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**HEALTH AND SAFETY CODE - HSC**

**DIVISION 24. COMMUNITY DEVELOPMENT AND HOUSING [33000 - 37964]** (*Heading of Division 24 amended by Stats. 1975, Ch. 1137.*)

**PART 1. COMMUNITY REDEVELOPMENT LAW [33000 - 33855]** (*Part 1 repealed and added by Stats. 1963, Ch. 1812.*)

**CHAPTER 4. Redevelopment Procedures and Activities [33300 - 33490]** (*Chapter 4 added by Stats. 1963, Ch. 1812.*)

**ARTICLE 4. Preparation and Adoption of Redevelopment Plans by the Agency [33330 - 33354.6]** (*Article 4 added by Stats. 1963, Ch. 1812.*)

**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.  
(*Amended by Stats. 1972, Ch. 614.*)

**33331.** Every redevelopment plan shall be consistent with the community's general plan.  
(*Amended by Stats. 1997, Ch. 580, Sec. 12. Effective January 1, 1998.*)

**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.

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

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

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

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

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

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

*(Amended by Stats. 2011, Ch. 296, Sec. 160. (AB 1023) Effective January 1, 2012.)*

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

*(Added by Stats. 2009, 4th Ex. Sess., Ch. 21, Sec. 3. (AB 26 4x) Effective October 23, 2009.)*

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

*(Amended by Stats. 1965, Ch. 1665.)*

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

- (a) The approximate amount of open space to be provided and street layout.
- (b) Limitations on type, size, height, number, and proposed use of buildings.
- (c) The approximate number of dwelling units.
- (d) The property to be devoted to public purposes and the nature of such purposes.

*(Repealed and added by Stats. 1963, Ch. 1812.)*

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

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

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

(2) A time limit, not to exceed 30 years from the adoption of the redevelopment plan, on the effectiveness of the redevelopment plan. After the time limit on the effectiveness of the redevelopment plan, the agency shall have no authority to act pursuant to the redevelopment plan except to pay previously incurred indebtedness and to enforce existing covenants or contracts, unless the agency has not completed its housing obligations pursuant to subdivision (a) of Section 33333.8, in which case the agency shall retain its authority to implement requirements under subdivision (a) of Section 33333.8, including its ability to incur and pay indebtedness for this purpose, and shall use this authority to complete these housing obligations as soon as is reasonably possible.

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

(4) 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. This time limitation may be extended only by amendment of the redevelopment plan after the agency finds, based on substantial evidence, both of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Amended by Stats. 2006, Ch. 594, Sec. 10. Effective January 1, 2007.)*

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

(b) If the project area contains land in agricultural use, as defined in subdivision (b) of Section 51201 of the Government Code, the redevelopment agency shall also send a copy of the draft environmental impact report to the Department of Conservation, the

county agricultural commissioner, the county farm bureau, the California Farm Bureau Federation, and agricultural entities and general farm organizations that provide a written request for notice. A separate written request for notice shall be required for each proposed redevelopment plan or amendment that adds territory. A written request for notice applicable to one redevelopment plan or amendment shall not be effective for a subsequent plan or amendment.

*(Amended by Stats. 1996, Ch. 617, Sec. 3. Effective January 1, 1997.)*

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

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

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

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

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

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

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

(c) The limitations established in the ordinance adopted pursuant to this section shall not be applied to limit allocation of taxes to an agency to the extent required to eliminate project deficits created under subdivision (g) of Section 33334.6 in accordance with the plan adopted pursuant thereto for the purpose of eliminating the deficit or to comply with subdivision (a) of Section 33333.8. In the event of a conflict between these limitations and the obligations under Section 33334.6 or subdivision (a) of Section 33333.8, the legislative body shall amend the ordinance adopted pursuant to this section to modify the limitations to the extent necessary to permit compliance with the plan adopted pursuant to subdivision (g) of Section 33334.6, to permit compliance with subdivision (a) of Section 33333.8, and to allow full expenditure of moneys in the agency's Low and Moderate Income Housing Fund in accordance with Section 33334.3. The procedure for amending the ordinance pursuant to this subdivision shall be the same as for adopting the ordinance under subdivision (b).

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

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

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

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

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

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

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

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

*(Amended by Stats. 2006, Ch. 594, Sec. 11. Effective January 1, 2007.)*

**33333.5.** (a) With respect to the adoption of the redevelopment plan for an area of the City of South Gate with the approximate boundaries east of Atlantic Boulevard, south of Wood Avenue, north of Aldrich Road, and west of the Los Angeles River, the agency shall be exempt from the provisions of Sections 33322 to 33327, inclusive, and Section 33330 related to the addition of new territory to existing project areas.

(b) Notwithstanding any other exemption granted by this section, the City of South Gate shall, prior to adoption of a redevelopment plan, conduct at least two public meetings on the proposed plan for South Gate residents and property owners. The City of South Gate shall also cause to be organized 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. The citizens' advisory committee shall remain in existence for at least three years.

