measure “shall set forth with clarity and in language understandable to the average person that a ‘Yes’ vote is a vote in favor of adoption or amendment of the redevelopment plan and a ‘No’ vote is a vote against the adoption or amendment of the redevelopment plan.” Section 33378(a).

Section 33378.5 creates a limited exception to the right of referendum, applicable only to a specific geographic area for a specific time period. It states simply that “[t]he provisions of this part establishing a right of referendum shall not be applicable to a charter city in the County of Los Angeles containing a population of 1,000 or less until January 1, 1983.”

Relevance After Transitional Period

Once the “transitional period” has ended, there will no longer be any need to specify rules for conducting a referendum on a redevelopment plan. Therefore, these provisions (Sections 33378-33378.5) **will be obsolete and should be repealed.**

Relevance During Transitional Period

During the “transitional period,” it is possible, although unlikely, that the provision specifying the process for conducting a referendum on a redevelopment plan (Section 33378) will remain relevant for some purpose. The other provision (Section 33378.5) is probably already obsolete.

To the extent that either of these sections remains relevant during the transitional period, the proposed savings provision appears sufficient to ensure that repealing them would have no substantive effect. In fact, the proposed savings provision would specifically state that the Commission’s clean-up legislation has no effect on:

- (7) Any rule or procedure relating to any aspect of redevelopment, including, but not limited to, any rule relating to an

ordinance, resolution, *referendum*, regulation, bylaw, or other legislative act in connection with redevelopment.

(Emphasis added.) **No adjustment of the savings provision appears necessary to address this context.**

Respectfully submitted,

Barbara Gaal
Chief Deputy Counsel

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HEALTH AND SAFETY CODE

DIVISION 24. COMMUNITY DEVELOPMENT
AND HOUSING

PART 1. COMMUNITY REDEVELOPMENT LAW

CHAPTER 4. REDEVELOPMENT PROCEDURES AND ACTIVITIES

Article 4. Preparation and Adoption of Redevelopment Plans
by the Agency

§ 33330. Preparation of redevelopment plan for each project area

33330. Each agency shall prepare or cause to be prepared, and approve, a redevelopment plan for each project area and for that purpose may hold hearings and conduct examinations, investigations, and other negotiations. The agency shall consult with the planning commission of the community and with the project area committee, if applicable, in preparing a redevelopment plan.

§ 33331. Redevelopment plan to be consistent with general plan

33331. Every redevelopment plan shall be consistent with the community's general plan.

§ 33331.4. Redevelopment involving housing constructed as government-owned project before Jan. 1, 1960

33331.4. (a) A redevelopment agency undertaking activities and funding involving property described in paragraph (3) of subdivision (c) of Section 33030 shall comply with all of the requirements of this part, except as specifically modified in subdivision (b).

(b) In addition to the requirements specified in subdivision (a), all of the following apply:

(1) The project shall include the replacement, on at least a one-to-one basis, of all existing public housing units. The replacement dwelling units shall be affordable to, and occupied by, extremely low, very low, and lower income households as defined in Sections 50079.5, 50105, and 50106, at the same or lower income level as the household displaced from the public housing units, for at least 55 years.

(2) The replacement dwelling units may be either publicly or privately owned and shall meet all of the following requirements:

(A) Be located either inside the project area, or within a five-mile radius of the parcel containing the public housing that is being replaced.

1 (B) Shall be, for each income level described in paragraph (1), a unit type and
2 size as required by the displaced household. The required size shall conform to the
3 principles for a public housing policy on occupancy, contained in the “Public
4 Housing Occupancy Guidebook,” published by the United States Department of
5 Housing and Urban Development.

6 (C) Shall be affordable to each displaced household that chooses to relocate to a
7 replacement unit, such that the rent does not exceed 30 percent of the income of
8 that household.

9 (c) No household shall be displaced under this section unless the household is
10 given priority for a permanent replacement dwelling unit created pursuant to this
11 section at the initial time of relocation. This subdivision does not apply if the
12 household, having been given priority for a replacement dwelling unit under this
13 part, voluntarily chooses not to accept the replacement dwelling unit.

14 (d) The project may include both of the following:

15 (1) The development of additional privately owned housing units that will be
16 available to and occupied by persons and families of low or moderate income, as
17 defined in Section 50093, including very low income households, as defined in
18 Section 50105, at an affordable housing cost, as defined in Section 50052.5.

19 (2) Workforce market-rate housing units, retail services, commercial, industrial,
20 educational, recreational, and other uses as may be appropriate to serve the
21 residents of the area, and public improvements inside or adjacent to the project
22 area.

23 **§ 33331.5. Amendment of redevelopment plan to extend time limits when RDA is required**
24 **to make payment for supplemental ERAF**

25 33331.5. Notwithstanding Section 33333.2 or 33333.6, when an agency is
26 required pursuant to Section 33690 to make a payment to the county auditor for
27 deposit in the county’s Supplemental Educational Revenue Augmentation Fund to
28 be established in the county treasury pursuant to paragraph (1) of subdivision (a)
29 of Section 33690 and the agency has allocated the full amount calculated pursuant
30 to paragraph (2) of subdivision (a) of Section 33690, the legislative body may
31 amend the redevelopment plan to extend the time limits required pursuant to
32 paragraphs (2) and (3) of subdivision (a) of Section 33333.2 or subdivision (a) of
33 Section 33333.6 by one year. When amending a redevelopment plan pursuant to
34 this section, neither the legislative body nor the agency is required to comply with
35 Section 33354.6, Article 12 (commencing with Section 33450), or any other
36 provision of this part relating to the amendment of redevelopment plans,
37 including, but not limited to, the requirement to make the payment to the affected
38 taxing entities required by Section 33607.7.

1 **§ 33332. Redevelopment plan to be based on preliminary plan and include legal description**
2 **of boundaries**

3 33332. Every redevelopment plan shall contain a legal description of the
4 boundaries of the project area and shall be based upon the preliminary plan.

5 **§ 33333. Contents of redevelopment plan**

6 33333. Every redevelopment plan shall show by diagram and in general terms:

7 (a) The approximate amount of open space to be provided and street layout.

8 (b) Limitations on type, size, height, number, and proposed use of buildings.

9 (c) The approximate number of dwelling units.

10 (d) The property to be devoted to public purposes and the nature of such
11 purposes.

12 **§ 33333.2. Time limits for redevelopment plans and territory-increasing amendments**
13 **adopted on or after Jan. 1, 1994**

14 33333.2. (a) A redevelopment plan containing the provisions set forth in Section
15 33670 shall contain all of the following limitations. A redevelopment plan that
16 does not contain the provisions set forth in Section 33670 shall contain the
17 limitations in paragraph (4):

18 (1)(A) A time limit on the establishing of loans, advances, and indebtedness to
19 be paid with the proceeds of property taxes received pursuant to Section 33670 to
20 finance in whole or in part the redevelopment project, which may not exceed 20
21 years from the adoption of the redevelopment plan, except by amendment of the
22 redevelopment plan as authorized by subparagraph (B). This limit, however, shall
23 not prevent agencies from incurring debt to be paid from the Low and Moderate
24 Income Housing Fund or establishing more debt in order to fulfill the agency's
25 housing obligations under subdivision (a) of Section 33333.8. The loans,
26 advances, or indebtedness may be repaid over a period of time longer than this
27 time limit as provided in this section. No loans, advances, or indebtedness to be
28 repaid from the allocation of taxes shall be established or incurred by the agency
29 beyond this time limitation. This limit shall not prevent agencies from refinancing,
30 refunding, or restructuring indebtedness after the time limit if the indebtedness is
31 not increased and the time during which the indebtedness is to be repaid is not
32 extended beyond the time limit to repay indebtedness required by this section.

33 (B) The time limitation established by subparagraph (A) may be extended only
34 by amendment of the redevelopment plan after the agency finds, based on
35 substantial evidence, that (i) significant blight remains within the project area; and
36 (ii) this blight cannot be eliminated without the establishment of additional debt.
37 However, this amended time limitation may not exceed 30 years from the effective
38 date of the ordinance adopting the redevelopment plan, except as necessary to
39 comply with subdivision (a) of Section 33333.8.

40 (2) A time limit, not to exceed 30 years from the adoption of the redevelopment
41 plan, on the effectiveness of the redevelopment plan. After the time limit on the

1 effectiveness of the redevelopment plan, the agency shall have no authority to act
2 pursuant to the redevelopment plan except to pay previously incurred indebtedness
3 and to enforce existing covenants or contracts, unless the agency has not
4 completed its housing obligations pursuant to subdivision (a) of Section 33333.8,
5 in which case the agency shall retain its authority to implement requirements
6 under subdivision (a) of Section 33333.8, including its ability to incur and pay
7 indebtedness for this purpose, and shall use this authority to complete these
8 housing obligations as soon as is reasonably possible.

9 (3) A time limit, not to exceed 45 years from the adoption of the redevelopment
10 plan, to repay indebtedness with the proceeds of property taxes received pursuant
11 to Section 33670. After the time limit established pursuant to this paragraph, an
12 agency may not receive property taxes pursuant to Section 33670, except as
13 necessary to comply with subdivision (a) of Section 33333.8.

14 (4) A time limit, not to exceed 12 years from the adoption of the redevelopment
15 plan, for commencement of eminent domain proceedings to acquire property
16 within the project area. This time limitation may be extended only by amendment
17 of the redevelopment plan after the agency finds, based on substantial evidence,
18 both of the following:

19 (A) That significant blight remains within the project area.

20 (B) That this blight cannot be eliminated without the use of eminent domain.

21 (b) If a redevelopment plan is amended to add territory, the amendment shall
22 contain the time limits required by this section.

23 (c) When an agency is required to make a payment pursuant to Section 33681.9,
24 the legislative body may amend the redevelopment plan to extend the time limits
25 required pursuant to paragraphs (2) and (3) of subdivision (a) by one year by
26 adoption of an ordinance. In adopting this ordinance, neither the legislative body
27 nor the agency is required to comply with Section 33354.6, Article 12
28 (commencing with Section 33450), or any other provision of this part relating to
29 the amendment of redevelopment plans.

30 (d) When an agency is required pursuant to Section 33681.12 to make a payment
31 to the county auditor for deposit in the county's Educational Revenue
32 Augmentation Fund created pursuant to Article 3 (commencing with Section 97)
33 of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code, the
34 legislative body may amend the redevelopment plan to extend the time limits
35 required pursuant to paragraphs (2) and (3) of subdivision (a) by the following:

36 (1) One year for each year in which a payment is made, if the time limit for the
37 effectiveness of the redevelopment plan established pursuant to paragraph (2) of
38 subdivision (a) is 10 years or less from the last day of the fiscal year in which that
39 payment is made.

40 (2) One year for each year in which a payment is made, if both of the following
41 apply:

1 (A) The time limit for the effectiveness of the redevelopment plan established
2 pursuant to paragraph (2) of subdivision (a) is more than 10 years but less than 20
3 years from the last day of the fiscal year in which a payment is made.

4 (B) The legislative body determines in the ordinance adopting the amendment
5 that, with respect to the project, all of the following apply:

6 (i) The agency is in compliance with the requirements of Section 33334.2 or
7 33334.6, as applicable.

8 (ii) The agency has adopted an implementation plan in accordance with the
9 requirements of Section 33490.

10 (iii) The agency is in compliance with subdivisions (a) and (b) of Section 33413,
11 to the extent applicable.

12 (iv) The agency is not subject to sanctions pursuant to subdivision (e) of Section
13 33334.12 for failure to expend, encumber, or disburse an excess surplus.

14 (3) This subdivision shall not apply to any redevelopment plan if the time limits
15 for the effectiveness of the redevelopment plan established pursuant to paragraph
16 (2) of subdivision (a) is more than 20 years after the last day of the fiscal year in
17 which a payment is made.

18 (4) The legislative body by ordinance may adopt the amendments provided for
19 under this subdivision following a public hearing. Notice of the public hearing
20 shall be mailed to the governing body of each of the affected taxing entities at
21 least 30 days prior to the hearing. Notice shall also be published in a newspaper of
22 general circulation in the community at least once, not less than 10 days prior to
23 the date of the public hearing. The ordinance shall contain a finding of the
24 legislative body that funds used to make a payment to the county's Educational
25 Revenue Augmentation Fund pursuant to Section 33681.12 would otherwise have
26 been used to pay the costs of projects and activities necessary to carry out the
27 goals and objectives of the redevelopment plan. In adopting an ordinance pursuant
28 to this subdivision, neither the legislative body nor the agency is required to
29 comply with Section 33354.6, Article 12 (commencing with Section 33450), or
30 any other provision of this part.

31 (e) This section shall apply only to redevelopment projects for which a final
32 redevelopment plan is adopted pursuant to Article 5 (commencing with Section
33 33360) on or after January 1, 1994, and to amendments that add territory and that
34 are adopted on or after January 1, 1994.

35 **§ 33333.3. Notice of preparation and draft environmental impact report**

36 33333.3. (a) The redevelopment agency shall send a notice of preparation and a
37 copy of a draft environmental impact report to each affected taxing entity, as
38 defined in Section 33353.2, prepared in accordance with the provisions of the
39 California Environmental Quality Act (Division 13 (commencing with Section
40 21000) of the Public Resources Code) and regulations adopted pursuant thereto.

41 (b) If the project area contains land in agricultural use, as defined in subdivision
42 (b) of Section 51201 of the Government Code, the redevelopment agency shall

1 also send a copy of the draft environmental impact report to the Department of
2 Conservation, the county agricultural commissioner, the county farm bureau, the
3 California Farm Bureau Federation, and agricultural entities and general farm
4 organizations that provide a written request for notice. A separate written request
5 for notice shall be required for each proposed redevelopment plan or amendment
6 that adds territory. A written request for notice applicable to one redevelopment
7 plan or amendment shall not be effective for a subsequent plan or amendment.

8 **§ 33333.4. Time and fiscal limits for redevelopment plan adopted before Oct. 1, 1976, or**
9 **between Oct. 1, 1976, and Dec. 31, 1993**

10 33333.4. (a) Every legislative body that adopted a final redevelopment plan
11 prior to October 1, 1976, that contains the provisions set forth in Section 33670
12 but does not contain all of the limitations required by Section 33333.2, shall adopt
13 an ordinance on or before December 31, 1986, that contains all of the following:

14 (1) A limitation on the number of dollars of taxes that may be divided and
15 allocated to the redevelopment agency pursuant to the plan, including any
16 amendments to the plan. Taxes shall not be divided and shall not be allocated to
17 the redevelopment agency beyond that limitation, except as necessary to comply
18 with subdivision (a) of Section 33333.8.

19 (2) A time limit on the establishing of loans, advances, and indebtedness to
20 finance in whole, or in part, the redevelopment project. No loans, advances, or
21 indebtedness to be repaid from the allocation of taxes shall be established or
22 incurred by the agency beyond the time limitation, except as necessary to comply
23 with subdivision (a) of Section 33333.8.

24 (3) A time limit, not to exceed 12 years, for commencement of eminent domain
25 proceedings to acquire property within the project area. This time limitation may
26 be extended only by amendment of the redevelopment plan after the agency finds,
27 based on substantial evidence, both of the following:

28 (A) That significant blight remains within the project area.

29 (B) That this blight cannot be eliminated without the use of eminent domain.

30 (b) The limitations established in the ordinance adopted pursuant to this section
31 shall apply to the redevelopment plan as if the redevelopment plan had been
32 amended to include those limitations. However, in adopting the ordinance, neither
33 the legislative body nor the agency is required to comply with Article 12
34 (commencing with Section 33450) or any other provision of this part relating to
35 the amendment of redevelopment plans.

36 (c) The limitations established in the ordinance adopted pursuant to this section
37 shall not be applied to limit allocation of taxes to an agency to the extent required
38 to eliminate project deficits created under subdivision (g) of Section 33334.6 in
39 accordance with the plan adopted pursuant thereto for the purpose of eliminating
40 the deficit or to comply with subdivision (a) of Section 33333.8. In the event of a
41 conflict between these limitations and the obligations under Section 33334.6 or
42 subdivision (a) of Section 33333.8, the legislative body shall amend the ordinance

1 adopted pursuant to this section to modify the limitations to the extent necessary to
2 permit compliance with the plan adopted pursuant to subdivision (g) of Section
3 33334.6, to permit compliance with subdivision (a) of Section 33333.8, and to
4 allow full expenditure of moneys in the agency's Low and Moderate Income
5 Housing Fund in accordance with Section 33334.3. The procedure for amending
6 the ordinance pursuant to this subdivision shall be the same as for adopting the
7 ordinance under subdivision (b).

8 (d) This section shall not be construed to allow the impairment of any obligation
9 or indebtedness incurred by the legislative body or the agency pursuant to this
10 part.

11 (e) In any litigation to challenge or attack any ordinance adopted pursuant to this
12 section, the court shall sustain the actions of the legislative body and the agency
13 unless the court finds those actions were arbitrary or capricious. The Legislature
14 finds and declares that this is necessary because redevelopment agencies with
15 project areas established prior to October 1, 1976, have incurred existing
16 obligations and indebtedness and have adopted projects, programs, and activities
17 with the authority to receive and pledge the entire allocation of taxes authorized by
18 Section 33670 and that it is necessary to protect against the possible impairment of
19 existing obligations and indebtedness and to allow the completion of adopted
20 projects and programs.

21 (f) The ordinance adopted by the legislative body in compliance with this
22 section does not relieve any agency of its obligations under Section 33333.8,
23 33334.2, 33334.3, Article 9 (commencing with Section 33410), or any other
24 requirement contained in this part.

25 (g) A redevelopment plan adopted on or after October 1, 1976, and prior to
26 January 1, 1994, containing the provisions set forth in Section 33670, shall also
27 contain:

28 (1) A limitation on the number of dollars of taxes that may be divided and
29 allocated to the agency pursuant to the plan, including any amendments to the
30 plan. Taxes shall not be divided and shall not be allocated to the agency beyond
31 this limitation, except pursuant to amendment of the redevelopment plan, or as
32 necessary to comply with subdivision (a) of Section 33333.8.

