

## Memorandum 2012-22

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

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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

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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](http://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/](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,

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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.

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