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

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

*(Added by Stats. 2000, Ch. 766, Sec. 1. Effective September 27, 2000.)*

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

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

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

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

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

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

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

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

(2) (A) A redevelopment plan adopted prior to January 1, 1994, that has a limitation shorter than the terms provided in this section may be amended by a legislative body by adoption of an ordinance on or after January 1, 1999, but on or before December 31, 1999, to extend the limitation, provided that the plan as so amended does not exceed the terms provided in this section. In adopting an ordinance pursuant to this subparagraph, neither the legislative body nor the agency is required to comply with

Section 33354.6, Article 12 (commencing with Section 33450), or any other provision of this part relating to the amendment of redevelopment plans.

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

(C) When an agency is required to make a payment pursuant to Section 33681.9, the legislative body may amend the redevelopment plan to extend the time limits required pursuant to subdivisions (a) and (b) by one year by adoption of an ordinance. In adopting an ordinance pursuant to this subparagraph, neither the legislative body nor the agency is required to comply with Section 33354.6, Article 12 (commencing with Section 33450), or any other provision of this part relating to the amendment of redevelopment plans, including, but not limited to, the requirement to make the payment to affected taxing entities required by Section 33607.7.

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

*(Amended by Stats. 2006, Ch. 538, Sec. 389. Effective January 1, 2007.)*

**33333.7.** (a) Notwithstanding the time limits in paragraph (1) of subdivision (a) of Section 33333.6, as that paragraph (1) read on December 31, 2001, the Redevelopment Agency of the City and County of San Francisco may, subject to the approval of the Board of Supervisors of the City and County of San Francisco, retain its ability to incur indebtedness exclusively for Low and Moderate Income Housing Fund activities eligible under Sections 33334.2 and 33334.3 until January 1, 2014, or until the agency 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. The ability of the agency 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. Nothing in this paragraph shall be construed to extend a plan's effectiveness, except to incur additional indebtedness for Low and Moderate Income Housing Fund activities, to pay previously incurred indebtedness, and to enforce existing covenants, contracts, or other obligations.

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

of the Revenue and Taxation Code if the plan had not been amended. Additionally, revenues collected under this paragraph are subject to the payments to affected taxing entities pursuant to Section 33607.

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

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

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

- (1) The community has a current housing element that substantially complies with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.
- (2) The community's housing element indicates an unmet need for Low and Moderate Income Housing Fund activities.
- (3) The agency's most recent independent financial audit report prepared pursuant to Section 33080.1 reports acceptable findings and no major violations of this part.
- (4) The agency has complied with subdivision (a) of Section 33334.2.
- (5) The agency has met the requirements of this part with respect to the provision of dwelling units for persons and families of low or moderate income, including, but not limited to, the requirements of Section 33413.

*(Amended by Stats. 2001, Ch. 741, Sec. 6. Effective January 1, 2002.)*

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

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

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

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

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

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

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

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



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

(b) If, on the date of the time limit on the effectiveness of the redevelopment plan, a redevelopment agency has not complied with subdivision (a), the time limit on the effectiveness of the redevelopment plan, and, if necessary, the time limit for repayment of indebtedness, shall be suspended until the agency has complied with subdivision (a). In addition, the agency shall receive and use all tax increment funds that are not pledged to repay indebtedness until the agency has fully complied with its obligations.

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

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

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

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

*(Amended by Stats. 2002, Ch. 782, Sec. 3. Effective January 1, 2003.)*

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

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

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

(1) Significant blight remains within the project area.

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

(c) As used in this section:

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

(2) "Significant" means important and of a magnitude to warrant agency assistance.

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

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

(e) After the limit on the payment of indebtedness and receipt of property taxes that would have taken effect but for the amendment pursuant to this section, except for funds deposited in the Low and Moderate Income Housing Fund pursuant to Section 33334.2 or 33334.6, the agency shall spend tax increment funds only within the portion of the project area that has been identified in the report

adopted pursuant to Section 33352 as the area containing blighted parcels and necessary and essential parcels. Except as otherwise limited by subdivisions (f) and (g), agencies may continue to spend funds deposited in the Low and Moderate Income Housing Fund in accordance with this division.

(f) (1) Except as otherwise provided in this subdivision, after the limit on the payment of indebtedness and receipt of property taxes that would have taken effect, but for the amendment pursuant to this section, agencies shall only spend moneys from the Low and Moderate Income Housing Fund for the purpose of increasing, improving, and preserving the community's supply of housing at affordable housing cost to persons and families of low, very low, or extremely low income, as defined in Sections 50079.5, 50093, 50105, and 50106. During this period, an agency that has adopted an amendment pursuant to subdivision (a) may use moneys from the Low and Moderate Income Housing Fund for the purpose of increasing, improving, and preserving housing at affordable housing cost to persons and families of moderate income as defined in Section 50093. However, this amount shall not exceed, in a five-year period, the amount of moneys from the Low and Moderate Income Housing Fund that are used to increase, improve, and preserve housing at affordable housing cost to persons and families of extremely low income, as defined in Section 50106. In no case shall the amount expended for housing for persons and families of moderate income exceed 15 percent of the annual amount deposited in the Low and Moderate Income Housing Fund during a five-year period and the number of housing units affordable to moderate-income persons shall not exceed the number of housing units affordable to extremely low income persons.