33 (2) A time limit, not to exceed 12 years, for commencement of eminent domain
34 proceedings to acquire property within the project area. This time limitation may
35 be extended only by amendment of the redevelopment plan after the agency finds,
36 based on substantial evidence, both of the following:

37 (A) That significant blight remains within the project area.

38 (B) That this blight cannot be eliminated without the use of eminent domain.

39 **§ 33333.5. Exemption relating to addition of new territory to existing project areas in City**
40 **of South Gate**

41 33333.5. (a) With respect to the adoption of the redevelopment plan for an area
42 of the City of South Gate with the approximate boundaries east of Atlantic

1 Boulevard, south of Wood Avenue, north of Aldrich Road, and west of the Los
2 Angeles River, the agency shall be exempt from the provisions of Sections 33322
3 to 33327, inclusive, and Section 33330 related to the addition of new territory to
4 existing project areas.

5 (b) Notwithstanding any other exemption granted by this section, the City of
6 South Gate shall, prior to adoption of a redevelopment plan, conduct at least two
7 public meetings on the proposed plan for South Gate residents and property
8 owners. The City of South Gate shall also cause to be organized a citizens'
9 advisory committee comprised of residents and property owners of the project,
10 which shall advise the agency on development strategy and plans and other
11 matters that may affect the residents of the project area. The citizens' advisory
12 committee shall remain in existence for at least three years.

13 (c) The adoption of a redevelopment plan pursuant to this section is limited to a
14 plan that adds land into an existing redevelopment plan and does not involve a
15 change of any general plan or zoning ordinance or grant any variance. Any change
16 in zoning, a general plan, or a variance relating to the additional redevelopment
17 plan area shall be subject to all applicable requirements of law.

18 (d) Nothing in this section shall preclude the City of South Gate or its
19 redevelopment agency from using a prior environmental impact report prepared
20 for the site, referenced in subdivision (a), pursuant to Section 15153 of Title 14 of
21 the California Code of Regulations.

22 **§ 33333.6. More time limits for redevelopment plan adopted on or before Dec. 31, 1993**

23 33333.6. The limitations of this section shall apply to every redevelopment plan
24 adopted on or before December 31, 1993.

25 (a) The effectiveness of every redevelopment plan to which this section applies
26 shall terminate at a date that shall not exceed 40 years from the adoption of the
27 redevelopment plan or January 1, 2009, whichever is later. After the time limit on
28 the effectiveness of the redevelopment plan, the agency shall have no authority to
29 act pursuant to the redevelopment plan except to pay previously incurred
30 indebtedness, to comply with Section 33333.8 and to enforce existing covenants,
31 contracts, or other obligations.

32 (b) Except as provided in subdivisions (f) and (g), a redevelopment agency may
33 not pay indebtedness or receive property taxes pursuant to Section 33670 after 10
34 years from the termination of the effectiveness of the redevelopment plan pursuant
35 to subdivision (a).

36 (c)(1) If plans that had different dates of adoption were merged on or before
37 December 31, 1993, the time limitations required by this section shall be counted
38 individually for each merged plan from the date of the adoption of each plan. If an
39 amendment to a redevelopment plan added territory to the project area on or
40 before December 31, 1993, the time limitations required by this section shall
41 commence, with respect to the redevelopment plan, from the date of the adoption

1 of the redevelopment plan, and, with respect to the added territory, from the date
2 of the adoption of the amendment.

3 (2) If plans that had different dates of adoption are merged on or after January 1,
4 1994, the time limitations required by this section shall be counted individually for
5 each merged plan from the date of the adoption of each plan.

6 (d)(1) Unless a redevelopment plan adopted prior to January 1, 1994, contains
7 all of the limitations required by this section and each of these limitations does not
8 exceed the applicable time limits established by this section, the legislative body,
9 acting by ordinance on or before December 31, 1994, shall amend every
10 redevelopment plan adopted prior to January 1, 1994, either to amend an existing
11 time limit that exceeds the applicable time limit established by this section or to
12 establish time limits that do not exceed the provisions of subdivision (b) or (c).

13 (2) The limitations established in the ordinance adopted pursuant to this section
14 shall apply to the redevelopment plan as if the redevelopment plan had been
15 amended to include those limitations. However, in adopting the ordinance required
16 by this section, neither the legislative body nor the agency is required to comply
17 with Article 12 (commencing with Section 33450) or any other provision of this
18 part relating to the amendment of redevelopment plans.

19 (e)(1) If a redevelopment plan adopted prior to January 1, 1994, contains one or
20 more limitations required by this section, and the limitation does not exceed the
21 applicable time limit required by this section, this section shall not be construed to
22 require an amendment of this limitation.

23 (2)(A) A redevelopment plan adopted prior to January 1, 1994, that has a
24 limitation shorter than the terms provided in this section may be amended by a
25 legislative body by adoption of an ordinance on or after January 1, 1999, but on or
26 before December 31, 1999, to extend the limitation, provided that the plan as so
27 amended does not exceed the terms provided in this section. In adopting an
28 ordinance pursuant to this subparagraph, neither the legislative body nor the
29 agency is required to comply with Section 33354.6, Article 12 (commencing with
30 Section 33450), or any other provision of this part relating to the amendment of
31 redevelopment plans.

32 (B) On or after January 1, 2002, a redevelopment plan may be amended by a
33 legislative body by adoption of an ordinance to eliminate the time limit on the
34 establishment of loans, advances, and indebtedness required by this section prior
35 to January 1, 2002. In adopting an ordinance pursuant to this subparagraph, neither
36 the legislative body nor the agency is required to comply with Section 33354.6,
37 Article 12 (commencing with Section 33450), or any other provision of this part
38 relating to the amendment of redevelopment plans, except that the agency shall
39 make the payment to affected taxing entities required by Section 33607.7.

40 (C) When an agency is required to make a payment pursuant to Section 33681.9,
41 the legislative body may amend the redevelopment plan to extend the time limits
42 required pursuant to subdivisions (a) and (b) by one year by adoption of an
43 ordinance. In adopting an ordinance pursuant to this subparagraph, neither the

1 legislative body nor the agency is required to comply with Section 33354.6,
2 Article 12 (commencing with Section 33450), or any other provision of this part
3 relating to the amendment of redevelopment plans, including, but not limited to,
4 the requirement to make the payment to affected taxing entities required by
5 Section 33607.7.

6 (D) When an agency is required pursuant to Section 33681.12 to make a
7 payment to the county auditor for deposit in the county's Educational Revenue
8 Augmentation Fund created pursuant to Article 3 (commencing with Section 97)
9 of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code, the
10 legislative body may amend the redevelopment plan to extend the time limits
11 required pursuant to subdivisions (a) and (b) by the following:

12 (i) One year for each year in which a payment is made, if the time limit for the
13 effectiveness of the redevelopment plan established pursuant to subdivision (a) is
14 10 years or less from the last day of the fiscal year in which a payment is made.

15 (ii) One year for each year in which a payment is made, if both of the following
16 apply:

17 (I) The time limit for the effectiveness of the redevelopment plan established
18 pursuant to subdivision (a) is more than 10 years but less than 20 years from the
19 last day of the fiscal year in which a payment is made.

20 (II) The legislative body determines in the ordinance adopting the amendment
21 that, with respect to the project, the agency is in compliance with Section 33334.2
22 or 33334.6, as applicable, has adopted an implementation plan in accordance with
23 the requirements of Section 33490, is in compliance with subdivisions (a) and (b)
24 of Section 33413, to the extent applicable, and is not subject to sanctions pursuant
25 to subdivision (e) of Section 33334.12 for failure to expend, encumber, or disburse
26 an excess surplus.

27 (iii) This subparagraph shall not apply to any redevelopment plan if the time
28 limit for the effectiveness of the redevelopment plan established pursuant to
29 subdivision (a) is more than 20 years after the last day of the fiscal year in which a
30 payment is made.

31 (3)(A) The legislative body by ordinance may adopt the amendments provided
32 for under this paragraph following a public hearing. Notice of the public hearing
33 shall be mailed to the governing body of each affected taxing entity at least 30
34 days prior to the public hearing and published in a newspaper of general
35 circulation in the community at least once, not less than 10 days prior to the date
36 of the public hearing. The ordinance shall contain a finding of the legislative body
37 that funds used to make a payment to the county's Educational Revenue
38 Augmentation Fund pursuant to Section 33681.12 would otherwise have been
39 used to pay the costs of projects and activities necessary to carry out the goals and
40 objectives of the redevelopment plan. In adopting an ordinance pursuant to this
41 paragraph, neither the legislative body nor the agency is required to comply with
42 Section 33354.6, Article 12 (commencing with Section 33450), or any other
43 provision of this part relating to the amendment of redevelopment plans.

1 (B) The time limit on the establishment of loans, advances, and indebtedness
2 shall be deemed suspended and of no force or effect but only for the purpose of
3 issuing bonds or other indebtedness the proceeds of which are used to make the
4 payments required by Section 33681.12 if the following apply:

5 (i) The time limit on the establishment of loans, advances, and indebtedness
6 required by this section prior to January 1, 2002, has expired and has not been
7 eliminated pursuant to subparagraph (B).

8 (ii) The agency is required to make a payment pursuant to Section 33681.12.

9 (iii) The agency determines that in order to make the payment required by
10 Section 33681.12, it is necessary to issue bonds or incur other indebtedness.

11 (iv) The proceeds of the bonds issued or indebtedness incurred are used solely
12 for the purpose of making the payments required by Section 33681.12 and related
13 costs.

14 The suspension of the time limit on the establishment of loans, advances, and
15 indebtedness pursuant to this subparagraph shall not require the agency to make
16 the payment to affected taxing entities required by Section 33607.7.

17 (4)(A) A time limit on the establishing of loans, advances, and indebtedness to
18 be paid with the proceeds of property taxes received pursuant to Section 33670 to
19 finance in whole or in part the redevelopment project shall not prevent an agency
20 from incurring debt to be paid from the agency's Low and Moderate Income
21 Housing Fund or establishing more debt in order to fulfill the agency's affordable
22 housing obligations, as defined in paragraph (1) of subdivision (a) of Section
23 33333.8.

24 (B) A redevelopment plan may be amended by a legislative body to provide that
25 there shall be no time limit on the establishment of loans, advances, and
26 indebtedness paid from the agency's Low and Moderate Income Housing Fund or
27 establishing more debt in order to fulfill the agency's affordable housing
28 obligations, as defined in paragraph (1) of subdivision (a) of Section 33333.8. In
29 adopting an ordinance pursuant to this subparagraph, neither the legislative body
30 nor the agency is required to comply with Section 33345.6, Article 12
31 (commencing with Section 33450), or any other provision of this part relating to
32 the amendment of redevelopment plans, and the agency shall not make the
33 payment to affected taxing entities required by Section 33607.7.

34 (f) The limitations established in the ordinance adopted pursuant to this section
35 shall not be applied to limit the allocation of taxes to an agency to the extent
36 required to comply with Section 33333.8. In the event of a conflict between these
37 limitations and the obligations under Section 33333.8, the limitations established
38 in the ordinance shall be suspended pursuant to Section 33333.8.

39 (g)(1) This section does not effect the validity of any bond, indebtedness, or
40 other obligation, including any mitigation agreement entered into pursuant to
41 Section 33401, authorized by the legislative body, or the agency pursuant to this
42 part, prior to January 1, 1994.

1 (2) This section does not affect the right of an agency to receive property taxes,
2 pursuant to Section 33670, to pay the bond, indebtedness, or other obligation.

3 (3) This section does not affect the right of an agency to receive property taxes
4 pursuant to Section 33670 to pay refunding bonds issued to refinance, refund, or
5 restructure indebtedness authorized prior to January 1, 1994, if the last maturity
6 date of these refunding bonds is not later than the last maturity date of the
7 refunded indebtedness and the sum of the total net interest cost to maturity on the
8 refunding bonds plus the principal amount of the refunding bonds is less than the
9 sum of the total net interest cost to maturity on the refunded indebtedness plus the
10 principal amount of the refunded indebtedness.

11 (h) A redevelopment agency shall not pay indebtedness or receive property taxes
12 pursuant to Section 33670, with respect to a redevelopment plan adopted prior to
13 January 1, 1994, after the date identified in subdivision (b) or the date identified in
14 the redevelopment plan, whichever is earlier, except as provided in paragraph (2)
15 of subdivision (e), in subdivision (g), or in Section 33333.8.

16 (i) The Legislature finds and declares that the amendments made to this section
17 by Chapter 942 of the Statutes of 1993 are intended to add limitations to the law
18 on and after January 1, 1994, and are not intended to change or express legislative
19 intent with respect to the law prior to that date. It is not the intent of the
20 Legislature to affect the merits of any litigation regarding the ability of a
21 redevelopment agency to sell bonds for a term that exceeds the limit of a
22 redevelopment plan pursuant to law that existed prior to January 1, 1994.

23 (j) If a redevelopment plan is amended to add territory, the amendment shall
24 contain the time limits required by Section 33333.2.

25 **§ 33333.7. Special time limits applicable to Low and Moderate Income Housing Fund**
26 **activities of San Francisco RDA**

27 33333.7. (a) Notwithstanding the time limits in paragraph (1) of subdivision (a)
28 of Section 33333.6, as that paragraph (1) read on December 31, 2001, the
29 Redevelopment Agency of the City and County of San Francisco may, subject to
30 the approval of the Board of Supervisors of the City and County of San Francisco,
31 retain its ability to incur indebtedness exclusively for Low and Moderate Income
32 Housing Fund activities eligible under Sections 33334.2 and 33334.3 until January
33 1, 2014, or until the agency replaces all of the housing units demolished prior to
34 the enactment of the replacement housing obligations in Chapter 970 of the
35 Statutes of 1975, whichever occurs earlier. The ability of the agency to receive tax
36 increment revenues to repay indebtedness incurred for these Low and Moderate
37 Income Housing Fund activities may be extended until no later than January 1,
38 2044. Nothing in this paragraph shall be construed to extend a plan's
39 effectiveness, except to incur additional indebtedness for Low and Moderate
40 Income Housing Fund activities, to pay previously incurred indebtedness, and to
41 enforce existing covenants, contracts, or other obligations.

1 (b) Annual revenues shall not exceed the amount necessary to fund the Low and
2 Moderate Income Housing Fund activities of the agency. The agency shall neither
3 collect nor spend more than 10 percent for the planning and administrative costs
4 authorized pursuant to subdivision (e) of Section 33334.3. Revenues received
5 under this paragraph shall not exceed the amount of tax increment received and
6 allocated to the agency pursuant to the plan, as it has been amended, less the
7 amount necessary to pay prior outstanding indebtedness, and less the amount of
8 the project area's property tax revenue that school entities are entitled to receive
9 pursuant to Chapter 3 (commencing with Section 75) and Chapter 6 (commencing
10 with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code if the
11 plan had not been amended. Additionally, revenues collected under this paragraph
12 are subject to the payments to affected taxing entities pursuant to Section 33607.

13 (c) The activities conducted with revenues received under this paragraph shall
14 be consistent with the policies and objectives of the community's housing element,
15 as reviewed and approved by the department, and shall address the unmet housing
16 needs of very low, low- and moderate-income households. The activities shall also
17 be consistent with the community's most recently approved consolidated and
18 annual action plans submitted to the United States Department of Housing and
19 Urban Development, and if the director deems it necessary, the annual action plans
20 shall be submitted to the department on an annual basis. No less than 50 percent of
21 the revenues received shall be devoted to assisting in the development of housing
22 that is affordable to very low income households.

23 (d) The agency shall not incur any indebtedness pursuant to this paragraph until
24 the director certifies, after consulting with the agency, the net difference between
25 the number of housing units affordable to persons and families of low and
26 moderate income that the agency destroyed or removed prior to January 1, 1976,
27 and the number of housing units affordable to persons and families of low and
28 moderate income that the agency rehabilitated, developed, or constructed, or
29 caused to be rehabilitated, developed, or constructed within the project areas
30 adopted prior to January 1, 1976.

31 (e) The agency shall not incur any indebtedness pursuant to this paragraph
32 unless the director of the department certifies annually, prior to the creation of
33 indebtedness, all of the following:

34 (1) The community has a current housing element that substantially complies
35 with the requirements of Article 10.6 (commencing with Section 65580) of
36 Chapter 3 of Division 1 of Title 7 of the Government Code.

37 (2) The community's housing element indicates an unmet need for Low and
38 Moderate Income Housing Fund activities.

39 (3) The agency's most recent independent financial audit report prepared
40 pursuant to Section 33080.1 reports acceptable findings and no major violations of
41 this part.

42 (4) The agency has complied with subdivision (a) of Section 33334.2.

1 (5) The agency has met the requirements of this part with respect to the
2 provision of dwelling units for persons and families of low or moderate income,
3 including, but not limited to, the requirements of Section 33413.

4 **§ 33333.8. Compliance with affordable housing obligations and consequences of**
5 **noncompliance**

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

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

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

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

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

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

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

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

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

39 (b) If, on the date of the time limit on the effectiveness of the redevelopment
40 plan, a redevelopment agency has not complied with subdivision (a), the time limit
41 on the effectiveness of the redevelopment plan, and, if necessary, the time limit for
42 repayment of indebtedness, shall be suspended until the agency has complied with

1 subdivision (a). In addition, the agency shall receive and use all tax increment
2 funds that are not pledged to repay indebtedness until the agency has fully
3 complied with its obligations.

4 (c) If, on the date of the time limit on the repayment of indebtedness, the agency
5 has not complied with subdivision (a), the time limit on the repayment of
6 indebtedness shall be suspended until the agency has complied with subdivision
7 (a). In addition, the agency shall receive and use tax increment funds until the
8 agency has fully complied with its obligations.

9 (d) If, on the date of the time limit on the repayment of indebtedness, the agency
10 has complied with its obligations under subdivision (a) and has moneys remaining
11 in the Low and Moderate Income Housing Fund, the agency shall transfer the
12 remaining moneys to a low and moderate income housing fund or account for a
13 different project area within the agency's jurisdiction, if one exists, or if a different
14 project area does not exist, the agency shall either transfer the remaining moneys
15 to a special fund of the community or to the community or county housing
16 authority. The community, community housing authority, or county housing
17 authority to which the remaining moneys are transferred shall utilize the moneys
18 for the purposes of, and subject to the same restrictions that are applicable to, the
19 redevelopment agency under this part.

20 (e) If a redevelopment plan provides a limit on the total amount of tax increment
21 funds that may be received by a redevelopment agency for any project area, and if
22 that limit is reached prior to the agency complying with its obligations pursuant to
23 subdivision (a), that limit is suspended until the agency has complied with
24 subdivision (a) and the agency shall receive and use tax increment funds until the
25 agency has fully complied with its obligations.

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

32 **§ 33333.10. Conditions for, and consequences of, extending time limits on redevelopment**
33 **plan adopted on or before Dec. 31, 1993**

34 33333.10. (a)(1) Notwithstanding the time limits in subdivisions (a) and (b) of
35 Section 33333.6, an agency that adopted a redevelopment plan on or before
36 December 31, 1993, may, pursuant to this section, amend that plan to extend the
37 time limit on effectiveness of the plan for up to 10 additional years beyond the
38 limit allowed by subdivision (a) of Section 33333.6.

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

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

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

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

7 (c) As used in this section:

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

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

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

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

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

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

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

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

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

34 (2) In any fiscal year, the agency may deposit less than the amount required by
35 paragraph (1), but not less than the amount required by Section 33334.2 or
36 33334.6, into the Low and Moderate Income Housing Fund if the agency finds
37 that the difference between the amount deposited and the amount required by
38 paragraph (1) is necessary to make principal and interest payments during that
39 fiscal year on bonds sold by the agency to finance or refinance the redevelopment
40 project prior to six months before the date of adoption of the amendment pursuant
41 to subdivision (a). Bonds sold by the agency prior to six months before the date of
42 the adoption of the amendment pursuant to subdivision (a) may only be
43 refinanced, refunded, or restructured after the date of the amendment pursuant to

1 subdivision (a). However, for purposes of this section, bonds refinanced, refunded,
2 or restructured after the date of the amendment pursuant to subdivision (a) may
3 only be treated as if sold on the date the original bonds were sold if (A) the net
4 proceeds were used to refinance the original bonds, (B) there is no increase in the
5 amount of principal at the time of refinancing, restructuring, or refunding, and (C)
6 the time during which the refinanced indebtedness is to be repaid does not exceed
7 the date on which the existing indebtedness would have been repaid.

8 (3) No later than 120 days prior to depositing less than the amount required by
9 paragraph (1) into the Low and Moderate Income Housing Fund, the agency shall
10 adopt, by resolution after a noticed public hearing, a finding that the difference
11 between the amount allocated and the amount required by paragraph (1) is
12 necessary to make payments on bonds sold by the agency to finance or refinance
13 the redevelopment project and identified in the preliminary report adopted
14 pursuant to paragraph (9) of subdivision (e) of Section 33333.11, and specifying
15 the amount of principal remaining on the bonds, the amount of annual payments,
16 and the date on which the indebtedness will be repaid. Notice of the time and place
17 of the public hearing shall be published in a newspaper of general circulation once
18 a week for at least two successive weeks prior to the public hearing. The agency
19 shall make available to the public the proposed resolution no later than the time of
20 the publication of the first notice of the public hearing. A copy of the resolution
21 shall be transmitted to the Department of Housing and Community Development
22 within 10 days after adoption.

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

40 (5) If, pursuant to paragraph (2) or (4), the agency deposits less than 30 percent
41 of the taxes allocated to the agency pursuant to Section 33670 in any fiscal year in
42 the Low and Moderate Income Housing Fund, the amount equal to the difference
43 between 30 percent of the taxes allocated to the agency pursuant to Section 33670

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

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

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

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

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

42 (i) Each redevelopment plan that has been adopted prior to January 1, 1976, that
43 is amended pursuant to subdivision (a) shall also be amended at the same time to

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

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

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

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

15 **§ 33333.11. Procedures for amending redevelopment plan pursuant to Section 33333.10**

16 33333.11. (a) In order to adopt an amendment pursuant to Section 33333.10, the
17 redevelopment agency shall also comply with the procedures in this section.

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

21 (c) Prior to the publication of the notice of the public hearing on the proposed
22 amendment, the agency shall consult with each affected taxing agency with
23 respect to the proposed amendment. At a minimum, the agency shall give each
24 affected taxing agency the opportunity to meet with representatives of the agency
25 for the purpose of discussing the effect of the proposed amendment upon the
26 affected taxing agency and shall notify each affected taxing agency that any
27 written comments from the affected taxing agency will be included in the report to
28 the legislative body.

29 (d) Prior to the publication of the notice of the public hearing on the proposed
30 amendment, the agency shall consult with and obtain the advice of members of a
31 project area committee, if a project area committee exists, and residents and
32 community organizations and provide to those persons and organizations,
33 including the project area committee, if any, the amendment prior to the agency's
34 submitting the amendment to the legislative body. In addition, the preliminary
35 report prepared pursuant to subdivision (e) shall be made available at no cost to
36 the project area committee, if one exists, and residents and community
37 organizations not later than 120 days prior to holding a public hearing on the
38 proposed amendment.

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

1 (1) A map of the project area that identifies the portion, if any, of the project
2 area that is no longer blighted and the portion of the project area that is blighted
3 and the portion of the project area that contains necessary and essential parcels for
4 the elimination of the remaining blight.

5 (2) A description of the remaining blight.

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

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

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

13 (6) The proposed method of financing these programs or projects. This
14 description shall include the amount of tax increment revenues that is projected to
15 be generated during the period of the extension, including amounts projected to be
16 deposited into the Low and Moderate Income Housing Fund and amounts to be
17 paid to affected taxing entities. This description shall also include sources and
18 amounts of moneys other than tax increment revenues that are available to finance
19 these projects or programs. This description shall also include the reasons that the
20 remaining blight cannot reasonably be expected to be reversed or alleviated by
21 private enterprise or governmental action, or both, without the use of the tax
22 increment revenues available to the agency because of the proposed amendment.

23 (7) An amendment to the agency's implementation plan that includes, but is not
24 limited to, the agency's housing responsibilities pursuant to Section 33490.
25 However, the agency shall not be required to hold a separate public hearing on the
26 implementation plan pursuant to subdivision (d) of Section 33490 in addition to
27 the public hearing on the amendment to the redevelopment plan.

28 (8) A new neighborhood impact report if required by subdivision (m) of Section
29 33352.

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

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

40 (g) No later than 45 days prior to the public hearing on the proposed amendment
41 by the agency or the joint public hearing of the agency and the legislative body,
42 the agency shall notify each affected taxing entity, the Department of Finance, the
43 Department of Housing and Community Development, and each individual and

1 organization that submitted comments on the preliminary report by certified mail
2 of the public hearing, the date of the public hearing, and the proposed amendment.
3 This notice shall be accompanied by the report required to be prepared pursuant to
4 subdivision (h).

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

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

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

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

15 (4) A summary of the consultations with the affected taxing entities. If any of
16 the affected taxing entities has expressed written objections or concerns with the
17 proposed amendment as part of these consultations, the agency shall include a
18 detailed response to each of these concerns.

19 (5) A summary of the consultation with residents and community organizations,
20 including the project area committee, if any. If any resident or community
21 organization, including the project area committee, if any, has expressed written
22 objections or concerns with the proposed amendment as part of these
23 consultations, the agency shall include a detailed response to each of these
24 concerns.

25 (i) After receiving the recommendation of the agency on the proposed
26 amendment, and not sooner than 30 days after the submission of changes to the
27 planning commission, the legislative body shall hold a public hearing on the
28 proposed amendment. At the public hearing, the legislative body shall consider
29 any objections or concerns with the proposed amendment expressed by the
30 affected taxing entities, a project area committee, if any, residents, and community
31 organizations. The notice of the public hearing shall comply with Section 33452.

32 (j) As an alternative to the separate public hearing required by subdivision (i),
33 the agency and the legislative body, with the consent of both, may hold a joint
34 public hearing on the proposed amendment. At the public hearing, the agency and
35 legislative body shall consider any objections or concerns with the proposed
36 amendment expressed by the affected taxing entities, a project area committee, if
37 any, residents, and community organizations. Notice of this public hearing shall
38 comply with Section 33452. When a joint public hearing is held and the legislative
39 body is also the agency, the legislative body may adopt the amended plan with no
40 actions required of the agency. If, after the public hearing, the legislative body
41 determines that the amendment to the plan is necessary or desirable, the legislative
42 body shall adopt an ordinance amending the ordinance adopting the plan thus
43 amended. The ordinance adopting the amendment shall contain findings that both

1 (1) significant blight remains within the project area, and (2) the blight cannot be
2 eliminated without the extension of the effectiveness of the plan and receipt of tax
3 increment revenues.

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

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

38 **§ 33333.13. Dollar limit on tax increment revenue from Glendora Project Area No. 3**

39 33333.13. (a) The Legislature hereby finds and declares that the Glendora
40 Community Redevelopment Agency's Redevelopment Plan for Glendora Project
41 Area No. 3, as adopted on November 23, 1976, contains an unrealistically low
42 dollar limit on the receipt of tax increment. The Legislature further finds and

1 declares that this limit severely restricts the ability of the Glendora Community
2 Redevelopment Agency to address conditions of blight which remain within its
3 Project Area No. 3.

4 (b) Notwithstanding any other law to the contrary or any redevelopment plan
5 previously adopted by the City of Glendora, commencing in the 2008–09 fiscal
6 year and in each fiscal year thereafter until the expiration of the time limit on the
7 receipt of taxes and repayment of indebtedness set forth in a redevelopment plan
8 adopted by the City of Glendora for its Project Area No. 3 pursuant to subdivision
9 (b) of Section 33333.6 and other applicable statutes, the Glendora Community
10 Redevelopment Agency may receive tax increment revenue from Project Area No.
11 3, as a separate project area or as that area may be included in a merged or
12 amended area, in an amount of up to the greater of either of the following fiscal
13 year:

14 (1) The sum of two million six hundred dollars (\$2,600,000) in each fiscal year.

15 (2) In each fiscal year, an amount equal to that amount received by the agency as
16 gross tax increment for the 2007–08 fiscal year.

17 (c) The limit on the amount of tax increment that may be received by the
18 Glendora Community Redevelopment Agency from Project Area No. 3 pursuant
19 to subdivision (b) shall be increased each fiscal year by the greater of either (1) 2
20 percent per year, or (2) the average percentage increase, if any, in the number of
21 dollars of tax increment received by the Glendora Community Redevelopment
22 Agency in the fiscal year preceding the fiscal year for which the calculation is
23 made from each of its other redevelopment project areas with respect to which tax
24 increment revenues were received.

25 **§ 33333.14. Dollar limit on tax increment revenue for Centre City Redevelopment Project**

26 33333.14. (a) The Legislature hereby finds and declares that the Redevelopment
27 Agency of the City of San Diego’s Redevelopment Plan for the Centre City
28 Redevelopment Project, as approved and adopted on May 11, 1992, by the City
29 Council of the City of San Diego by Ordinance No. 0-17767, as amended, contains
30 an unrealistically low dollar limit on the receipt of tax increment. The Legislature
31 further finds and declares that this limit severely restricts the ability of the
32 Redevelopment Agency of the City of San Diego to address conditions of blight
33 which remain within its Centre City Redevelopment Project.

34 (b) Notwithstanding any other law to the contrary or any redevelopment plan
35 previously adopted by the City of San Diego, commencing on the effective date of
36 this section and in each fiscal year thereafter until the expiration of the time limit
37 on the receipt of taxes and repayment of indebtedness set forth in the
38 redevelopment plan adopted by the City of San Diego for its Centre City
39 Redevelopment Project pursuant to subdivision (b) of Section 33333.6 and other
40 applicable statutes, the dollar limit on the receipt of tax increment for the Centre
41 City Redevelopment Project is eliminated, and the Redevelopment Agency of the

1 City of San Diego may receive tax increment revenue from the Centre City
2 Redevelopment Project without a dollar limit.

3 **§ 33334. Proposed method of financing**

4 33334. Every redevelopment plan shall describe generally the proposed method
5 of financing the redevelopment of the project area.

6 **§ 33334.1. Limit on amount of bonded indebtedness**

7 33334.1. If the plan authorizes the issuance of bonds to be repaid in whole or in
8 part from the allocation of taxes pursuant to Section 33670, the plan shall establish
9 a limit on the amount of bonded indebtedness which can be outstanding at one
10 time without an amendment of the plan. This section shall apply only to
11 redevelopment plans adopted on or after October 1, 1976.

12 **§ 33334.2. Minimum amount of taxes RDA must use for affordable housing where**
13 **redevelopment plan is adopted on or after Jan. 1, 1977**

14 33334.2. (a) Except as provided in subdivision (k), not less than 20 percent of all
15 taxes that are allocated to the agency pursuant to Section 33670 shall be used by
16 the agency for the purposes of increasing, improving, and preserving the
17 community's supply of low- and moderate-income housing available at affordable
18 housing cost, as defined by Section 50052.5, to persons and families of low or
19 moderate income, as defined in Section 50093, lower income households, as
20 defined by Section 50079.5, very low income households, as defined in Section
21 50105, and extremely low income households, as defined by Section 50106, that is
22 occupied by these persons and families, unless one of the following findings is
23 made annually by resolution:

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

32 (B) This finding shall only be made if the housing element of the community's
33 general plan demonstrates that the community does not have a need to improve,
34 increase, or preserve the supply of low- and moderate-income housing available at
35 affordable housing cost to persons and families of low or moderate income and to
36 very low income households. This finding shall only be made if it is consistent
37 with the planning agency's annual report to the legislative body on
38 implementation of the housing element required by subdivision (b) of Section
39 65400 of the Government Code. No agency of a charter city shall make this
40 finding unless the planning agency submits the report pursuant to subdivision (b)

1 of Section 65400 of the Government Code. This finding shall not take effect until
2 the agency has complied with subdivision (b) of this section.

3 (2)(A) That some stated percentage less than 20 percent of the taxes that are
4 allocated to the agency pursuant to Section 33670 is sufficient to meet the housing
5 needs of the community, including its share of the regional housing needs of
6 persons and families of low- or moderate-income and very low income
7 households, and that this finding is consistent with the housing element of the
8 community's general plan required by Article 10.6 (commencing with Section
9 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

10 (B) This finding shall only be made if the housing element of the community's
11 general plan demonstrates that a percentage of less than 20 percent will be
12 sufficient to meet the community's need to improve, increase, or preserve the
13 supply of low- and moderate-income housing available at affordable housing cost
14 to persons and families of low or moderate income and to very low income
15 households. This finding shall only be made if it is consistent with the planning
16 agency's annual report to the legislative body on implementation of the housing
17 element required by subdivision (b) of Section 65400 of the Government Code.
18 No agency of a charter city shall make this finding unless the planning agency
19 submits the report pursuant to subdivision (b) of Section 65400 of the Government
20 Code. This finding shall not take effect until the agency has complied with
21 subdivision (b) of this section.

22 (C) For purposes of making the findings specified in this paragraph and
23 paragraph (1), the housing element of the general plan of a city, county, or city and
24 county shall be current, and shall have been determined by the department
25 pursuant to Section 65585 to be in substantial compliance with Article 10.6
26 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
27 Government Code.

28 (3)(A) That the community is making a substantial effort to meet its existing and
29 projected housing needs, including its share of the regional housing needs, with
30 respect to persons and families of low and moderate income, particularly very low
31 income households, as identified in the housing element of the community's
32 general plan required by Article 10.6 (commencing with Section 65580) of
33 Chapter 3 of Division 1 of Title 7 of the Government Code, and that this effort,
34 consisting of direct financial contributions of local funds used to increase and
35 improve the supply of housing affordable to, and occupied by, persons and
36 families of low or moderate income and very low income households is equivalent
37 in impact to the funds otherwise required to be set aside pursuant to this section. In
38 addition to any other local funds, these direct financial contributions may include
39 federal or state grants paid directly to a community and that the community has the
40 discretion of using for the purposes for which moneys in the Low and Moderate
41 Income Housing Fund may be used. The legislative body shall consider the need
42 that can be reasonably foreseen because of displacement of persons and families of
43 low or moderate income or very low income households from within, or adjacent

1 to, the project area, because of increased employment opportunities, or because of
2 any other direct or indirect result of implementation of the redevelopment plan. No
3 finding under this subdivision may be made until the community has provided or
4 ensured the availability of replacement dwelling units as defined in Section
5 33411.2 and until it has complied with Article 9 (commencing with Section
6 33410).

7 (B) In making the determination that other financial contributions are equivalent
8 in impact pursuant to this subdivision, the agency shall include only those
9 financial contributions that are directly related to programs or activities authorized
10 under subdivision (e).

11 (C) The authority for making the finding specified in this paragraph shall expire
12 on June 30, 1993, except that the expiration shall not be deemed to impair
13 contractual obligations to bondholders or private entities incurred prior to May 1,
14 1991, and made in reliance on the provisions of this paragraph. Agencies that
15 make this finding after June 30, 1993, shall show evidence that the agency entered
16 into the specific contractual obligation with the specific intention of making a
17 finding under this paragraph in order to provide sufficient revenues to pay off the
18 indebtedness.

19 (b) Within 10 days following the making of a finding under either paragraph (1)
20 or (2) of subdivision (a), the agency shall send the Department of Housing and
21 Community Development a copy of the finding, including the factual information
22 supporting the finding and other factual information in the housing element that
23 demonstrates that either (1) the community does not need to increase, improve, or
24 preserve the supply of housing for low- and moderate-income households,
25 including very low income households, or (2) a percentage less than 20 percent
26 will be sufficient to meet the community's need to improve, increase, and preserve
27 the supply of housing for low- and moderate-income households, including very
28 low income households. Within 10 days following the making of a finding under
29 paragraph (3) of subdivision (a), the agency shall send the Department of Housing
30 and Community Development a copy of the finding, including the factual
31 information supporting the finding that the community is making a substantial
32 effort to meet its existing and projected housing needs. Agencies that make this
33 finding after June 30, 1993, shall also submit evidence to the department of its
34 contractual obligations with bondholders or private entities incurred prior to May
35 1, 1991, and made in reliance on this finding.