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

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

(2) In any fiscal year, the agency may deposit less than the amount required by paragraph (1), but not less than the amount required by Section 33334.2 or 33334.6, into the Low and Moderate Income Housing Fund if the agency finds that the difference between the amount deposited and the amount required by paragraph (1) is necessary to make principal and interest payments during that fiscal year on bonds sold by the agency to finance or refinance the redevelopment project prior to six months before the date of adoption of the amendment pursuant to subdivision (a). Bonds sold by the agency prior to six months before the date of the adoption of the amendment pursuant to subdivision (a) may only be refinanced, refunded, or restructured after the date of the amendment pursuant to subdivision (a). However, for purposes of this section, bonds refinanced, refunded, or restructured after the date of the amendment pursuant to subdivision (a) may only be treated as if sold on the date the original bonds were sold if (A) the net proceeds were used to refinance the original bonds, (B) there is no increase in the amount of principal at the time of refinancing, restructuring, or refunding, and (C) the time during which the refinanced indebtedness is to be repaid does not exceed the date on which the existing indebtedness would have been repaid.

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

(4) Notwithstanding paragraph (1), an agency that sells bonds on or after the date of adoption of an amendment pursuant to subdivision (a), the repayment of which is to be made from taxes allocated to the agency pursuant to Section 33670 from the project so amended, may elect to subordinate up to  $16\frac{2}{3}$  percent of its annual 30-percent Low and Moderate Income Housing Fund deposit obligation to the payment of debt service on the bonds. If the agency makes that election and in any year the agency

has insufficient tax-increment revenue available to pay debt service on the bonds to which the funds from the Low and Moderate Income Housing Fund are subordinated, the agency may deposit less than the full 100 percent of its annual 30-percent Low and Moderate Income Housing Fund obligation but only to the extent necessary to pay that debt service and in no event shall less than  $83\frac{1}{3}$  percent of that obligation be deposited into the Low and Moderate Income Housing Fund for that year. The difference between the amount that is actually deposited in the Low and Moderate Income Housing Fund and the full 100 percent of the agency's 30-percent Low and Moderate Income Housing Fund deposit obligation shall constitute a deficit in the Low and Moderate Income Housing Fund subject to repayment pursuant to paragraph (5).

(5) If, pursuant to paragraph (2) or (4), the agency deposits less than 30 percent of the taxes allocated to the agency pursuant to Section 33670 in any fiscal year in the Low and Moderate Income Housing Fund, the amount equal to the difference between 30 percent of the taxes allocated to the agency pursuant to Section 33670 for each affected redevelopment project area and the amount actually deposited in the Low and Moderate Income Housing Fund for that fiscal year shall be established as a deficit in the Low and Moderate Income Housing Fund. Any new tax increment funds not encumbered pursuant to paragraph (2) or (4) shall be utilized to reduce or eliminate the deficit prior to entering into any new contracts, commitments, or indebtedness. The obligations imposed by this section are hereby declared to be an indebtedness of the redevelopment project to which they relate, payable from taxes allocated to the agency pursuant to Section 33670 and, notwithstanding any other provision of law, shall constitute an indebtedness of the agency with respect to the redevelopment project, and the agency shall continue to receive allocations of taxes pursuant to Section 33670 until the deficit is paid in full.

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

(1) The community has adopted a housing element that the department has determined pursuant to Section 65585 of the Government Code to be in substantial compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code, or if applicable, 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.

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

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

(i) Each redevelopment plan that has been adopted prior to January 1, 1976, that is amended pursuant to subdivision (a) shall also be amended at the same time to make subdivision (b) of Section 33413 applicable to the redevelopment plan in accordance with paragraph (1) of subdivision (d) of Section 33413.

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

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

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

*(Amended by Stats. 2002, Ch. 782, Sec. 4. Effective January 1, 2003.)*

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

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

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

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

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

- (1) A map of the project area that identifies the portion, if any, of the project area that is no longer blighted and the portion of the project area that is blighted and the portion of the project area that contains necessary and essential parcels for the elimination of the remaining blight.
- (2) A description of the remaining blight.
- (3) A description of the projects or programs proposed to eliminate the remaining blight.
- (4) A description of how the project or programs will improve the conditions of blight.
- (5) The reasons why the projects or programs cannot be completed without extending the time limits on the effectiveness of the plan and receipt of tax increment revenues.
- (6) The proposed method of financing these programs or projects. This description shall include the amount of tax increment revenues that is projected to be generated during the period of the extension, including amounts projected to be deposited into the Low and Moderate Income Housing Fund and amounts to be paid to affected taxing entities. This description shall also include sources and amounts of moneys other than tax increment revenues that are available to finance these projects or programs. This description shall also include the reasons that the remaining blight cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without the use of the tax increment revenues available to the agency because of the proposed amendment.
- (7) An amendment to the agency's implementation plan that includes, but is not limited to, the agency's housing responsibilities pursuant to Section 33490. However, the agency shall not be required to hold a separate public hearing on the implementation plan pursuant to subdivision (d) of Section 33490 in addition to the public hearing on the amendment to the redevelopment plan.
- (8) A new neighborhood impact report if required by subdivision (m) of Section 33352.
- (9) A description of each bond sold by the agency to finance or refinance the redevelopment project prior to six months before the date of adoption of the proposed amendment, and listing for each bond the amount of remaining principal, the annual payments, and the date that the bond will be paid in full.