36 (c) In any litigation to challenge or attack a finding made under paragraph (1),
37 (2), or (3) of subdivision (a), the burden shall be upon the agency to establish that
38 the finding is supported by substantial evidence in light of the entire record before
39 the agency. If an agency is determined by a court to have knowingly
40 misrepresented any material facts regarding the community's share of its regional
41 housing need for low- and moderate-income housing, including very low income
42 households, or the community's production record in meeting its share of the
43 regional housing need pursuant to the report required by subdivision (b) of Section

1 65400 of the Government Code, the agency shall be liable for all court costs and
2 plaintiff's attorney's fees, and shall be required to allocate not less than 25 percent
3 of the agency's tax increment revenues to its Low and Moderate Income Housing
4 Fund in each year thereafter.

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

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

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

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

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

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

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

33 (5) Construct buildings or structures.

34 (6) Acquire buildings or structures.

35 (7) Rehabilitate buildings or structures.

36 (8) Provide subsidies to, or for the benefit of, extremely low income households,
37 as defined by Section 50106, very low income households, as defined by Section
38 50105, lower income households, as defined by Section 50079.5, or persons and
39 families of low or moderate income, as defined by Section 50093, to the extent
40 those households cannot obtain housing at affordable costs on the open market.
41 Housing units available on the open market are those units developed without
42 direct government subsidies.

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

3 (10) Maintain the community's supply of mobilehomes.

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

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

10 (g)(1) The agency may use these funds inside or outside the project area. The
11 agency may only use these funds outside the project area upon a resolution of the
12 agency and the legislative body that the use will be of benefit to the project. The
13 determination by the agency and the legislative body shall be final and conclusive
14 as to the issue of benefit to the project area. The Legislature finds and declares that
15 the provision of replacement housing pursuant to Section 33413 is always of
16 benefit to a project. Unless the legislative body finds, before the redevelopment
17 plan is adopted, that the provision of low- and moderate-income housing outside
18 the project area will be of benefit to the project, the project area shall include
19 property suitable for low- and moderate-income housing.

20 (2)(A) The Contra Costa County Redevelopment Agency may use these funds
21 anywhere within the unincorporated territory, or within the incorporated limits of
22 the City of Walnut Creek on sites contiguous to the Pleasant Hill BART Station
23 Area Redevelopment Project area. The agency may only use these funds outside
24 the project area upon a resolution of the agency and board of supervisors
25 determining that the use will be of benefit to the project area. In addition, the
26 agency may use these funds within the incorporated limits of the City of Walnut
27 Creek only if the agency and the board of supervisors find all of the following:

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

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

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

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

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

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

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

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

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

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

18 (i) This section shall only apply to taxes allocated to a redevelopment agency for
19 which a final redevelopment plan is adopted on or after January 1, 1977, or for any
20 area that is added to a project by an amendment to a redevelopment plan, which
21 amendment is adopted on or after the effective date of this section. An agency
22 may, by resolution, elect to make all or part of the requirements of this section
23 applicable to any redevelopment project for which a redevelopment plan was
24 adopted prior to January 1, 1977, subject to any indebtedness incurred prior to the
25 election.

26 (j)(1)(A) An action to compel compliance with the requirement of Section
27 33334.3 to deposit not less than 20 percent of all taxes that are allocated to the
28 agency pursuant to Section 33670 in the Low and Moderate Income Housing Fund
29 shall be commenced within 10 years of the alleged violation. A cause of action for
30 a violation accrues on the last day of the fiscal year in which the funds were
31 required to be deposited in the Low and Moderate Income Housing Fund.

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

39 (C) An agency found to have deposited less into the Low and Moderate Income
40 Housing Fund than mandated by Section 33334.3 or to have spent money from the
41 Low and Moderate Income Housing Fund for purposes other than increasing,
42 improving, and preserving the community's supply of low- and moderate-income
43 housing, as mandated, by this section or Section 33334.6 shall repay the funds

1 with interest in one lump sum pursuant to Section 970.4 or 970.5 of the
2 Government Code or may do either of the following:

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

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

7 (2) Repayment shall not be made from the funds required to be set aside or used
8 for low- and moderate-income housing pursuant to this section.

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

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

16 (5) This subdivision applies to actions filed on and after January 1, 2006.

17 (6) The limitations period specified in subparagraphs (A) and (B) of paragraph
18 (1) does not apply to a cause of action brought pursuant to Chapter 9 (commencing
19 with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

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

23 (2) An agency that suspends revenue pursuant to paragraph (1) shall pay back to
24 its low- and moderate-income housing fund the amount of revenue that was
25 suspended in the 2009–10 fiscal year pursuant to this subdivision from July 1,
26 2010, to June 30, 2015, inclusive.

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

33 (4) An agency that fails to pay or have paid on its behalf the full amount
34 calculated pursuant to subparagraph (J) of paragraph (2) of subdivision (a) of
35 Section 33690, or subparagraph (J) of paragraph (2) of subdivision (a) of Section
36 33690.5, as the case may be, shall, commencing July 1, 2010, or July 1, 2011, as
37 applicable, be required to allocate an additional 5 percent of all taxes that are
38 allocated to that agency pursuant to Section 33670 for low- and moderate-income
39 housing for the remainder of the time that the agency receives allocations of tax
40 revenue pursuant to Section 33670.

1 § 33334.2a. Affordable housing in Orange County

2 33334.2a. (a) The Orange County Development Agency may use the funds
3 described in Section 33334.2 anywhere within the unincorporated territory, or
4 within the incorporated limits of any city within the County of Orange. The
5 agency may only use these funds outside the project area upon a resolution of the
6 agency and board of supervisors determining that the use will be of benefit to the
7 project area. In addition, the agency may use these funds within the incorporated
8 limits of a city only if the agency and the board of supervisors find all of the
9 following:

10 (1) Both the County of Orange and the city have adopted and are implementing
11 complete and current housing elements of their general plans that the department
12 has determined to be in compliance with the requirements of Article 10.6
13 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the
14 Government Code.

15 (2) The development to be funded shall not result in any residential
16 displacement from the site where the development is to be built.

17 (3) The development to be funded shall be a rental housing development
18 containing units affordable to lower income households or very low income
19 households, as defined in Sections 50079.5 and 50105.

20 (4) The development is in an area with a need for additional affordable housing.

21 (5) If applicable, Article XXXIV of the California Constitution permits the
22 development.

23 (6) The city in which the development is to be constructed has certified to the
24 agency that the city's redevelopment agency, if one exists, is not subject to
25 sanctions pursuant to subdivision (e) of Section 33334.12 for failure to expend or
26 encumber a housing fund excess surplus.

27 (b) If the agency uses these funds within the incorporated limits of a city, all of
28 the following requirements shall apply:

29 (1) The funds shall be used only for the acquisition of land for, and the design
30 and construction of, housing containing units affordable to lower income
31 households or very low income households, as defined in Sections 50079.5 and
32 50105, or for the acquisition or rehabilitation of publicly assisted rental housing
33 that is threatened with conversion to market rates.

34 (2) If less than all the units in the development are affordable to lower income
35 households or very low income households, any agency assistance shall not
36 exceed the amount needed to make the housing affordable to lower income
37 households and very low income households.

38 (3) The units in the development that are affordable to lower income households
39 or very low income households shall remain affordable for a period of at least 55
40 years. Compliance with this requirement shall be ensured by the execution and
41 recordation of covenants and restrictions that, notwithstanding any other provision
42 of law, shall run with the land.

1 (4) No development shall be located in a census tract where more than 50
2 percent of its population is very low income.

3 (5) Assisted developments shall be located on sites suitable for multifamily
4 housing near public transportation.

5 (6) Developed units shall not be treated as meeting the regional housing needs
6 allocation under both the city's and county's housing elements.

7 (7) The funds shall be used only for developments for which the city in which
8 the development will be constructed has approved the agency's use of funds for
9 the development or has granted land use approvals for the development.

10 (8) The aggregate number of units assisted by the county over each five-year
11 period shall include at least 10 percent that are affordable to households earning
12 30 percent or less of the area median income, and at least 40 percent that are
13 affordable to very low income households.

14 (c) The Orange County Development Agency shall make diligent efforts to
15 obtain the development of low- and moderate-income housing in unincorporated
16 areas, including in developing areas of the county.

17 **§ 33334.3. Affordable housing covenants and Low and Moderate Income Housing Fund**

18 33334.3. (a) The funds that are required by Section 33334.2 or 33334.6 to be
19 used for the purposes of increasing, improving, and preserving the community's
20 supply of low- and moderate-income housing shall be held in a separate Low and
21 Moderate Income Housing Fund until used.

22 (b) Any interest earned by the Low and Moderate Income Housing Fund and
23 any repayments or other income to the agency for loans, advances, or grants, of
24 any kind from the Low and Moderate Income Housing Fund, shall accrue to and
25 be deposited in, the fund and may only be used in the manner prescribed for the
26 Low and Moderate Income Housing Fund.

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

30 (d) It is the intent of the Legislature that the Low and Moderate Income Housing
31 Fund be used to the maximum extent possible to defray the costs of production,
32 improvement, and preservation of low- and moderate-income housing and that the
33 amount of money spent for planning and general administrative activities
34 associated with the development, improvement, and preservation of that housing
35 not be disproportionate to the amount actually spent for the costs of production,
36 improvement, or preservation of that housing. The agency shall determine
37 annually that the planning and administrative expenses are necessary for the
38 production, improvement, or preservation of low- and moderate-income housing.

39 (e)(1) Planning and general administrative costs which may be paid with
40 moneys from the Low and Moderate Income Housing Fund are those expenses
41 incurred by the agency which are directly related to the programs and activities

1 authorized under subdivision (e) of Section 33334.2 and are limited to the
2 following:

3 (A) Costs incurred for salaries, wages, and related costs of the agency's staff or
4 for services provided through interagency agreements, and agreements with
5 contractors, including usual indirect costs related thereto.

6 (B) Costs incurred by a nonprofit corporation which are not directly attributable
7 to a specific project.

8 (2) Legal, architectural, and engineering costs and other salaries, wages, and
9 costs directly related to the planning and execution of a specific project that are
10 authorized under subdivision (e) of Section 33334.2 and that are incurred by a
11 nonprofit housing sponsor are not planning and administrative costs for the
12 purposes of this section, but are instead project costs.

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

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

28 (B) Forty-five years for owner-occupied units. However, the agency may permit
29 sales of owner-occupied units prior to the expiration of the 45-year period for a
30 price in excess of that otherwise permitted under this subdivision pursuant to an
31 adopted program which protects the agency's investment of moneys from the Low
32 and Moderate Income Housing Fund, including, but not limited to, an equity
33 sharing program which establishes a schedule of equity sharing that permits
34 retention by the seller of a portion of those excess proceeds based on the length of
35 occupancy. The remainder of the excess proceeds of the sale shall be allocated to
36 the agency and deposited in the Low and Moderate Income Housing Fund. Only
37 the units originally assisted by the agency shall be counted towards the agency's
38 obligations under Section 33413.

39 (C) Fifteen years for mutual self-help housing units that are occupied by and
40 affordable to very low and low-income households. However, the agency may
41 permit sales of mutual self-help housing units prior to expiration of the 15-year
42 period for a price in excess of that otherwise permitted under this subdivision
43 pursuant to an adopted program that (i) protects the agency's investment of

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

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

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

25 (A) The covenants or restrictions implementing this subdivision for each parcel
26 or unit of real property subject to this subdivision. The agency shall obtain and
27 maintain a copy of the recorded covenants or restrictions for not less than the life
28 of the covenant or restriction.

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

34 (i) A recitation of the affordability covenants or restrictions. If the document
35 recorded under this subparagraph is recorded concurrently with the covenants or
36 restrictions recorded under subparagraph (A), the recitation of the affordability
37 covenants or restrictions shall also reference the concurrently recorded document.
38 If the document recorded under this subparagraph is not recorded concurrently
39 with the covenants or restrictions recorded under subparagraph (A), the recitation
40 of the affordability covenants or restrictions shall also reference the recorder’s
41 identification number of the document recorded under subparagraph (A).

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

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

3 (iv) The assessor's parcel number for the property.

4 (v) The legal description of the property.

5 (4) The agency shall require the recording of the document required under
6 subparagraph (B) of paragraph (3) not more than 30 days after the date of
7 recordation of the covenants or restrictions required under subparagraph (A) of
8 paragraph (3).

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

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

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

18 (A) The agency.

19 (B) The community, as defined in Section 33002.

20 (C) A resident of a unit subject to this subdivision.

21 (D) A residents' association with members who reside in units subject to this
22 subdivision.

23 (E) A former resident of a unit subject to this subdivision who last resided in
24 that unit.

25 (F) An applicant seeking to enforce the covenants or restrictions for a particular
26 unit that is subject to this subdivision, if the applicant conforms to all of the
27 following:

28 (i) Is of low or moderate income, as defined in Section 50093.

29 (ii) Is able and willing to occupy that particular unit.

30 (iii) Was denied occupancy of that particular unit due to an alleged breach of a
31 covenant or restriction implementing this subdivision.

32 (G) A person on an affordable housing waiting list who is of low or moderate
33 income, as defined in Section 50093, and who is able and willing to occupy a unit
34 subject to this subdivision.

35 (8) A dwelling unit shall not be counted as satisfying the affordable housing
36 requirements of this part, unless covenants for that dwelling unit are recorded in
37 compliance with subparagraph (A) of paragraph (3).

38 (9) Failure to comply with the requirements of subparagraph (B) of paragraph
39 (3) shall not invalidate any covenants or restrictions recorded pursuant to
40 subparagraph (A) of paragraph (3).

41 (g) "Housing," as used in this section, includes residential hotels, as defined in
42 subdivision (k) of Section 37912. The definitions of "lower income households,"
43 "very low income households," and "extremely low income households" in

1 Sections 50079.5, 50105, and 50106 shall apply to this section. “Longest feasible
2 time,” as used in this section, includes, but is not limited to, unlimited duration.

3 (h) “Increasing, improving, and preserving the community’s supply of low- and
4 moderate-income housing,” as used in this section and in Section 33334.2,
5 includes the preservation of rental housing units assisted by federal, state, or local
6 government on the condition that units remain affordable to, and occupied by,
7 low- and moderate-income households, including extremely low and very low
8 income households, for the longest feasible time, but not less than 55 years,
9 beyond the date the subsidies and use restrictions could be terminated and the
10 assisted housing units converted to market rate rentals. In preserving these units
11 the agency shall require that the units remain affordable to, and occupied by,
12 persons and families of low- and moderate-income and extremely low and very
13 low income households for the longest feasible time but not less than 55 years.
14 However, the agency may replace rental units with equally affordable and
15 comparable rental units in another location within the community if (1) the
16 replacement units in another location are available for occupancy prior to the
17 displacement of any persons and families of low or moderate income residing in
18 the units to be replaced and (2) the comparable replacement units are not
19 developed with moneys from the Low and Moderate Income Housing Fund.

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

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

38 **§ 33334.4. Proportionate spending of funds in Low and Moderate Income Housing Fund**

39 33334.4. (a) Except as specified in subdivision (d), each agency shall expend
40 over each 10-year period of the implementation plan, as specified in clause (iii) of
41 subparagraph (A) of paragraph (2) of subdivision (a) of Section 33490, the
42 moneys in the Low and Moderate Income Housing Fund to assist housing for

1 persons of low income and housing for persons of very low income in at least the
2 same proportion as the total number of housing units needed for each of those
3 income groups bears to the total number of units needed for persons of moderate,
4 low, and very low income within the community, as those needs have been
5 determined for the community pursuant to Section 65584 of the Government
6 Code. In determining compliance with this obligation, the agency may adjust the
7 proportion by subtracting from the need identified for each income category, the
8 number of units for persons of that income category that are newly constructed
9 over the duration of the implementation plan with other locally controlled
10 government assistance and without agency assistance and that are required to be
11 affordable to, and occupied by, persons of the income category for at least 55
12 years for rental housing and 45 years for ownership housing, except that in making
13 an adjustment the agency may not subtract units developed pursuant to a
14 replacement housing obligation under state or federal law.

15 (b) Each agency shall expend over the duration of each redevelopment
16 implementation plan, the moneys in the Low and Moderate Income Housing Fund
17 to assist housing that is available to all persons regardless of age in at least the
18 same proportion as the number of low-income households with a member under
19 age 65 years bears to the total number of low-income households of the
20 community as reported in the most recent census of the United States Census
21 Bureau.

22 (c) An agency that has deposited in the Low and Moderate Income Housing
23 Fund over the first five years of the period of an implementation plan an aggregate
24 that is less than two million dollars (\$2,000,000) shall have an extra five years to
25 meet the requirements of this section.

26 (d) For the purposes of this section, "locally controlled" means government
27 assistance where the community or other local government entity has the
28 discretion and the authority to determine the recipient and the amount of the
29 assistance, whether or not the source of the funds or other assistance is from the
30 state or federal government. Examples of locally controlled government assistance
31 include, but are not limited to, Community Development Block Grant Program (42
32 U.S.C. Sec. 5301 and following) funds allocated to a city or county, Home
33 Investment Partnership Program (42 U.S.C. Sec. 12721 and following) funds
34 allocated to a city or county, fees or funds received by a city or county pursuant to
35 a city or county authorized program, and the waiver or deferral of city or other
36 charges.

37 **§ 33334.5. Replacement of affordable housing units removed by redevelopment**

38 33334.5. Every redevelopment plan adopted or amended to expand the project
39 area after January 1, 1977, shall contain a provision that whenever dwelling units
40 housing persons and families of low or moderate income are destroyed or removed
41 from the low- and moderate-income housing market as part of a redevelopment
42 project, the agency shall, within four years of such destruction or removal,

1 rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or
2 constructed, for rental or sale to persons and families of low or moderate income
3 an equal number of replacement dwelling units at affordable housing costs, as
4 defined by Section 50052.5, within the project area or within the territorial
5 jurisdiction of the agency, in accordance with all of the provisions of Sections
6 33413 and 33413.5.