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

(g) No later than 45 days prior to the public hearing on the proposed amendment by the agency or the joint public hearing of the agency and the legislative body, the agency shall notify each affected taxing entity, the Department of Finance, the Department of Housing and Community Development, and each individual and organization that submitted comments on the preliminary report by certified mail of the public hearing, the date of the public hearing, and the proposed amendment. This notice shall be accompanied by the report required to be prepared pursuant to subdivision (h).

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

- (1) All of the information required to be contained in the preliminary report prepared pursuant to subdivision (e).
- (2) The report and recommendation of the planning commission.

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

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

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

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

(j) As an alternative to the separate public hearing required by subdivision (i), the agency and the legislative body, with the consent of both, may hold a joint public hearing on the proposed amendment. At the public hearing, the agency and legislative body shall consider any objections or concerns with the proposed amendment expressed by the affected taxing entities, a project area committee, if any, residents, and community organizations. Notice of this public hearing shall comply with Section 33452. When a joint public hearing is held and the legislative body is also the agency, the legislative body may adopt the amended plan with no actions required of the agency. If, after the public hearing, the legislative body determines that the amendment to the plan is necessary or desirable, the legislative body shall adopt an ordinance amending the ordinance adopting the plan thus amended. The ordinance adopting the amendment shall contain findings that both (1) significant blight remains within the project area, and (2) the blight cannot be eliminated without the extension of the effectiveness of the plan and receipt of tax increment revenues.

(k) 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 within the portion of the project area designated as blighted in the report to the legislative body regarding a proposed amendment to be adopted pursuant to Section 33333.10, the affected taxing entity, the Department of Finance, or the Department of Housing and Community Development may request the Attorney General to participate in the amendment process. The affected taxing entity, the Department of Finance, or the Department of Housing and Community Development shall request this participation within 21 days after receipt of the notice of the public hearing sent pursuant to subdivision (g). The Attorney General shall determine whether or not to participate in the amendment process. The Attorney General may consult with and request the assistance of departments of the state and any other persons or groups that are interested or that have expertise in redevelopment. The Attorney General may participate in the amendment process by requesting additional information from the agency, conducting his or her own review of the project area, meeting with the agency and any affected taxing entity, submitting evidence for consideration at the public hearing, or presenting oral evidence at the public hearing. No later than five days prior to the public hearing on the proposed amendment, the Attorney General shall notify each affected taxing agency, each department that has requested the Attorney General to review the proposed amendment, and the redevelopment agency with regard to whether the Attorney General will participate in the amendment process and, if so, how he or she will participate, on their behalf.

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

*(Amended by Stats. 2010, Ch. 182, Sec. 1. (SB 1374) Effective January 1, 2011.)*

**33333.13.** (a) The Legislature hereby 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. The Legislature further finds and declares that this limit severely restricts the ability of the Glendora Community Redevelopment Agency to address conditions of blight which remain within its Project Area No. 3.

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

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

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

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

*(Added by Stats. 2009, 3rd Ex. Sess., Ch. 4, Sec. 13. Effective February 20, 2009.)*

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

(b) Notwithstanding any other law to the contrary or any redevelopment plan previously adopted by the City of San Diego, commencing on the effective date of this section and in each fiscal year thereafter until the expiration of the time limit on the receipt of taxes and repayment of indebtedness set forth in the redevelopment plan adopted by the City of San Diego for its Centre City Redevelopment Project pursuant to subdivision (b) of Section 33333.6 and other applicable statutes, the dollar limit on the receipt of tax increment for the Centre City Redevelopment Project is eliminated, and the Redevelopment Agency of the City of San Diego may receive tax increment revenue from the Centre City Redevelopment Project without a dollar limit.

*(Added by Stats. 2010, Ch. 722, Sec. 7. (SB 863) Effective October 19, 2010.)*

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

*(Amended by Stats. 1969, Ch. 1561.)*

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

*(Added by Stats. 1976, Ch. 1337.)*

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

(4) Finance insurance premiums pursuant to Section 33136.

(5) Construct buildings or structures.

(6) Acquire buildings or structures.

(7) Rehabilitate buildings or structures.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(C) An agency found to have deposited less into the Low and Moderate Income Housing Fund than mandated by Section 33334.3 or to have spent money from the Low and Moderate Income Housing Fund for purposes other than increasing, improving, and preserving the community's supply of low- and moderate-income housing, as mandated, by this section or Section 33334.6 shall repay the funds with interest in one lump sum pursuant to Section 970.4 or 970.5 of the Government Code or may do either of the following:

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

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

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

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

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

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

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

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

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

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

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

*(Amended by Stats. 2009, 4th Ex. Sess., Ch. 21, Sec. 4. (AB 26 4x) Effective October 23, 2009.)*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Added by Stats. 2001, Ch. 626, Sec. 1. Effective January 1, 2002.)*

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

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

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

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

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

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

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

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

(f) (1) The requirements of this subdivision apply to 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 agency on or after January 1, 1988. Except to the extent that a longer period of time may be required by other provisions of law, the agency shall require that housing units subject to this subdivision 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, but for not less than the following periods of time:

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

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

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

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

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

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

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

(i) A recitation of the affordability covenants or restrictions. If the document recorded under this subparagraph is recorded concurrently with the covenants or restrictions recorded under subparagraph (A), the recitation of the affordability covenants or restrictions shall also reference the concurrently recorded document. If the document recorded under this subparagraph is not recorded concurrently with the covenants or restrictions recorded under subparagraph (A), the recitation of the affordability covenants or restrictions shall also reference the recorder's identification number of the document recorded under subparagraph (A).

(ii) The date the covenants or restrictions expire.

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

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

(v) The legal description of the property.

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

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

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

(7) Notwithstanding any other provision of law, the covenants or restrictions implementing this subdivision shall 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, by any of the following:

(A) The agency.

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

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

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



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

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

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

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

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

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

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

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

(g) "Housing," as used in this section, includes residential hotels, as defined in subdivision (k) of Section 37912. The definitions of "lower income households," "very low income households," and "extremely low income households" in Sections 50079.5, 50105, and 50106 shall apply to this section. "Longest feasible time," as used in this section, includes, but is not limited to, unlimited duration.

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

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

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

*(Amended by Stats. 2010, Ch. 610, Sec. 3. (AB 2762) Effective January 1, 2011.)*

**33334.4.** (a) Except as specified in subdivision (d), each agency shall expend over each 10-year period of the implementation plan, as specified in clause (iii) of subparagraph (A) of paragraph (2) of subdivision (a) of Section 33490, the moneys in the Low and Moderate Income Housing Fund to assist 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 needed 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, as those needs have been determined for the community pursuant to Section 65584 of the Government Code. In determining compliance with this obligation, the agency may adjust the proportion by subtracting from the need identified for each income category, the number of units for persons of that income category that are newly constructed over the duration of the implementation plan with other locally controlled government assistance and without agency assistance and that are required to be affordable to, and occupied by, persons of the income category for at least 55 years for rental housing and 45 years for ownership housing, except that in making an adjustment the agency may not subtract units developed pursuant to a replacement housing obligation under state or federal law.

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

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

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

*(Amended by Stats. 2005, Ch. 262, Sec. 1. Effective January 1, 2006.)*

**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 agency 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, as defined by Section 50052.5, 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.

*(Amended by Stats. 1979, Ch. 1191.)*

**33334.6.** (a) 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, as defined by Section 50093, 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. The Legislature further finds and declares that the provision and improvement of affordable housing, as provided by Section 33334.2, outside of redevelopment project areas can be of direct benefit to those projects in assisting the accomplishment of project objectives whether or not those redevelopment projects provide for housing within the project area. The Legislature finds and determines that the provision of affordable housing by redevelopment agencies and the use of taxes allocated to the agency pursuant to subdivision (b) of Section 33670 is of statewide benefit and of particular benefit and assistance to all local governmental agencies in the areas where the housing is provided.

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

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

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

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

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

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

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

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

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

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

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

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

*(Amended by Stats. 1991, Ch. 872, Sec. 3.)*

**33334.7.** Programs to assist or develop low- and moderate-income housing pursuant to Sections 33334.2, 33334.3, 33334.6, 33413, and 33449 shall be entitled to priority consideration for assistance in housing programs administered by the California Housing Finance Agency, the Department of Housing and Community Development, and other state agencies and departments, if those agencies or departments determine that the housing is otherwise eligible for assistance under a particular program.

*(Added by Stats. 1985, Ch. 1135, Sec. 3.)*

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

*(Added by Stats. 1988, Ch. 1563, Sec. 1.)*

**33334.9.** Notwithstanding Sections 33334.2 and 33334.3, assistance provided by an agency to preserve the availability to lower income households of affordable housing units which are assisted or subsidized by public entities and which are threatened with

imminent conversion to market rates may be credited and offset against an agency's obligations under Section 33334.2.

*(Added by Stats. 1988, Ch. 1564, Sec. 3.)*

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

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

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

*(Added by Stats. 1988, Ch. 1565, Sec. 3.)*

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

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

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

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

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

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

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

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

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

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

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

(D) Obligations incurred pursuant to Section 33445.

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

(F) Obligations incurred pursuant to Section 33401.