7 **§ 33334.6. Minimum amount of taxes RDA must use for affordable housing where Section**
8 **33334.2 does not apply or is voluntarily applied by resolution**

9 33334.6. (a) The Legislature finds and declares that the provision of housing is
10 itself a fundamental purpose of the Community Redevelopment Law and that a
11 generally inadequate statewide supply of decent, safe, and sanitary housing
12 affordable to persons and families of low or moderate income, as defined by
13 Section 50093, threatens the accomplishment of the primary purposes of the
14 Community Redevelopment Law, including job creation, attracting new private
15 investments, and creating physical, economic, social, and environmental
16 conditions to remove and prevent the recurrence of blight. The Legislature further
17 finds and declares that the provision and improvement of affordable housing, as
18 provided by Section 33334.2, outside of redevelopment project areas can be of
19 direct benefit to those projects in assisting the accomplishment of project
20 objectives whether or not those redevelopment projects provide for housing within
21 the project area. The Legislature finds and determines that the provision of
22 affordable housing by redevelopment agencies and the use of taxes allocated to the
23 agency pursuant to subdivision (b) of Section 33670 is of statewide benefit and of
24 particular benefit and assistance to all local governmental agencies in the areas
25 where the housing is provided.

26 (b) This section is applicable to all project areas, or portions of project areas,
27 which are not subject to Section 33334.2, except that a project area, or portion of a
28 project area, for which a resolution was adopted pursuant to subdivision (i) of
29 Section 33334.2 is subject to this section. Project areas subject to this section
30 which are merged are subject to the requirements of both this section and Section
31 33487. The deposit of taxes into the Low and Moderate Income Housing Fund in
32 compliance with either this section or Section 33487 shall satisfy the requirements
33 of both sections in the year those taxes are deposited.

34 (c) Except as otherwise permitted by subdivisions (d) and (e), not less than 20
35 percent of the taxes allocated to the agency pursuant to Section 33670 from project
36 areas specified in subdivision (b) for the 1985–86 fiscal year and each succeeding
37 fiscal year shall be deposited into the Low and Moderate Income Housing Fund
38 established pursuant to Section 33334.3 and used for the purposes set forth in
39 Section 33334.2, unless the agency, by resolution, makes one of the findings
40 described in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 33334.2,
41 except that the authority to make the finding specified in paragraph (3) of
42 subdivision (a) of that section shall expire as specified in that paragraph.

1 Subdivisions (b) and (c) of Section 33334.2 apply if an agency makes any of those
2 findings.

3 (d) In any fiscal year, the agency may deposit less than the amount required by
4 subdivision (c) into the Low and Moderate Income Housing Fund if the agency
5 finds that the difference between the amount deposited and the amount required by
6 subdivision (c) is necessary to make payments under existing obligations of
7 amounts due or required to be committed, set aside, or reserved by the agency
8 during that fiscal year and which are used by the agency for that purpose. For
9 purposes of this section, "existing obligations" means the principal of, and interest
10 on, loans, moneys advanced to, or indebtedness (whether funded, refunded,
11 assumed, or otherwise) incurred by the agency to finance or refinance, in whole or
12 in part, any redevelopment project existing on, and created prior to January 1,
13 1986, and contained on the statement of existing obligations adopted pursuant to
14 subdivision (f). Obligations incurred on or after January 1, 1986, shall be deemed
15 existing obligations for purposes of this section if the net proceeds are used to
16 refinance existing obligations contained on the statement.

17 (e) In each fiscal year prior to July 1, 1996, the agency may deposit less than the
18 amount required by subdivisions (c) and (d) into the Low and Moderate Income
19 Housing Fund if the agency finds that the deposit of less than the amount required
20 by those subdivisions is necessary in order to provide for the orderly and timely
21 completion of public and private projects, programs, or activities approved by the
22 agency prior to January 1, 1986, which are contained on the statement of existing
23 programs adopted pursuant to subdivision (f). Approval of these projects,
24 programs, and activities means approval by the agency of written documents
25 which demonstrate an intent to implement a specific project, program, or activity
26 and is not limited to final approval of a specific project, program, or activity.

27 (f) Any agency which deposits less than the amount required by subdivision (c)
28 into the Low and Moderate Income Housing Fund pursuant to subdivision (d) or
29 (e) shall adopt prior to September 1, 1986, by resolution, after a noticed public
30 hearing, a statement of existing obligations or a statement of existing programs, or
31 both.

32 (1) The agency shall prepare and submit the proposed statement to the
33 legislative body and to the Department of Housing and Community Development
34 prior to giving notice of the public hearing. Notice of the time and place of the
35 public hearing shall be transmitted to the Department of Housing and Community
36 Development at least 15 days prior to the public hearing and notice of the time and
37 place of the public hearing shall be published in a newspaper of general circulation
38 in the community once a week for at least two successive weeks prior to the public
39 hearing. The legislative body shall maintain a record of the public hearing.

40 (2) A copy of the resolution adopted by the agency, together with any
41 amendments to the statement of the agency, shall be transmitted to the Department
42 of Housing and Community Development within 10 days following adoption of
43 the resolution by the agency.

1 (3) A statement of existing obligations shall describe each existing obligation
2 and, based upon the best available information, as determined by the agency, list
3 the total amount of the existing obligation, the annual payments required to be
4 made by the agency pursuant to the existing obligation, and the date the existing
5 obligation will be discharged in full.

6 (4) A statement of existing programs shall list the specific public and private
7 projects, programs, or activities approved prior to January 1, 1986, which are
8 necessary for the orderly completion of the redevelopment plan as it existed on
9 January 1, 1986. No project, program, or activity shall be included on the
10 statement of existing programs unless written evidence of the existence and
11 approval of the project, program, or activity prior to January 1, 1986, is attached to
12 the statement of existing programs.

13 (g) If, pursuant to subdivision (d) or (e), the agency deposits less than 20 percent
14 of the taxes allocated to the agency pursuant to Section 33670 in the 1985–86
15 fiscal year or any subsequent fiscal year in the Low and Moderate Income
16 Housing Fund, the amount equal to the difference between 20 percent of the taxes
17 allocated to the agency pursuant to Section 33670 for each affected project and the
18 amount deposited that year shall constitute a deficit of the project. The agency
19 shall adopt a plan to eliminate the deficit in subsequent years as determined by the
20 agency.

21 (h) The obligations imposed by this section, including deficits, if any, created
22 under this section, are hereby declared to be an indebtedness of the redevelopment
23 project to which they relate, payable from taxes allocated to the agency pursuant to
24 Section 33670, and shall constitute an indebtedness of the agency with respect to
25 the redevelopment project until paid in full.

26 (i) In any litigation to challenge or attack a statement of existing obligations, the
27 decision by the agency after the public hearing to include an existing obligation on
28 the statement of existing obligations, or the decision by the agency after the public
29 hearing to include a project, program, or activity on the statement of existing
30 programs, the court shall uphold the action of the agency unless the court finds
31 that the agency has abused its discretion. The Legislature finds and declares that
32 this standard of review is necessary in order to protect against the possible
33 impairment of existing obligations, programs, and activities because agencies with
34 project areas adopted prior to January 1, 1977, have incurred existing obligations
35 and have adopted projects, programs, and activities with the authority to receive
36 and pledge the entire allocation of funds authorized by Section 33670.

37 **§ 33334.7. Low- and moderate-income housing programs to receive priority**

38 33334.7. Programs to assist or develop low- and moderate-income housing
39 pursuant to Sections 33334.2, 33334.3, 33334.6, 33413, and 33449 shall be
40 entitled to priority consideration for assistance in housing programs administered
41 by the California Housing Finance Agency, the Department of Housing and
42 Community Development, and other state agencies and departments, if those

1 agencies or departments determine that the housing is otherwise eligible for
2 assistance under a particular program.

3 **§ 33334.8. Notice requirements applicable to multifamily rental housing that receives**
4 **financial assistance**

5 33334.8. The same notice requirements as specified in Section 65863.10 of the
6 Government Code shall apply to multifamily rental housing that receives financial
7 assistance pursuant to Sections 33334.2, 33334.3, and 33334.6.

8 **§ 33334.9. Credit and offset for providing low income housing assistance**

9 33334.9. Notwithstanding Sections 33334.2 and 33334.3, assistance provided by
10 an agency to preserve the availability to lower income households of affordable
11 housing units which are assisted or subsidized by public entities and which are
12 threatened with imminent conversion to market rates may be credited and offset
13 against an agency's obligations under Section 33334.2.

14 **§ 33334.10. Excess surplus in Low and Moderate Income Housing Fund**

15 33334.10. (a) Except as otherwise provided in this subdivision, not later than six
16 months following the close of any fiscal year of an agency in which excess surplus
17 accumulates in the agency's Low and Moderate Income Housing Fund, the agency
18 may adopt a plan pursuant to this section for expenditure of all moneys in the Low
19 and Moderate Income Housing Fund within five years from the end of that fiscal
20 year. The plan may be general and need not be site-specific, but shall include
21 objectives respecting the number and type of housing to be assisted, identification
22 of the entities, which will administer the plan, alternative means of ensuring the
23 affordability of housing units for the longest feasible time, as specified in
24 subdivision (e) of Section 33334.3 the income groups to be assisted, and a
25 schedule by fiscal year for expenditure of the excess surplus.

26 (b) The agency shall separately account for each excess surplus either as part of
27 or in addition to a Low and Moderate Income Housing Fund.

28 (c) If the agency develops a plan for expenditure of excess surplus or other
29 moneys in the Low and Moderate Income Housing Fund, a copy of that plan and
30 any amendments thereto shall be included in the agency's annual report required
31 by Article 6 (commencing with Section 33080).

32 **§ 33334.12. Failure to timely expend excess surplus in Low and Moderate Income Housing**
33 **Fund**

34 33334.12. (a)(1) Upon failure of the agency to expend or encumber excess
35 surplus in the Low and Moderate Income Housing Fund within one year from the
36 date the moneys become excess surplus, as defined in paragraph (1) of subdivision
37 (g), the agency shall do either of the following:

1 (A) Disburse voluntarily its excess surplus to the county housing authority or to
2 another public agency exercising housing development powers within the
3 territorial jurisdiction of the agency in accordance with subdivision (b).

4 (B) Expend or encumber its excess surplus within two additional years.

5 (2) If an agency, after three years has elapsed from the date that the moneys
6 become excess surplus, has not expended or encumbered its excess surplus, the
7 agency shall be subject to sanctions pursuant to subdivision (e), until the agency
8 has expended or encumbered its excess surplus plus an additional amount, equal to
9 50 percent of the amount of the excess surplus that remains at the end of the three-
10 year period. The additional expenditure shall not be from the agency's Low and
11 Moderate Income Housing Fund, but shall be used in a manner that meets all
12 requirements for expenditures from that fund.

13 (b) The housing authority or other public agency to which the money is
14 transferred shall utilize the moneys for the purposes of, and subject to the same
15 restrictions that are applicable to, the redevelopment agency under this part, and
16 for that purpose may exercise all of the powers of a housing authority under Part 2
17 (commencing with Section 34200) to an extent not inconsistent with these
18 limitations.

19 (c) Notwithstanding Section 34209 or any other provision of law, for the
20 purpose of accepting a transfer of, and using, moneys pursuant to this section, the
21 housing authority of a county or other public agency may exercise its powers
22 within the territorial jurisdiction of a city redevelopment agency located in that
23 county.

24 (d) The amount of excess surplus that shall be transferred to the housing
25 authority or other public agency because of a failure of the redevelopment agency
26 to expend or encumber excess surplus within one year shall be the amount of the
27 excess surplus that is not so expended or encumbered. The housing authority or
28 other public agency to which the moneys are transferred shall expend or encumber
29 these moneys for authorized purposes not later than three years after the date these
30 moneys were transferred from the Low and Moderate Income Housing Fund.

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

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

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

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

- 1 (D) Obligations incurred pursuant to Section 33445.
- 2 (E) Indebtedness incurred pursuant to Section 33334.2 or 33334.6.
- 3 (F) Obligations incurred pursuant to Section 33401.
- 4 (G) An amount, to be expended for the operation and administration of the
5 agency, that may not exceed 75 percent of the amount spent for those purposes in
6 the preceding fiscal year.
- 7 (2) This subdivision shall not be construed to prohibit the expenditure of excess
8 surplus funds or other funds to meet the requirement in paragraph (2) of
9 subdivision (a) that the agency spend or encumber excess surplus funds, plus an
10 amount equal to 50 percent of excess surplus, prior to spending or encumbering
11 funds for any other purpose.
- 12 (f) Nothing in this section shall be construed to limit any authority a
13 redevelopment agency may have under other provisions of this part to contract
14 with a housing authority for increasing or improving the community's supply of
15 low- and moderate-income housing.
- 16 (g) For purposes of this section:
- 17 (1) "Excess surplus" means any unexpended and unencumbered amount in an
18 agency's Low and Moderate Income Housing Fund that exceeds the greater of one
19 million dollars (\$1,000,000) or the aggregate amount deposited into the Low and
20 Moderate Income Housing Fund pursuant to Sections 33334.2 and 33334.6 during
21 the agency's preceding four fiscal years. The first fiscal year to be included in this
22 computation is the 1989-90 fiscal year, and the first date on which an excess
23 surplus may exist is July 1, 1994.
- 24 (2) Moneys shall be deemed encumbered if committed pursuant to a legally
25 enforceable contract or agreement for expenditure for purposes specified in
26 Section 33334.2 or 33334.3.
- 27 (3)(A) For purposes of determining whether an excess surplus exists, it is the
28 intent of the Legislature to give credit to agencies which convey land for less than
29 fair market value, on which low- and moderate-income housing is built or is to be
30 built if at least 49 percent of the units developed on the land are available at
31 affordable housing cost to lower income households for at least the time specified
32 in subdivision (e) of Section 33334.3, and otherwise comply with all of the
33 provisions of this division applicable to expenditures of moneys from a low- and
34 moderate-income housing fund established pursuant to Section 33334.3.
35 Therefore, for the sole purpose of determining the amount, if any, of an excess
36 surplus, an agency may make the following calculation: if an agency sells, leases,
37 or grants land acquired with moneys from the Low and Moderate Income Housing
38 Fund, established pursuant to Section 33334.3, for an amount which is below fair
39 market value, and if at least 49 percent of the units constructed or rehabilitated on
40 the land are affordable to lower income households, as defined in Section 50079.5,
41 the difference between the fair market value of the land and the amount the agency
42 receives may be subtracted from the amount of moneys in an agency's Low and
43 Moderate Income Housing Fund.

1 (B) If taxes that are deposited in the Low and Moderate Income Housing Fund
2 are used as security for bonds or other indebtedness, the proceeds of the bonds or
3 other indebtedness, and income and expenditures related to those proceeds, shall
4 not be counted in determining whether an excess surplus exists. The unspent
5 portion of the proceeds of bonds or other indebtedness, and income related thereto,
6 shall be excluded from the calculation of the unexpended and unencumbered
7 amount in the Low and Moderate Income Housing Fund when determining
8 whether an excess surplus exists.

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

12 (D) The department shall develop and periodically revise the methodology to be
13 used in the calculation of excess surplus as required by this section. The director
14 shall appoint an advisory committee to advise in the development of this
15 methodology. The advisory committee shall include department staff, affordable
16 housing advocates, and representatives of the California Redevelopment
17 Association, the California Society of Certified Public Accountants, the
18 Controller, and any other authorities or persons interested in the field that the
19 director deems necessary and appropriate.

20 (h) Communities in which an agency has disbursed excess surplus funds
21 pursuant to this section shall not disapprove a low- or moderate-income housing
22 project funded in whole or in part by the excess surplus funds if the project is
23 consistent with applicable building codes and the land use designation specified in
24 any element of the general plan as it existed on the date the application was
25 deemed complete. A local agency may require compliance with local development
26 standards and policies appropriate to and consistent with meeting the quantified
27 objectives relative to the development of housing, as required in housing elements
28 of the community pursuant to subdivision (b) of Section 65583 of the Government
29 Code.

30 (i) Notwithstanding subdivision (a), any agency that has funds that become
31 excess surplus on July 1, 1994, shall have, pursuant to subdivision (a), until
32 January 1, 1995, to decide to transfer the funds to a housing authority or other
33 public agency, or until January 1, 1997, to expend or encumber those funds, or
34 face sanctions pursuant to subdivision (e).

35 **§ 33334.13. “Area median income” and consequences of using Low and Moderate Income**
36 **Housing Fund to assist persons with higher incomes**

37 33334.13. (a) Notwithstanding Sections 50079.5, 50093, and 50105, for
38 purposes of providing assistance to mortgagors participating in a homeownership
39 residential mortgage revenue bond program pursuant to Section 33750, or a home
40 financing program pursuant to Section 52020, or a California Housing Finance
41 Agency home financing program, “area median income” means the highest of the
42 following:

- 1 (1) Statewide median household income.
- 2 (2) Countywide median household income.
- 3 (3) Median family income for the area, as determined by the United States
- 4 Department of Housing and Urban Development with respect to either a standard
- 5 metropolitan statistical area or an area outside of a standard metropolitan statistical
- 6 area.

7 Nothing in Section 50093 shall prevent the agency from adopting separate

8 family size adjustment factors or programmatic definitions of income to qualify

9 households, persons, and families for the programs of the agency.

10 (b) To the extent that any portion of the Low and Moderate Income Housing

11 Fund is expended to provide assistance to mortgagors participating in programs

12 whose income exceeds that of persons and families of low or moderate income, as

13 defined in Section 50093, the agency shall, within two years, expend or enter into

14 a legally enforceable agreement to expend twice that sum exclusively to increase

15 and improve the community's supply of housing available at affordable housing

16 cost, as defined in Section 50052.5, to lower income households, as defined in

17 Section 50079.5, of which at least 50 percent shall be very low income

18 households, as defined in Section 50105.

19 (c) In addition to the requirements of subdivision (c) of Section 33413, the

20 agency shall require that the lower and very low income dwelling units developed

21 pursuant to this subdivision remain available at affordable housing cost to lower

22 and very low income households for at least 30 years, except as to dwelling units

23 developed with the assistance of federal or state subsidy programs which terminate

24 in a shorter period and cannot be extended or renewed.

25 (d) The agency shall include within the report required by Section 33080

26 information with respect to compliance by the agency with the requirements of

27 this subdivision.

28 **§ 33334.14. Subordination of affordable housing covenants or restrictions, and affordable**

29 **housing after merger of project areas**

30 33334.14. (a) The covenants or restrictions imposed by the agency pursuant to

31 subdivision (f) of Section 33334.3 may be subordinated under any of the following

32 alternatives:

33 (1) To a lien, encumbrance, or regulatory agreement under a federal or state

34 program when a federal or state agency is providing financing, refinancing, or

35 other assistance to the housing units or parcels, if the federal or state agency

36 refuses to consent to the seniority of the agency's covenant or restriction on the

37 basis that it is required to maintain its lien, encumbrance, or regulatory agreement

38 or restrictions due to statutory or regulatory requirements, adopted or approved

39 policies, or other guidelines pertaining to the financing, refinancing, or other

40 assistance of the housing units or parcels.

41 (2) To a lien, encumbrance, or regulatory agreement of a lender other than the

42 agency or from a bond issuance providing financing, refinancing, or other

1 assistance of owner-occupied units or parcels where the agency makes a finding
2 that an economically feasible alternative method of financing, refinancing, or
3 assisting the units or parcels on substantially comparable terms and conditions, but
4 without subordination, is not reasonably available.

5 (3) To an existing lien, encumbrance, or regulatory agreement of a lender other
6 than the agency or from a bond issuance providing financing, refinancing, or other
7 assistance of rental units, where the agency's funds are utilized for rehabilitation
8 of the rental units.

9 (4) To a lien, encumbrance, or regulatory agreement of a lender other than the
10 agency or from a bond issuance providing financing, refinancing, or other
11 assistance of rental units or parcels where the agency makes a finding that an
12 economically feasible alternative method of financing, refinancing, or assisting the
13 units or parcels on substantially comparable terms and conditions, but without
14 subordination, is not reasonably available, and where the agency obtains written
15 commitments reasonably designed to protect the agency's investment in the event
16 of default, including, but not limited to, any of the following:

17 (A) A right of the agency to cure a default on the loan.

18 (B) A right of the agency to negotiate with the lender after notice of default from
19 the lender.

20 (C) An agreement that if prior to foreclosure of the loan, the agency takes title to
21 the property and cures the default on the loan, the lender will not exercise any
22 right it may have to accelerate the loan by reason of the transfer of title to the
23 agency.

24 (D) A right of the agency to purchase property from the owner at any time after
25 a default on the loan.

26 (b) Notwithstanding the definition of "construction and rehabilitation" in
27 subdivision (a) of Section 33487, an agency that has merged redevelopment
28 projects pursuant to Article 16 (commencing with Section 33485) of Chapter 4,
29 and that is required to deposit taxes into the Low and Moderate Income Housing
30 Fund pursuant to subdivision (a) of Section 33487, may use any of the funds for
31 the purposes and in the manner permitted by Sections 33334.2 and 33334.3.
32 Nothing in this subdivision shall allow an agency with merged project areas
33 pursuant to Article 16 (commencing with Section 33485) to utilize the provisions
34 of paragraph (1), (2), or (3) of subdivision (a) of Section 33334.2 so as to avoid or
35 reduce its obligations to deposit taxes from merged project areas into the Low and
36 Moderate Income Housing Fund.

37 **§ 33334.15. Subsidy including payment of principal and interest on bonds**

38 33334.15. Subsidies provided pursuant to paragraph (8) of subdivision (e) of
39 Section 33334.2 may include payment of a portion of the principal and interest on
40 bonds issued by a public agency to finance housing for persons and families
41 specified in that paragraph if the agency ensures by contract that the benefit of the

1 subsidy will be passed on to those persons and families in the form of lower
2 housing costs.

3 **§ 33334.16. Time limit for initiation of activities consistent with development of affordable**
4 **housing**

5 33334.16. For each interest in real property acquired using moneys from the
6 Low and Moderate Income Housing Fund, the agency shall, within five years from
7 the date it first acquires the property interest for the development of housing
8 affordable to persons and families of low and moderate income, initiate activities
9 consistent with the development of the property for that purpose. These activities
10 may include, but are not limited to, zoning changes or agreements entered into for
11 the development and disposition of the property. If these activities have not been
12 initiated within this period, the legislative body may, by resolution, extend the
13 period during which the agency may retain the property for one additional period
14 not to exceed five years. The resolution of extension shall affirm the intention of
15 the legislative body that the property be used for the development of housing
16 affordable to persons and families of low and moderate income. In the event that
17 physical development of the property for this purpose has not begun by the end of
18 the extended period, or if the agency does not comply with this requirement, the
19 property shall be sold and the moneys from the sale, less reimbursement to the
20 agency for the cost of the sale, shall be deposited in the agency's Low and
21 Moderate Income Housing Fund.

22 **§ 33334.19. Low- and moderate-income housing located within transit village plan**

23 33334.19. (a) Notwithstanding Section 33670 or any other provision of this
24 division, an agency may increase, improve, and preserve the supply of low- and
25 moderate-income housing located within a transit village plan adopted pursuant to
26 the Transit Village Development Planning Act of 1994, Article 8.5 (commencing
27 with Section 65460) of Chapter 3 of Division 1 of Title 7 of the Government
28 Code, and is within its territorial limits but outside of a project area. In the event
29 that the agency seeks to comply with any of its obligations under Section 33413
30 under a transit village plan, it shall provide two units outside of a project area,
31 both of which shall be at the same level of affordability as, and otherwise comply
32 with, all requirements pertaining to the unit that would otherwise have been
33 available inside a project area.

34 (b) To implement subdivision (a), an agency may increase, improve, and
35 preserve the supply of low- and moderate-income housing which is located within
36 a transit village plan with funds from the Low and Moderate Income Housing
37 Fund. In using these funds, the agency shall comply with all requirements of the
38 Community Redevelopment Law (Division 24 (commencing with Section 33000)
39 of the Health and Safety Code).

40 (c) To implement subdivision (a), notwithstanding subdivision (a) of Section
41 33670, an agency may determine the location and character of any residential

1 construction which is located within a transit village plan and which is to be
2 financed pursuant to Chapter 8 (commencing with Section 33750) and may make
3 mortgage or construction loans to participating parties through qualified mortgage
4 lenders, or purchase mortgage or construction loans without premium made by
5 qualified mortgage lenders to participating parties, for financing residential
6 construction of multifamily rental units located within a transit village plan.

7 (d) Expenditures from the Low and Moderate Income Housing Fund pursuant to
8 this section shall be deemed to be part of the agency's redevelopment plans, as if
9 those redevelopment plans had been amended to include those expenditures, and
10 the agency is not required to comply with Article 12 (commencing with Section
11 33450). The Legislature hereby deems those expenditures to benefit the agency's
12 project areas.

13 **§ 33334.22 (to be repealed on Jan. 1, 2013). Housing assistance to very low, lower, and**
14 **moderate-income households in Santa Cruz, Contra Costa, and Monterey Counties**

15 33334.22. (a) The Legislature finds and declares that in order to avoid serious
16 economic hardships and accompanying blight, it is necessary to enact this section
17 for the purpose of providing housing assistance to very low, lower, and moderate-
18 income households. This section applies to any redevelopment agency located
19 within Santa Cruz County, the Contra Costa County Redevelopment Agency, and
20 the Monterey County Redevelopment Agency.

21 (b) Notwithstanding Section 50052.5, any redevelopment agency to which this
22 section applies may make assistance available from its low- and moderate-income
23 housing fund directly to a home buyer for the purchase of an owner-occupied
24 home, and for purposes of that assistance and this section, "affordable housing
25 cost" shall not exceed the following:

26 (1) For very low income households, the product of 40 percent times 50 percent
27 of the area median income adjusted for family size appropriate for the unit.

28 (2) For lower income households whose gross incomes exceed the maximum
29 income for very low income households and do not exceed 70 percent of the area
30 median income adjusted for family size, the product of 40 percent times 70 percent
31 of the area median income adjusted for family size appropriate for the unit. In
32 addition, for any lower income household that has a gross income that equals or
33 exceeds 70 percent of the area median income adjusted for family size, it shall be
34 optional for any state or local funding agency to require that the affordable
35 housing cost not exceed 40 percent of the gross income of the household.

36 (3) For moderate income households, affordable housing cost shall not exceed
37 the product of 40 percent times 110 percent of the area median income adjusted
38 for family size appropriate for the unit. In addition, for any moderate-income
39 household that has a gross income that exceeds 110 percent of the area median
40 income adjusted for family size, it shall be optional for any state or local funding
41 agency to require that affordable housing cost not exceed 40 percent of the gross
42 income of the household.

1 (c) Any agency that provides assistance pursuant to this section shall include in
2 the annual report to the Controller, pursuant to Sections 33080 and 33080.1, all of
3 the following information:

4 (1) The sale prices of homes purchased with assistance from the agency's Low
5 and Moderate Income Housing Fund for each year the program has been in
6 operation.

7 (2) The sale prices of homes purchased and rehabilitated with assistance from
8 the agency's Low and Moderate Income Housing Fund for each year the program
9 has been in operation.

10 (3) The incomes, and percentage of income paid for housing costs, of all
11 households that purchased, and that purchased and rehabilitated, homes with
12 assistance from the agency's Low and Moderate Income Housing Fund for each
13 year the program has been in operation.

14 (d) Except as provided in subdivision (b), all provisions of Section 50052.5,
15 including any definitions, requirements, standards, and regulations adopted to
16 implement those provisions, shall apply to this section.

17 (e) This section shall remain in effect only until January 1, 2013, and as of that
18 date is repealed, unless a later enacted statute, that is enacted before January 1,
19 2013, deletes or extends that date.

20 **§ 33334.25. Transfer of funds to joint powers authority to use for affordable housing**

21 33334.25. (a) The Legislature finds and declares all of the following:

22 (1) The transfer of funds to a joint powers authority and the use of pooled funds
23 within the housing market area of the participating agencies for the purpose of
24 providing affordable housing are of benefit to the project area producing the tax
25 increment.

26 (2) The cost and availability of land, geophysical and environmental limitations,
27 community patterns, and the lack of financing make the availability of affordable
28 housing more difficult in some communities.

29 (3) The cooperation of local agencies and the use of pooled funds will result in
30 more resources than would otherwise be available for affordable housing.

31 (b) As used in this section, the following terms shall apply:

32 (1) "Housing funds" means funds in or from the low- and moderate-income
33 housing fund established by an agency pursuant to Section 33334.3.

34 (2) "Joint powers authority" means a joint powers authority created pursuant to
35 Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the
36 Government Code for the purposes of receiving and using housing funds pursuant
37 to this section.

38 (3) "Receiving entity" means any person, partnership, joint venture, corporation,
39 governmental body, or other organization receiving housing funds from a joint
40 powers authority for the purpose of providing housing pursuant to this section.

41 (c) Notwithstanding any other provision of law, contiguous agencies located
42 within adjoining cities within a single metropolitan statistical area (MSA) may, by

1 agreement, create and participate in a joint powers authority for the purpose of
2 pooling their housing funds for the direct costs of constructing, substantially
3 rehabilitating, and preserving the affordability of housing units that are affordable
4 to extremely low income households, as defined in Section 50106. Agencies may
5 participate in the authority upon a finding based on substantial evidence, after a
6 public hearing, that the aggregation will not cause or exacerbate racial, ethnic, or
7 economic segregation. Agencies may transfer a portion of their housing funds to a
8 joint powers authority for use by the joint powers authority pursuant to this
9 section. The joint powers authority may determine the kinds of housing projects or
10 activities to be assisted, consistent with this section. The joint powers authority
11 may loan, grant, or advance transferred housing funds from participating agencies
12 to a receiving entity for any eligible housing development within the participating
13 agency's jurisdiction, subject to the requirements of this section. In addition, the
14 agreement may authorize the joint powers authority to issue bonds and to use the
15 pooled funds to leverage other funds to assist eligible developments, including
16 loans from private institutions and assistance provided by other governmental
17 agencies.

18 (d) A mutually binding agreement between the joint powers authority and each
19 participating agency shall contain the following terms and conditions:

20 (1) The community of each participating agency shall have adopted up-to-date
21 housing elements pursuant to Article 10.6 (commencing with Section 65580) of
22 Division 1 of Title 7 of the Government Code, and the housing elements have
23 been determined to be in compliance with the law by the Department of Housing
24 and Community Development.

25 (2) The community of each participating agency shall have met, in its current or
26 previous housing element cycle, 50 percent or more of its share of the region's
27 affordable housing needs, as defined in Section 65584 of the Government Code, in
28 the very low and lower income categories of income groups defined in Section
29 50052.5.

30 (3) Each participating agency shall hold, at least 45 days prior to the transfer of
31 funds to the joint powers authority, a public hearing, after providing notice
32 pursuant to Section 6062 of the Government Code to solicit public comments on
33 the draft agreement.

34 (4) No housing funds shall be transferred from a project area that has an
35 indebtedness to its low- and moderate-income housing fund pursuant to Section
36 33334.6.

37 (5) No housing funds shall be transferred from an agency that has not met its
38 need for replacement housing pursuant to Section 33413, unless the agency has
39 encumbered and contractually committed sufficient funds to meet those
40 requirements.

41 (6) Pooled funds shall be used within the participating agencies' jurisdictions.

42 (7) The joint powers authority shall comply with this section.

1 (8) The joint powers authority shall ensure that the funds it receives are used in
2 accordance with this section.

3 (9) Funds transferred by an agency to a joint powers authority pursuant to this
4 section shall be expended or encumbered by the joint powers authority for the
5 purposes of this section within two years of the transfer. Transferred funds not so
6 expended or encumbered by the joint powers authority within two years after the
7 transfer shall be returned to the original agency and shall be deemed excess
8 surplus funds as provided in, and subject to, the requirements of Sections
9 33334.10 and 33334.12. Excess surplus funds held by an agency shall not be
10 transferred to a joint powers authority.

11 (10) The joint powers authority shall prepare and submit an annual report to the
12 department that documents the amount of housing funds received and expended or
13 allocated for specific housing assistance activities consistent with Section 33080.4.

14 (e) A mutually binding contract between the joint powers authority and a
15 receiving entity shall contain the following terms and conditions:

16 (1) Pooled housing funds shall be used only to pay for the direct costs of
17 constructing, substantially rehabilitating, or preserving the affordability of housing
18 units that are affordable to extremely low income persons or households.

19 (2) Pooled housing funds shall not be used to pay for planning and
20 administrative costs, offsite improvements associated with a housing project, or
21 fees or exactions levied solely for development projects constructed, substantially
22 rehabilitated, or preserved with pooled funds. The receiving entity shall be subject
23 to the same replacement requirements provided in Section 33413 and any
24 relocation requirements applicable pursuant to Chapter 16 (commencing with
25 Section 7260) of Division 7 of Title 1 of the Government Code.

26 (3) The joint powers authority shall make findings, based on substantial
27 evidence on the record, that each proposed use of pooled funds will not exacerbate
28 racial or economic segregation.

29 (f) Pooled funds expended pursuant to this section shall be spent within the
30 project area of a participating redevelopment agency.

31 (g) On or after January 1, 2020, no new joint project may be created pursuant to
32 this section.

33 **§ 33335. Agency to lease or sell all real property acquired in project area**

34 33335. Every redevelopment plan shall provide for the agency to lease or sell all
35 real property acquired by it in any project area, except property conveyed by it to
36 the community.

37 **§ 33336. Safeguards and controls in redevelopment plan**

38 33336. Every redevelopment plan shall:

39 (a) Contain adequate safeguards that the work of redevelopment will be carried
40 out pursuant to the plan;

1 (b) Provide for the retention of controls and the establishment of any restrictions
2 or covenants running with land sold or leased for private use for such periods of
3 time and under such conditions as the legislative body deems necessary to
4 effectuate the purposes of this part. The establishment of such controls is a public
5 purpose under the provisions of this part.

6 **§ 33337. Redevelopment plan to require nondiscrimination clauses in deeds, leases, and**
7 **contracts**

8 33337. Every redevelopment plan shall contain a provision requiring that all
9 deeds, leases, or contracts for the sale, lease, sublease, or other transfer of any land
10 in a redevelopment project shall contain the nondiscrimination clauses prescribed
11 in Section 33436.

12 **§ 33338. Covenants, conditions, and restrictions prescribed by legislative body**

13 33338. Every redevelopment plan shall contain other covenants, conditions, and
14 restrictions which the legislative body prescribes.

15 **§ 33339. Owner participation in redevelopment of property**

16 33339. Every redevelopment plan shall provide for participation in the
17 redevelopment of property in the project area by the owners of all or part of such
18 property if the owners agree to participate in the redevelopment in conformity with
19 the redevelopment plan adopted by the legislative body for the area.

20 **§ 33339.5. Preference for persons who were engaged in business in project area before**
21 **redevelopment**

22 33339.5. Every redevelopment agency shall extend reasonable preference to
23 persons who are engaged in business in the project area to reenter in business
24 within the redeveloped area if they otherwise meet the requirements prescribed by
25 the redevelopment plan.

26 With respect to each redevelopment project, each agency shall, within a
27 reasonable time before its approval of the redevelopment plan adopt and make
28 available for public inspection rules to implement the operation of this section in
29 connection with the plan.

30 **§ 33340. Alternative to owner participation**

31 33340. Every redevelopment plan which contemplates property owner
32 participation in the redevelopment of the project area shall contain alternative
33 provisions for redevelopment of the property if the owners fail to participate in the
34 redevelopment as agreed.

1 **§ 33341. Issuance of bonds, expenditure of proceeds, and repayment of principal and**
2 **interest**

3 33341. Redevelopment plans may provide for the agency to issue bonds and
4 expend the proceeds from their sale in carrying out the redevelopment plan. If
5 such an issuance is provided for, the redevelopment plan shall also contain
6 adequate provision for the payment of principal and interest when they become
7 due and payable.

8 **§ 33342. Acquisition of real property in project area**

9 33342. Redevelopment plans may provide for the agency to acquire by gift,
10 purchase, lease, or condemnation all or part of the real property in the project area.