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

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

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

(g) For purposes of this section:

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

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

(3) (A) For purposes of determining whether an excess surplus exists, it is the intent of the Legislature to give credit to agencies which convey land for less than fair market value, on which low- and moderate-income housing is built or is to be built if at least 49 percent of the units developed on the land are available at affordable housing cost to lower income households for at least the time specified in subdivision (e) of Section 33334.3, and otherwise comply with all of the provisions of this division applicable to expenditures of moneys from a low- and moderate-income housing fund established pursuant to Section 33334.3. Therefore, for the sole purpose of determining the amount, if any, of an excess surplus, an agency may make the following calculation: if an agency sells, leases, or grants land acquired with moneys from the Low and Moderate Income Housing Fund, established pursuant to Section 33334.3, for an amount which is below fair market value, and if at least 49 percent of the units constructed or rehabilitated on the land are affordable to lower income households, as defined in Section 50079.5, the difference between the fair market value of the land and the amount the agency receives may be subtracted from the amount of moneys in an agency's Low and Moderate Income Housing Fund.

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

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

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

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

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

*(Amended by Stats. 1999, Ch. 442, Sec. 5. Effective January 1, 2000.)*

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

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

Nothing in Section 50093 shall prevent the agency from adopting separate family size adjustment factors or programmatic definitions of income to qualify households, persons, and families for the programs of the agency.

(b) To the extent that any portion of the Low and Moderate Income Housing Fund is expended to provide assistance to mortgagors participating in programs whose income exceeds that of persons and families of low or moderate income, as defined in Section 50093, the agency shall, within two years, expend or enter into a legally enforceable agreement to expend twice that sum exclusively to increase and improve the community's supply of housing available at affordable housing cost, as defined in Section 50052.5, to lower income households, as defined in Section 50079.5, of which at least 50 percent shall be very low income households, as defined in Section 50105.

(c) In addition to the requirements of subdivision (c) of Section 33413, the agency shall require that the lower and very low income dwelling units developed pursuant to this subdivision remain available at affordable housing cost to lower and very low income households for at least 30 years, except as to dwelling units developed with the assistance of federal or state subsidy programs which terminate in a shorter period and cannot be extended or renewed.

(d) The agency shall include within the report required by Section 33080 information with respect to compliance by the agency with the requirements of this subdivision.

*(Added by Stats. 1990, Ch. 31, Sec. 7. Effective March 26, 1990.)*

**33334.14.** (a) The covenants or restrictions imposed by the agency pursuant to subdivision (f) of Section 33334.3 may be subordinated under any of the following alternatives:

(1) To a lien, encumbrance, or regulatory agreement under a federal or state program when a federal or state agency is providing financing, refinancing, or other assistance to the housing units or parcels, if the federal or state agency refuses to consent to the seniority of the agency's covenant or restriction on the basis that it is required to maintain its lien, encumbrance, or regulatory agreement or restrictions due to statutory or regulatory requirements, adopted or approved policies, or other guidelines pertaining to the financing, refinancing, or other assistance of the housing units or parcels.

(2) To a lien, encumbrance, or regulatory agreement of a lender other than the agency or from a bond issuance providing financing, refinancing, or other assistance of owner-occupied units or parcels where the agency makes a finding that an economically feasible alternative method of financing, refinancing, or assisting the units or parcels on substantially comparable terms and conditions, but without subordination, is not reasonably available.

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

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

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

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

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

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



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

*(Amended by Stats. 2009, Ch. 632, Sec. 5. (SB 251) Effective January 1, 2010.)*

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

*(Added by Stats. 1989, Ch. 1155, Sec. 1.)*

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

*(Added by Stats. 1990, Ch. 1350, Sec. 6. Effective September 26, 1990.)*

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

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

(c) To implement subdivision (a), notwithstanding subdivision (a) of Section 33670, an agency may determine the location and character of any residential construction which is located within a transit village plan and which is to be financed pursuant to Chapter 8 (commencing with Section 33750) and may make mortgage or construction loans to participating parties through qualified mortgage lenders, or purchase mortgage or construction loans without premium made by qualified mortgage lenders to participating parties, for financing residential construction of multifamily rental units located within a transit village plan.

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

*(Added by Stats. 1994, Ch. 780, Sec. 2. Effective January 1, 1995.)*

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

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

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



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

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

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

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

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

(c) Notwithstanding any other provision of law, contiguous agencies located within adjoining cities within a single metropolitan statistical area (MSA) may, by agreement, create and participate in a joint powers authority for the purpose of pooling their housing funds for the direct costs of constructing, substantially rehabilitating, and preserving the affordability of housing units that are affordable to extremely low income households, as defined in Section 50106. Agencies may participate in the authority upon a finding based on substantial evidence, after a public hearing, that the aggregation will not cause or exacerbate racial, ethnic, or economic segregation. Agencies may transfer a portion of their housing funds to a joint powers authority for use by the joint powers authority pursuant to this section. The joint powers authority may determine the kinds of housing projects or activities to be assisted, consistent with this section. The joint powers authority may loan, grant, or advance transferred housing funds from participating agencies to a receiving entity for any eligible housing development within the participating agency's jurisdiction, subject to the requirements of this section. In addition, the agreement may authorize the joint powers authority to issue bonds and to use the pooled funds to leverage other funds to assist eligible developments, including loans from private institutions and assistance provided by other governmental agencies.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*(Amended by Stats. 2011, Ch. 296, Sec. 161. (AB 1023) Effective January 1, 2012.)*