11 **§ 33342.5. Program to acquire real property by eminent domain**

12 33342.5. (a) A redevelopment plan adopted on or after January 1, 2007, shall
13 describe the agency's program to acquire real property by eminent domain.

14 (b) The plan may prohibit the agency from acquiring by eminent domain
15 specified types of real property, including, but not limited to, owner-occupied
16 residences, single-family residences, or any residential property. The plan may
17 prohibit the agency from acquiring by eminent domain real property in specified
18 locations within the project area.

19 (c) An agency's program to acquire real property by eminent domain may be
20 changed only by amending the redevelopment plan pursuant to Article 12
21 (commencing with Section 33450).

22 **§ 33342.7. Ordinance describing program to acquire real property by eminent domain**

23 33342.7. (a) A legislative body that adopted a final redevelopment plan before
24 January 1, 2007, shall adopt an ordinance on or before July 1, 2007, that contains a
25 description of the agency's program to acquire real property by eminent domain.
26 The plan may prohibit the agency from acquiring by eminent domain specified
27 types of real property, including, but not limited to, owner-occupied residences,
28 single-family residences, or any residential property. The plan may prohibit the
29 agency from acquiring by eminent domain real property in specified locations
30 within the project area.

31 (b) An agency's program to acquire real property by eminent domain may be
32 changed only by amending the redevelopment plan, pursuant to Article 12
33 (commencing with Section 33450).

34 **§ 33343. Expenditure of money by community**

35 33343. Redevelopment plans may provide for the expenditure of money by the
36 community.

1 **§ 33344. Community involvement in redevelopment**

2 33344. Redevelopment plans may provide for the community to undertake and
3 complete any proceedings necessary to carry out the project.

4 **§ 33344.5. Preliminary report by redevelopment agency**

5 33344.5. After receiving the report prepared pursuant to Section 33328, or after
6 the time period for preparation of that report has passed, a redevelopment agency
7 that includes a provision for the division of taxes pursuant to Section 33670 in the
8 redevelopment plan shall prepare and send to each affected taxing entity, as
9 defined in Section 33353.2, no later than the date specified in Section 33344.6, a
10 preliminary report which shall contain all of the following:

11 (a) The reasons for the selection of the project area.

12 (b) A description of the physical and economic conditions existing in the project
13 area.

14 (c) A description of the project area which is sufficiently detailed for a
15 determination as to whether the project area is predominantly urbanized. The
16 description shall include at least the following information, which shall be based
17 upon the terms described and defined in Section 33320.1:

18 (1) The total number of acres within the project area.

19 (2) The total number of acres that is characterized by the condition described in
20 paragraph (4) of subdivision (a) of Section 33031.

21 (3) The total number of acres that are in agricultural use. “Agricultural use” shall
22 have the same meaning as that term is defined in subdivision (b) of Section 51201
23 of the Government Code.

24 (4) The total number of acres that is an integral part of an area developed for
25 urban uses.

26 (5) The percent of property within the project area that is predominantly
27 urbanized.

28 (6) A map of the project area that identifies the property described in paragraphs
29 (2), (3), and (4), and the property not developed for an urban use.

30 (d) A preliminary assessment of the proposed method of financing the
31 redevelopment of the project area, including an assessment of the economic
32 feasibility of the project and the reasons for including a provision for the division
33 of taxes pursuant to Section 33670 in the redevelopment plan.

34 (e) A description of the specific project or projects then proposed by the agency.

35 (f) A description of how the project or projects to be pursued by the agency in
36 the project area will improve or alleviate the conditions described in subdivision
37 (b).

38 (g) If the project area contains lands that are in agricultural use, the preliminary
39 report shall be sent to the Department of Conservation, the county agricultural
40 commissioner, the county farm bureau, the California Farm Bureau Federation,
41 and agricultural entities and general farm organizations that provide a written
42 request for notice. A separate written request for notice shall be required for each

1 proposed redevelopment plan or amendment that adds territory. A written request
2 for notice applicable to one redevelopment plan or amendment shall not be
3 effective for a subsequent plan or amendment.

4 **§ 33344.6. Due date for preliminary report**

5 33344.6. A redevelopment agency that is required to prepare a preliminary
6 report pursuant to Section 33344.5 shall send the preliminary report no later than
7 90 days before the date set for a public hearing held pursuant to Section 33355 or
8 33360. However, notwithstanding this requirement, the redevelopment agency
9 may send the report no later than 21 days before the hearing held pursuant to
10 Section 33355 or 33360 if any one of the following conditions is met:

11 (a) The redevelopment plan is proposed to be adopted pursuant to Chapter 4.5
12 (commencing with Section 33492).

13 (b) The redevelopment plan is proposed to be adopted pursuant to the
14 Community Redevelopment Disaster Project Law (Part 1.5 (commencing with
15 Section 34000)).

16 (c) The redevelopment plan is proposed to be amended and the amendment will
17 not do any of the following:

18 (1) Add new territory to the project area.

19 (2) Increase the limitation on the number of dollars of property taxes that may be
20 divided and allocated to the agency pursuant to Section 33670.

21 (3) Increase the limitation on the amount of the bonded indebtedness that can be
22 outstanding at one time.

23 (4) Increase the time limit on the establishing of loans, advances, and
24 indebtedness to be paid with the proceeds of property taxes received pursuant to
25 Section 33670.

26 (5) Increase the time limit on the receipt of property taxes by the agency
27 pursuant to Section 33670.

28 (6) Merge project areas.

29 (d) The agency has previously provided affected taxing agencies with the
30 preliminary report and proposes to change the base year assessment roll pursuant
31 to Section 33328.5.

32 (e) The affected taxing entities waive, in writing, the 90-day notice requirement.

33 **§ 33345. Rules to implement owner participation**

34 33345. With respect to each redevelopment project, each agency shall, within a
35 reasonable time before its approval of the redevelopment plan adopt and make
36 available for public inspection rules to implement the operation of owner
37 participation in connection with the plan.

38 **§ 33346. Submission of redevelopment plan to planning commission**

39 33346. Before the redevelopment plan of each project area is submitted to the
40 legislative body, it shall be submitted to the planning commission for its report and

1 recommendation concerning the redevelopment plan and its conformity to the
2 general plan adopted by the planning commission or the legislative body. The
3 planning commission may recommend for or against the approval of the
4 redevelopment plan.

5 **§ 33347. Report and recommendation of planning commission**

6 33347. Within 30 days after a redevelopment plan is submitted to it for
7 consideration, the planning commission shall make and file its report and
8 recommendation with the agency. If the planning commission does not report
9 upon the redevelopment plan within 30 days after its submission by the agency,
10 the planning commission shall be deemed to have waived its report and
11 recommendations concerning the plan and the agency may thereafter approve the
12 plan without the report and recommendations of the planning commission.

13 **§ 33347.5. Submission of plan to project area committee**

14 33347.5. If there exists within the project area a project area committee, the
15 redevelopment plan shall be submitted to such committee before it is submitted to
16 the legislative body. The committee may, if it chooses, prepare a report and
17 recommendation for submission to the legislative body.

18 **§ 33348. Public hearing to be conducted by redevelopment agency before approval of plan**

19 33348. Before the approval of a redevelopment plan by the agency, the agency
20 shall conduct a public hearing on it.

21 **§ 33349. Notice of public hearing**

22 33349. (a) The agency shall publish notice of the hearing not less than once a
23 week for four successive weeks prior to the hearing. The notice shall be published
24 in a newspaper of general circulation, printed and published in the community, or
25 if there is none, in a newspaper selected by the agency. The notice of hearing shall
26 include a legible map of the boundaries of the area or areas designated in the
27 proposed redevelopment plan and a general statement of the scope and objectives
28 of the plan in nontechnical language and in a clear and coherent manner using
29 words with common and everyday meaning.

30 The agency shall prepare a legal description of the boundaries of the area or
31 areas designated in the proposed redevelopment plan and make this legal
32 description available to the public for inspection during the agency's normal
33 business hours. The notice of the hearing shall state that a copy of the legal
34 description of the boundaries is available upon request, free of charge.

35 (b) Copies of the notices published pursuant to this section shall be mailed, by
36 first-class mail, to the last known assessee of each parcel of land in the area
37 designated in the redevelopment plan, at his or her last known address as shown
38 on the last equalized assessment roll of the county; or where a city assesses, levies,
39 and collects its own taxes, as shown on the last equalized assessment roll of the

1 city; or to the owner of each parcel of land within the boundaries of the area or
2 areas designated in the proposed redevelopment plan, as shown on the records of
3 the county recorder 30 days prior to the date the notice is published.

4 (c)(1) Notice shall also be provided, by first-class mail, to all residents and
5 businesses within the project area at least 30 days prior to the hearing.

6 (2) The mailed notice requirement of this subdivision shall only apply when
7 mailing addresses to all individuals and businesses, or to all occupants, are
8 obtainable by the agency at a reasonable cost. The notice shall be mailed by first-
9 class mail, but may be addressed to "occupant." If the agency has acted in good
10 faith to comply with the notice requirements of this subdivision, the failure of the
11 agency to provide the required notice to residents or businesses unknown to the
12 agency or whose addresses cannot be obtained at a reasonable cost, shall not, in
13 and of itself, invalidate a redevelopment plan or amendment to a redevelopment
14 plan.

15 (d) Copies of the notices published pursuant to this section shall also be mailed
16 to the governing body of each of the taxing agencies that levies taxes upon any
17 property in the project area designated in the proposed redevelopment plan.
18 Notices sent pursuant to this subdivision shall be mailed by certified mail, return
19 receipt requested.

20 **§ 33349.5. Notice requirement for Crescent City RDA**

21 33349.5. Notwithstanding Sections 33349 and 33361, the notice provided for in
22 such sections applicable to the Redevelopment Agency of the City of Crescent
23 City need be published only once, at least ten days prior to the hearing in question.
24 The notice of the hearing by the agency on the redevelopment plan may be
25 published at the same time as the notice of the hearing by the legislative body on
26 the redevelopment plan, and both hearings may be held on the same day.

27 Notwithstanding Section 33500, no action attacking or otherwise questioning the
28 validity of any redevelopment plan, or the adoption or approval of such plan, or
29 any of the findings or determinations of the Redevelopment Agency of the City of
30 Crescent City or the legislative body in connection with such plan shall be brought
31 prior to the adoption of the redevelopment plan nor at any time after the lapse of
32 thirty days from and after the date of adoption of the ordinance adopting the plan.

33 **§ 33350. Notice to assessee whose property would be subject to acquisition**

34 33350. Each assessee whose property would be subject to acquisition by
35 purchase or condemnation under the plan shall be sent a statement in nontechnical
36 language and in a clear and coherent manner using words with common and
37 everyday meaning, to that effect attached to his notice of the hearing.
38 Alternatively, a list or map of all properties which would be subject to acquisition
39 by purchase or condemnation under the plan may be mailed to assessesees with the
40 notices of hearing.

1 **§ 33350.5. Exclusion of land from project area**

2 33350.5. After publication of notice of agency public hearing and prior to
3 approval of the redevelopment plan by the agency, an agency may exclude land
4 from a project area after receipt of a report and recommendation from the planning
5 commission. Within 30 days after a change is submitted to it for consideration, the
6 planning commission shall submit its report and recommendation to the agency. If
7 the planning commission does not report upon the change within 30 days after its
8 submission by the agency, the planning commission shall be deemed to have
9 waived its report and recommendation concerning the change, and the agency may
10 proceed to exclude the land from the project area without the report and
11 recommendation of the planning commission.

12 **§ 33351. Submission of redevelopment plan to legislative body**

13 33351. Upon the preparation and approval of a redevelopment plan the agency
14 shall submit it to the legislative body.

15 **§ 33352. Report accompanying redevelopment plan**

16 33352. Every redevelopment plan submitted by the agency to the legislative
17 body shall be accompanied by a report containing all of the following:

18 (a) The reasons for the selection of the project area, a description of the specific
19 projects then proposed by the agency, a description of how these projects will
20 improve or alleviate the conditions described in subdivision (b).

21 (b) A description of the physical and economic conditions specified in Section
22 33031 that exist in the area that cause the project area to be blighted. The
23 description shall include a list of the physical and economic conditions described
24 in Section 33031 that exist within the project area and a map showing where in the
25 project the conditions exist. The description shall contain specific, quantifiable
26 evidence that documents both of the following:

27 (1) The physical and economic conditions specified in Section 33031.

28 (2) That the described physical and economic conditions are so prevalent and
29 substantial that, collectively, they seriously harm the entire project area.

30 (c) An implementation plan that describes specific goals and objectives of the
31 agency, specific projects then proposed by the agency, including a program of
32 actions and expenditures proposed to be made within the first five years of the
33 plan, and a description of how these projects will improve or alleviate the
34 conditions described in Section 33031.

35 (d) An explanation of why the elimination of blight and the redevelopment of
36 the project area cannot reasonably be expected to be accomplished by private
37 enterprise acting alone or by the legislative body's use of financing alternatives
38 other than tax increment financing.

39 (e) The proposed method of financing the redevelopment of the project area in
40 sufficient detail so that the legislative body may determine the economic
41 feasibility of the plan.

1 (f) A method or plan for the relocation of families and persons to be temporarily
2 or permanently displaced from housing facilities in the project area, which method
3 or plan shall include the provision required by Section 33411.1 that no persons or
4 families of low and moderate income shall be displaced unless and until there is a
5 suitable housing unit available and ready for occupancy by the displaced person or
6 family at rents comparable to those at the time of their displacement.

7 (g) An analysis of the preliminary plan.

8 (h) The report and recommendations of the planning commission.

9 (i) The summary referred to in Section 33387.

10 (j) The report required by Section 65402 of the Government Code.

11 (k) The report required by Section 21151 of the Public Resources Code.

12 (l) The report of the county fiscal officer as required by Section 33328.

13 (m) If the project area contains low- or moderate-income housing, a
14 neighborhood impact report which describes in detail the impact of the project
15 upon the residents of the project area and the surrounding areas, in terms of
16 relocation, traffic circulation, environmental quality, availability of community
17 facilities and services, effect on school population and quality of education,
18 property assessments and taxes, and other matters affecting the physical and social
19 quality of the neighborhood. The neighborhood impact report shall also include all
20 of the following:

21 (1) The number of dwelling units housing persons and families of low or
22 moderate income expected to be destroyed or removed from the low- and
23 moderate-income housing market as part of a redevelopment project.

24 (2) The number of persons and families of low or moderate income expected to
25 be displaced by the project.

26 (3) The general location of housing to be rehabilitated, developed, or
27 constructed pursuant to Section 33413.

28 (4) The number of dwelling units housing persons and families of low or
29 moderate income planned for construction or rehabilitation, other than
30 replacement housing.

31 (5) The projected means of financing the proposed dwelling units for housing
32 persons and families of low and moderate income planned for construction or
33 rehabilitation.

34 (6) A projected timetable for meeting the plan's relocation, rehabilitation, and
35 replacement housing objectives.

36 (n)(1) An analysis by the agency of the report submitted by the county as
37 required by Section 33328, which shall include a summary of the consultation of
38 the agency, or attempts to consult by the agency, with each of the affected taxing
39 entities as required by Section 33328. If any of the affected taxing entities have
40 expressed written objections or concerns with the proposed project area as part of
41 these consultations, the agency shall include a response to these concerns,
42 additional information, if any, and, at the discretion of the agency, proposed or
43 adopted mitigation measures.

1 (2) As used in this subdivision:

2 (A) “Mitigation measures” may include the amendment of the redevelopment
3 plan with respect to the size or location of the project area, time duration, total
4 amount of tax increment to be received by the agency, or the proposed use, size,
5 density, or location of development to be assisted by the agency.

6 (B) “Mitigation measures” shall not include obligations to make payments to
7 any affected taxing entity.

8 **§ 33353.2. “Affected taxing entity”**

9 33353.2. “Affected taxing entity” means any governmental taxing agency that
10 levies a property tax on all or any portion of the property located in the adopted
11 project area in the fiscal year prior to the fiscal year in which the report prepared
12 pursuant to Section 33328 is issued or in any fiscal year after the date the
13 redevelopment plan is adopted. To the extent that a new governmental taxing
14 agency wholly or partially replaces the geographic jurisdiction of a preexisting
15 governmental taxing agency, the new taxing agency shall be an “affected taxing
16 entity” and the preexisting taxing agency shall no longer be an “affected taxing
17 entity.”

18 **§ 33354.5. Amendment of redevelopment plan to include tax increment financing**

19 33354.5. Where an agency proposes to amend a redevelopment plan which does
20 not utilize tax increment financing to include a tax allocation provision, the agency
21 shall follow the same procedure and the legislative body is subject to the same
22 restrictions as provided for in this article for the adoption of a plan.

23 **§ 33354.6. Amendment of redevelopment plan that already includes tax increment financing**

24 33354.6. (a) When an agency proposes to amend a redevelopment plan which
25 utilizes tax increment financing to add new territory to the project area, to increase
26 either the limitation on the number of dollars to be allocated to the redevelopment
27 agency or the time limit on the establishing of loans, advances, and indebtedness
28 established pursuant to paragraphs (1) and (2) of subdivision (a) of Section
29 33333.2 or pursuant to paragraphs (1) and (2) of subdivision (a) of Section
30 33333.4, to lengthen the period during which the redevelopment plan is effective,
31 to merge project areas, or to add significant additional capital improvement
32 projects, as determined by the agency, the agency shall follow the same procedure,
33 and the legislative body is subject to the same restrictions as provided for in this
34 article for the adoption of a plan.

35 (b) When an agency proposes to increase the limitation on the number of dollars
36 to be allocated to the redevelopment agency, it shall describe and identify, in the
37 report required by Section 33352, the remaining blight within the project area,
38 identify the portion, if any, that is no longer blighted, the projects that are required
39 to be completed to eradicate the remaining blight and the relationship between the
40 costs of those projects and the amount of increase in the limitation on the number

1 of dollars to be allocated to the agency. The ordinance adopting the amendment
2 shall contain findings that both (1) significant blight remains with the project area
3 and (2) the blight cannot be eliminated without the establishment of additional
4 debt and the increase in the limitation on the number of dollars to be allocated to
5 the redevelopment agency.