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

*(Added by Stats. 1963, Ch. 1812.)*

**33336.** Every redevelopment plan shall:

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

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

*(Added by Stats. 1963, Ch. 1812.)*

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

*(Amended by Stats. 1965, Ch. 2025.)*

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

*(Added by Stats. 1963, Ch. 1812.)*

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

*(Added by Stats. 1963, Ch. 1812.)*

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

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

*(Amended by Stats. 1965, Ch. 1665.)*

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

*(Amended by Stats. 1965, Ch. 1665.)*

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

*(Added by Stats. 1963, Ch. 1812.)*

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

*(Added by Stats. 1963, Ch. 1812.)*

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

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

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

*(Added by Stats. 2006, Ch. 591, Sec. 3. Effective January 1, 2007.)*

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

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

*(Added by Stats. 2006, Ch. 591, Sec. 4. Effective January 1, 2007.)*

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

*(Added by Stats. 1963, Ch. 1812.)*

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

*(Added by Stats. 1963, Ch. 1812.)*

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

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

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

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

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

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

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

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

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

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

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

the redevelopment plan.

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

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

(g) If the project area contains lands that are in agricultural use, the preliminary report shall be sent to the Department of Conservation, the county agricultural commissioner, the county farm bureau, the California Farm Bureau Federation, and agricultural entities and general farm organizations that provide a written request for notice. A separate written request for notice shall be required for each proposed redevelopment plan or amendment that adds territory. A written request for notice applicable to one redevelopment plan or amendment shall not be effective for a subsequent plan or amendment.

*(Amended by Stats. 2004, Ch. 158, Sec. 1. Effective January 1, 2005.)*

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

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

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

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

(1) Add new territory to the project area.

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

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

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

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

(6) Merge project areas.

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

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

*(Added by Stats. 2004, Ch. 158, Sec. 2. Effective January 1, 2005.)*

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

*(Amended by Stats. 1965, Ch. 1665.)*

**33346.** Before the redevelopment plan of each project area is submitted to the legislative body, it shall be submitted to the planning commission for its report and recommendation concerning the redevelopment plan and its conformity to the general plan adopted by the planning commission or the legislative body. The planning commission may recommend for or against the approval of the redevelopment plan.

*(Amended by Stats. 1973, Ch. 588.)*

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

*(Amended by Stats. 1965, Ch. 1665.)*

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

*(Added by Stats. 1972, Ch. 614.)*

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

*(Amended by Stats. 1965, Ch. 1665.)*

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

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

(b) Copies of the notices published pursuant to this section shall be mailed, by first-class mail, to the last known assessee of each parcel of land in the area designated in the redevelopment plan, at his or her last known address as shown on the last equalized assessment roll of the county; or where a city assesses, levies, and collects its own taxes, as shown on the last equalized assessment roll of the city; or to the owner of each parcel of land within the boundaries of the area or areas designated in the proposed redevelopment plan, as shown on the records of the county recorder 30 days prior to the date the notice is published.

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

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

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

*(Amended by Stats. 1997, Ch. 565, Sec. 2. Effective January 1, 1998.)*

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

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

*(Added by Stats. 1964, 1st Ex. Sess., Ch. 55.)*

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

*(Amended by Stats. 1996, Ch. 249, Sec. 2. Effective January 1, 1997.)*

**33350.5.** After publication of notice of agency public hearing and prior to approval of the redevelopment plan by the agency, an agency may exclude land from a project area after receipt of a report and recommendation from the planning commission. Within 30 days after a change is submitted to it for consideration, the planning commission shall submit its report and recommendation to the

agency. If the planning commission does not report upon the change within 30 days after its submission by the agency, the planning commission shall be deemed to have waived its report and recommendation concerning the change, and the agency may proceed to exclude the land from the project area without the report and recommendation of the planning commission.

*(Added by Stats. 1965, Ch. 1665.)*

**33351.** Upon the preparation and approval of a redevelopment plan the agency shall submit it to the legislative body.

*(Amended by Stats. 1965, Ch. 1665.)*

**33352.** Every redevelopment plan submitted by the agency to the legislative body shall be accompanied by a report containing all of the following:

(a) The reasons for the selection of the project area, a description of the specific projects then proposed by the agency, a description of how these projects will improve or alleviate the conditions described in subdivision (b).

(b) A description of the physical and economic conditions specified in Section 33031 that exist in the area that cause the project area to be blighted. The description shall include a list of the physical and economic conditions described in Section 33031 that exist within the project area and a map showing where in the project the conditions exist. The description shall contain specific, quantifiable evidence that documents both of the following:

(1) The physical and economic conditions specified in Section 33031.

(2) That the described physical and economic conditions are so prevalent and substantial that, collectively, they seriously harm the entire project area.

(c) An implementation plan that describes specific goals and objectives of the agency, specific projects then proposed by the agency, including a program of actions and expenditures proposed to be made within the first five years of the plan, and a description of how these projects will improve or alleviate the conditions described in Section 33031.

(d) An explanation of why the elimination of blight and the redevelopment of the project area cannot reasonably be expected to be accomplished by private enterprise acting alone or by the legislative body's use of financing alternatives other than tax increment financing.

(e) The proposed method of financing the redevelopment of the project area in sufficient detail so that the legislative body may determine the economic feasibility of the plan.

(f) A method or plan for the relocation of families and persons to be temporarily or permanently displaced from housing facilities in the project area, which method or plan shall include the provision required by Section 33411.1 that no persons or families of low and moderate income shall be displaced unless and until there is a suitable housing unit available and ready for occupancy by the displaced person or family at rents comparable to those at the time of their displacement.

(g) An analysis of the preliminary plan.

(h) The report and recommendations of the planning commission.

(i) The summary referred to in Section 33387.

(j) The report required by Section 65402 of the Government Code.

(k) The report required by Section 21151 of the Public Resources Code.

(l) The report of the county fiscal officer as required by Section 33328.

(m) If the project area contains low- or moderate-income housing, a neighborhood impact report which describes in detail the impact of the project upon the residents of the project area and the surrounding areas, in terms of relocation, traffic circulation, environmental quality, availability of community facilities and services, effect on school population and quality of education, property assessments and taxes, and other matters affecting the physical and social quality of the neighborhood. The neighborhood impact report shall also include all of the following:

(1) The number of dwelling units housing persons and families of low or moderate income expected to be destroyed or removed from the low- and moderate-income housing market as part of a redevelopment project.

(2) The number of persons and families of low or moderate income expected to be displaced by the project.

(3) The general location of housing to be rehabilitated, developed, or constructed pursuant to Section 33413.

(4) The number of dwelling units housing persons and families of low or moderate income planned for construction or rehabilitation, other than replacement housing.

(5) The projected means of financing the proposed dwelling units for housing persons and families of low and moderate income planned for construction or rehabilitation.

(6) A projected timetable for meeting the plan's relocation, rehabilitation, and replacement housing objectives.

(n) (1) An analysis by the agency of the report submitted by the county as required by Section 33328, which shall include a summary of the consultation of the agency, or attempts to consult by the agency, with each of the affected taxing entities as required by Section 33328. If any of the affected taxing entities have expressed written objections or concerns with the proposed project area as part of these consultations, the agency shall include a response to these concerns, additional information, if any, and, at the discretion of the agency, proposed or adopted mitigation measures.

(2) As used in this subdivision:

(A) "Mitigation measures" may include the amendment of the redevelopment plan with respect to the size or location of the project area, time duration, total amount of tax increment to be received by the agency, or the proposed use, size, density, or location of development to be assisted by the agency.

(B) "Mitigation measures" shall not include obligations to make payments to any affected taxing entity.

*(Amended by Stats. 2006, Ch. 595, Sec. 7. Effective January 1, 2007.)*

**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."

*(Amended by Stats. 2000, Ch. 610, Sec. 5. Effective January 1, 2001.)*

**33354.5.** Where an agency proposes to amend a redevelopment plan which does not utilize tax increment financing to include a tax allocation provision, the agency shall follow the same procedure and the legislative body is subject to the same restrictions as provided for in this article for the adoption of a plan.

*(Added by Stats. 1976, Ch. 1337.)*

**33354.6.** (a) When an agency proposes to amend a redevelopment plan which utilizes tax increment financing to add new territory to the project area, to increase either the limitation on the number of dollars to be allocated to the redevelopment agency or the time limit on the establishing of loans, advances, and indebtedness established pursuant to paragraphs (1) and (2) of subdivision (a) of Section 33333.2 or pursuant to paragraphs (1) and (2) of subdivision (a) of Section 33333.4, to lengthen the period during which the redevelopment plan is effective, to merge project areas, or to add significant additional capital improvement projects, as determined by the agency, the agency shall follow the same procedure, and the legislative body is subject to the same restrictions as provided for in this article for the adoption of a plan.

(b) When an agency proposes to increase the limitation on the number of dollars to be allocated to the redevelopment agency, it shall describe and identify, in the report required by Section 33352, the remaining blight within the project area, identify the portion, if any, that is no longer blighted, the projects that are required to be completed to eradicate the remaining blight and the relationship between the costs of those projects and the amount of increase in the limitation on the number of dollars to be allocated to the agency. The ordinance adopting the amendment shall contain findings that both (1) significant blight remains with the project area and (2) the blight cannot be eliminated without the establishment of additional debt and the increase in the limitation on the number of dollars to be allocated to the redevelopment agency.

*(Amended by Stats. 1993, Ch. 942, Sec. 21. Effective January 1, 1994.)*