6 Article 4.5. Alternative Procedures for a Joint Public Hearing
7 by the Agency and the Legislative Body

8 **§ 33355. Joint public hearing on redevelopment plan**

9 33355. As an alternative to the separate public hearings required by Sections
10 33348 and 33360 of this part, the agency and the legislative body, with the consent
11 of both, may hold a joint public hearing on a redevelopment plan. The presiding
12 officer of the legislative body shall preside over such joint public hearing.

13 **§ 33356. Procedure for joint public hearing**

14 33356. Prior to such joint public hearing, the agency shall submit the plan to the
15 planning commission by the same procedure as is provided in Section 33346, and
16 to the legislative body. The submission of the plan to the legislative body shall be
17 accompanied by the report required by Section 33352. Notice of the joint public
18 hearing shall conform to all requirements prescribed by Sections 33349, 33350,
19 and 33361. The joint public hearing shall thereafter proceed by the same
20 requirements as are provided in Sections 33360, 33362, 33363, and 33363.5.

21 **§ 33357. Approval of plan by RDA after joint public hearing**

22 33357. After the close of the joint public hearing, the agency may proceed to
23 approve the plan and submit its approval together with any recommendations for
24 changes to the legislative body. If the agency desires to recommend any changes
25 in the plan, such changes shall be submitted to the planning commission for its
26 report and recommendation by the same procedure as is provided in Sections
27 33346 and 33347.

28 **§ 33358. Action by legislative body after RDA approval**

29 33358. After receipt of the approval and any recommendations for changes as
30 well as the report and recommendation of the planning commission of the
31 recommended changes, the legislative body may proceed to act upon the plan
32 pursuant to Sections 33363.5 to 33375, inclusive.

33 **§ 33359. Approval of plan where legislative body is also RDA**

34 33359. When a joint public hearing is held where the legislative body is also the
35 agency, action to approve and adopt the plan need be taken only by the legislative
36 body. At the conclusion of the joint public hearing on the plan, the legislative body
37 may proceed to adopt the plan pursuant to Sections 33363.5 to 33375, inclusive,

1 with no further actions necessary by the agency, even as to the recommendations
2 required of the agency by Section 33363.5.

3 Article 5. Procedure for Adoption of Redevelopment Plans
4 by the Legislative Body

5 **§ 33360. Consideration of redevelopment plan by legislative body at public hearing**

6 33360. The legislative body at a public hearing shall consider the redevelopment
7 plan submitted by the agency. The legislative body may adjourn the hearing from
8 time to time.

9 **§ 33360.5. Comments of Department of Finance and Department of Housing and
10 Community Development**

11 33360.5. (a) No later than 45 days prior to the public hearing on a proposed plan
12 adoption by an agency or the joint public hearing of the agency and the legislative
13 body, the agency shall deliver a copy of the preliminary report and notice of the
14 date of the public hearing to the Department of Finance and the Department of
15 Housing and Community Development by first-class mail.

16 (b) Upon receiving the report, the Department of Finance shall prepare an
17 estimate of how the proposed plan adoption will affect the General Fund. The
18 Department of Finance shall determine whether the adoption will affect the need
19 for school facilities.

20 (c) Within 21 days of the receipt of the report, the Department of Finance or the
21 Department of Housing and Community Development may send any comments
22 regarding the proposed plan adoption in writing to the agency and the legislative
23 body. The agency and the legislative body shall consider these comments, if any,
24 at the public hearing on the proposed plan adoption. If these comments are not
25 available within the prescribed time limit, the agency and the legislative body may
26 proceed without them.

27 (d) The Department of Finance or the Department of Housing and Community
28 Development may also send their comments regarding the proposed plan adoption
29 to the Attorney General for further action pursuant to Chapter 5 (commencing with
30 Section 33501).

31 **§ 33361. Notice of public hearing**

32 33361. Notice of the public hearing shall be given by publication not less than
33 once a week for four successive weeks in a newspaper of general circulation
34 published in the county in which the land lies. The notice shall:

35 (a) Describe specifically the boundaries of the proposed redevelopment project
36 area; and

37 (b) State the day, hour and place when and where any and all persons having any
38 objections to the proposed redevelopment plan or who deny the existence of blight
39 in the proposed project area, or the regularity of any of the prior proceedings, may

1 appear before the legislative body and show cause why the proposed plan should
2 not be adopted.

3 **§ 33362. Objections to proposed redevelopment plan**

4 33362. At any time not later than the hour set for hearing objections to the
5 proposed redevelopment plan, any person may file in writing with the clerk of the
6 legislative body a statement of his objections to the proposed plan.

7 **§ 33363. Hearing and written findings**

8 33363. At the hour set in the notice required by Section 33361 for hearing
9 objections, the legislative body shall proceed to hear all written and oral
10 objections. Before adopting the redevelopment plan the legislative body shall
11 evaluate the report of the agency, the report and recommendation of the project
12 area committee, and all evidence and testimony for and against the adoption of the
13 plan and shall make written findings in response to each written objection of an
14 affected property owner or taxing entity. The legislative body shall respond in
15 writing to the written objections received before or at the noticed hearing,
16 including any extensions thereof, and may additionally respond to written
17 objections that are received after the hearing. The written responses shall describe
18 the disposition of the issues raised. The legislative body shall address the written
19 objections in detail, giving reasons for not accepting specified objections and
20 suggestions. The legislative body shall include a good-faith, reasoned analysis in
21 its response and, for this purpose, conclusionary statements unsupported by factual
22 information shall not suffice.

23 **§ 33363.5. Change to proposed plan or boundaries of project area**

24 33363.5. After the redevelopment plan and accompanying documents have been
25 submitted by the agency to the legislative body and at any time prior to the
26 adoption of the plan, the legislative body upon the recommendation of the agency,
27 without additional agency public hearings, may change such plan, or change the
28 boundaries of the project area to exclude land from the project area, after receipt
29 of a report and recommendation from the planning commission concerning such
30 changes. The planning commission may recommend for or against the changes.
31 Within 30 days after a change is submitted to it for consideration the planning
32 commission shall make and file its report and recommendation with the legislative
33 body. If the planning commission does not report upon the change within 30 days
34 after its submission by the legislative body, the planning commission shall be
35 deemed to have waived its report and recommendation concerning the change and
36 the legislative body may proceed to act upon the plan without the report and
37 recommendation of the planning commission. The legislative body shall consider
38 any proposed changes at a public hearing reopened for that limited purpose.

1 **§ 33364. Time when legislative body may adopt plan**

2 33364. If no objections in writing have been delivered to the clerk of the
3 legislative body prior to the hour set for the hearing thereon, and if no written
4 objections are presented during the hearing thereon, the legislative body may
5 proceed to adopt the plan at the time set for hearing thereon. If any written
6 objections are delivered or presented, as specified in this article, the legislative
7 body may adopt the plan only after consideration of the objections, and adoption
8 of written findings in response thereto, pursuant to Section 33363 at a subsequent
9 date not less than one week after the time the hearing on objections is commenced
10 pursuant to Section 33363.

11 **§ 33365. Ordinance and referendum regarding redevelopment plan**

12 33365. The legislative body by ordinance may adopt the redevelopment plan as
13 the official redevelopment plan for the project area.

14 Except as otherwise provided in Section 33378, the ordinance adopting the
15 redevelopment plan shall be subject to referendum as prescribed by law for the
16 ordinances of the legislative body.

17 **§ 33366. Vote requirement**

18 33366. If the planning commission or the project area committee has
19 recommended against the approval of the redevelopment plan, the legislative body
20 may adopt such plan by a two-thirds vote of its entire membership eligible and
21 qualified to vote on such plan. If the planning commission or the project area
22 committee has recommended approval or failed to make any recommendation
23 within the time allowed, the legislative body may adopt the redevelopment plan by
24 a majority vote of the entire membership eligible and qualified to vote on such
25 plan.

26 **§ 33367. Content of ordinance adopting redevelopment plan**

27 33367. The ordinance shall contain all of the following:

28 (a) The purposes and intent of the legislative body with respect to the project
29 area.

30 (b) The plan incorporated by reference.

31 (c) A designation of the approved plan as the official redevelopment plan of the
32 project area.

33 (d) The findings and determinations of the legislative body, which shall be based
34 on clearly articulated and documented evidence, that:

35 (1) The project area is a blighted area, the redevelopment of which is necessary
36 to effectuate the public purposes declared in this part.

37 (2) The redevelopment plan would redevelop the area in conformity with this
38 part and in the interests of the public peace, health, safety, and welfare.

39 (3) The adoption and carrying out of the redevelopment plan is economically
40 sound and feasible.

1 (4) The redevelopment plan is consistent with the general plan of the
2 community, including, but not limited to, the community's housing element,
3 which substantially complies with the requirements of Article 10.6 (commencing
4 with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government
5 Code.

6 (5) The carrying out of the redevelopment plan would promote the public peace,
7 health, safety, and welfare of the community and would effectuate the purposes
8 and policy of this part.

9 (6) The condemnation of real property, if provided for in the redevelopment
10 plan, is necessary to the execution of the redevelopment plan and adequate
11 provisions have been made for payment for property to be acquired as provided by
12 law.

13 (7) The agency has a feasible method or plan for the relocation of families and
14 persons displaced from the project area, if the redevelopment plan may result in
15 the temporary or permanent displacement of any occupants of housing facilities in
16 the project area.

17 (8)(A) There are, or shall be provided, in the project area or in other areas not
18 generally less desirable in regard to public utilities and public and commercial
19 facilities and at rents or prices within the financial means of the families and
20 persons displaced from the project area, decent, safe, and sanitary dwellings equal
21 in number to the number of and available to the displaced families and persons and
22 reasonably accessible to their places of employment.

23 (B) Families and persons shall not be displaced prior to the adoption of a
24 relocation plan pursuant to Sections 33411 and 33411.1. Dwelling units housing
25 persons and families of low or moderate income shall not be removed or destroyed
26 prior to the adoption of a replacement housing plan pursuant to Sections 33334.5,
27 33413, and 33413.5.

28 (9) All noncontiguous areas of a project area are either blighted or necessary for
29 effective redevelopment and are not included for the purpose of obtaining the
30 allocation of taxes from the area pursuant to Section 33670 without other
31 substantial justification for their inclusion.

32 (10) Inclusion of any lands, buildings, or improvements which are not
33 detrimental to the public health, safety, or welfare is necessary for the effective
34 redevelopment of the area of which they are a part; that any area included is
35 necessary for effective redevelopment and is not included for the purpose of
36 obtaining the allocation of tax increment revenues from the area pursuant to
37 Section 33670 without other substantial justification for its inclusion.

38 (11) The elimination of blight and the redevelopment of the project area could
39 not be reasonably expected to be accomplished by private enterprise acting alone
40 without the aid and assistance of the agency.

41 (12) The project area is predominantly urbanized, as defined by subdivision (b)
42 of Section 33320.1.

1 (13) The time limitation and, if applicable, the limitation on the number of
2 dollars to be allocated to the agency that are contained in the plan are reasonably
3 related to the proposed projects to be implemented in the project area and to the
4 ability of the agency to eliminate blight within the project area.

5 (14) The implementation of the redevelopment plan will improve or alleviate the
6 physical and economic conditions of blight in the project area, as described in the
7 report prepared pursuant to Section 33352.

8 (e) A statement that the legislative body is satisfied that permanent housing
9 facilities will be available within three years from the time occupants of the
10 project area are displaced and that, pending the development of the facilities, there
11 will be available to the displaced occupants adequate temporary housing facilities
12 at rents comparable to those in the community at the time of their displacement.

13 **§ 33368. Finality of decision**

14 33368. The decision of the legislative body shall be final and conclusive, and it
15 shall thereafter be conclusively presumed that the project area is a blighted area as
16 defined by Section 33031 and that all prior proceedings have been duly and
17 regularly taken.

18 This section shall not apply in any action questioning the validity of any
19 redevelopment plan, or the adoption or approval of a redevelopment plan, or any
20 of the findings or determinations of the agency or the legislative body in
21 connection with a redevelopment plan brought pursuant to Section 33501 within
22 the time limits prescribed by Section 33500.

23 **§ 33369. Expenditure of money**

24 33369. If the plan provides for the expenditure of any money by the community,
25 the legislative body shall provide for such expenditure at the time of or in
26 connection with the approval of the plan.

27 **§ 33370. Declaration of intent**

28 33370. The legislative body at the time of, or in connection with, the adoption of
29 the plan, shall declare its intention to undertake and complete any proceedings
30 necessary to be carried out by the community under the provisions of the plan.

31 **§ 33371. Submission of redevelopment contracts to legislative body for approval**

32 33371. Before entering into any or certain types of contracts in connection with
33 the redevelopment plan, the legislative body may require the agency to submit
34 such contracts to the legislative body and obtain its approval.

35 **§ 33372. Filing of ordinance adopting redevelopment plan**

36 33372. Upon the filing of the ordinance adopting the redevelopment plan with
37 the clerk or other appropriate officer of the legislative body, a copy of the

1 ordinance shall be sent to the agency, and the agency is vested with the
2 responsibility for carrying out the plan.

3 **§ 33373. Recordation of information with county recorder**

4 33373. (a) Not later than 60 days after the adoption of the redevelopment plan
5 by the legislative body there shall be recorded with the county recorder of the
6 county in which the project area is situated a description of the land within the
7 project area and a statement that proceedings for the redevelopment of the project
8 area have been instituted under this part.

9 (b) If the redevelopment plan authorizes the agency to acquire property by
10 eminent domain, the statement required pursuant to subdivision (a) shall contain
11 the following:

12 (1) A prominent heading in boldface type noting that the property that is the
13 subject of the statement is located within a redevelopment project.

14 (2) A general description of the provisions of the redevelopment plan that
15 authorize the use of the power of eminent domain by the agency.

16 (3) A general description of any limitations on the use of the power of eminent
17 domain contained in the redevelopment plan, including, without limitation, the
18 time limit required by Section 33333.2.

19 (c) For a redevelopment plan adopted on or before December 31, 2006, that
20 authorizes the acquisition of property by eminent domain, the agency shall, on or
21 before December 31, 2007, cause a revised statement to be recorded with the
22 county recorder of the county in which the project area is located containing all of
23 the information required by subdivisions (a) and (b).

24 (d) An agency shall not commence an action in eminent domain until the
25 statement required by this section is recorded with the county recorder of the
26 county in which the project area is located.

27 (e) Additional recordation of documents may be effected pursuant to Section
28 27295 of the Government Code.

29 **§ 33374. Building permits within redevelopment project area**

30 33374. After the adoption of a redevelopment plan for a project area by the
31 legislative body, all applicants for building permits in the area for a period of two
32 years thereafter shall be advised by the building department of the community that
33 the site for which a building permit is sought for the construction of buildings or
34 for other improvements is within a redevelopment project area.

35 **§ 33375. Transmittal of materials to State Board of Equalization, governing body of taxing
36 agency for project area, and other tax officials**

37 33375. After the adoption by the legislative body of a redevelopment plan that
38 contains the provision permitted by Section 33670, the clerk of the community
39 shall transmit a copy of the description and statement recorded pursuant to Section
40 33373, a copy of the ordinance adopting the plan, and a map or plat indicating the

1 boundaries of the project area to the auditor and assessor of the county in which
2 the project is located; to the officer or officers performing the functions of auditor
3 or assessor for any taxing agencies which, in levying or collecting its taxes, do not
4 use the county assessment roll or do not collect its taxes through the county; to the
5 governing body of each of the taxing agencies which levies taxes upon any
6 property in the project area; and to the State Board of Equalization.

7 Those documents shall be transmitted within 30 days following the adoption of
8 the redevelopment plan. The legal effect of those transmittals shall be as set forth
9 in Section 33674.

10 **§ 33376. Ordinance adopting redevelopment plan for Crescent City disaster area**

11 33376. Any ordinance adopted pursuant to this article adopting a redevelopment
12 plan for the Crescent City disaster area, may be adopted as an emergency
13 ordinance and shall not be subject to referendum.

14 **Article 5.5. Referendums**

15 **§ 33378. Referendum procedure**

16 33378. (a) With respect to any ordinance that is subject to referendum pursuant
17 to Sections 33365 and 33450, the language of the statement of the ballot measure
18 shall set forth with clarity and in language understandable to the average person
19 that a “Yes” vote is a vote in favor of adoption or amendment of the
20 redevelopment plan and a “No” vote is a vote against the adoption or amendment
21 of the redevelopment plan.

22 (b)(1) Notwithstanding any other provision of law, including the charter of any
23 city or city and county, referendum petitions circulated in cities or counties over
24 500,000 in population shall bear valid signatures numbering not less than 10
25 percent of the total votes cast within the city or county for Governor at the last
26 gubernatorial election.

27 (2) Notwithstanding any other provision of law, including the charter of any city
28 or city and county, or Section 9242 of the Elections Code, the referendum
29 petitions of all cities and counties shall be submitted to the clerk of the legislative
30 body within 90 days of the adoption of an ordinance subject to referendum under
31 this act.

32 (c) With respect to any ordinance that is subject to referendum pursuant to
33 Sections 33365 and 33450 and either provides for tax-increment financing
34 pursuant to Section 33670 or expands a project area that is subject to tax-
35 increment financing, the referendum measure shall include, in the ballot pamphlet,
36 an analysis by the county auditor-controller and, at the option of the legislative
37 body, a separate analysis by the agency, of the redevelopment plan or amendment
38 that will include both of the following:

39 (1) An estimate of the potential impact on property taxes per each ten thousand
40 dollars (\$10,000) of assessed valuation for taxpayers located in the city or county,

1 as the case may be, outside the redevelopment project area during the life of the
2 redevelopment project.

3 (2) An estimate of what would happen to the project area in the absence of the
4 redevelopment project or in the absence of the proposed amendment to the plan.

5 **§ 33378.5. Applicability to charter city in Los Angeles County with population of 1,000 or**
6 **less**

7 33378.5. The provisions of this part establishing a right of referendum shall not
8 be applicable to a charter city in the County of Los Angeles containing a
9 population of 1,000 or less until January 1, 1983.
