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# Community Redevelopment Law

2010

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**Memorandum**

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**DATE** December 14, 2009

**TO** Community Redevelopment Law Users

**FROM** Marnie A. Prock

**RE** 2010 Community Redevelopment Law

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Attached is a copy of the Community Redevelopment Law (CRL) as of January 1, 2010, marked to show deletions (by asterisk) and additional (by underlining) made by the Legislature during 2009. The bills affecting the CRL enacted during 2009 were as follows:

**SB 3X-8 Chapter 4, effective February 20, 2009**

This bill added section 33333.13 to the Health and Safety code revising the allocation of property tax increment revenues in the City of Glendora.

**SB 430 Chapter 13, effective January 1, 2010**

This bill added section 34004.1 which prohibits the time limit on the effectiveness of the redevelopment plan for the County of San Bernardino Redevelopment Agency's Cedar Glen Disaster Recovery Project Area from exceeding 15 years from the adoption of the redevelopment plan.

**AB4X-15 Chapter 14, effective July 28, 2009**

This bill amended section 33681.12 relating to local government finance and making an appropriation thereof. The bill generally requires the auditor of each county to reduce the amount of ad valorem property tax revenue apportionments to each local agency for the 2009-10 fiscal year by 8% of the total amount of ad valorem property tax revenue apportioned to that local agency in the 2008-09 fiscal year, and requires each county auditor to transfer those revenues to a Supplemental Revenue Augmentation Fund, to be transferred therefrom by the county office of education to the Controller in amounts as directed by the Department of Finance to reimburse the state for costs of providing various services in that county. This bill requires full

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repayment to local agencies of the reduction amounts, including interest, as determined by the Controller, and would make appropriation therefor.

**AB 4X-26 Chapter 21, effective October 26, 2009**

This bill amends sections 33334.2 and 33688 and adds sections 33020.5 and 33331.5, 33690, 33690.5, 33691 and 33692 requiring payments by redevelopment agencies to a county Supplemental Educational Revenue Augmentation Fund during the 2009-2010 and 2010-2011 fiscal years and requires redevelopment agencies, the county auditor and the Controller to submit specified reports or make specified calculations by specified dates regarding the revenue payments deposited by redevelopment agencies in the county Supplemental Educational Augmentation Fund.

In addition, the bill authorizes a redevelopment agency, from July 1, 2009, to June 30, 2010 to suspend all or part of its required allocation to the Low and Moderate Income Housing Fund from property tax increment revenues that are allocated to the agency with provisions to repay the fund by June 30, 2015. The agency would be authorized to defer the payment of a portion of this remittance if that agency finds that is unable, for either of certain reasons, to pay the full allocation, and if the agency adopts a specified resolution. The legislative body would be authorized to remit, in lieu of making that payment prior to a specified date, a designated amount to the county auditor for deposit in the county Supplemental Educational Revenue Augmentation Fund. If an agency does not remit the full designated amount or fails to arrange for full payment, as specified, then the agency would be prohibited from adding new project areas or expanding existing projects; from issuing new bonds, notes, interim certificates, debentures, or other obligations, as specified; and from encumbering any funds or expending any moneys derived from any source except as specified.

The bill requires the county auditor-controller to distribute funds remitted to the county Supplemental Educational Revenue Augmentation Fund by a redevelopment only to a K-12 school district or a county office of education that is located partially or entirely within the project area of the redevelopment agency.

The bill also requires, for the 2009-10 fiscal year and the 2010-11 fiscal year, the amount apportioned to each district pursuant to a specified provision of existing law, and for purposes of making the computations required by Section 8 Article XVI of the California Constitution, specified General Fund revenues appropriated for districts, to be reduced by the total amount of Supplemental Educational Revenue Augmentation moneys a district receives, regardless of the actual date the funds are received from each redevelopment agency.

**AB 1164 Chapter 140, effective January 1, 2010**

This bill made technical and conforming changes to Section 33684.

**AB 1246 Chapter 520, effective January 1, 2010**

This bill repeals section 33007.5 that defined the "Limited-Equity Housing Cooperative" and amends section 33413.7, making technical and conforming changes to the statute relating to corporations, housing, workforce housing cooperative trust.

**SB 93 Chapter 555, effective January 1, 2010**

This bill amends sections 33445 and 33679 and adds sections 33445.1 and 33505. The bill authorizes a redevelopment agency, with the consent of the legislative body, to pay all or a part of the value of the land for, and the cost of the installation and construction of, any building facility, structure or other improvement that is publicly owned and is located inside or contiguous to, as defined, the project area if the legislative body makes specified determinations. The bill also deletes the requirement that the agency, with respect to the financing, acquisition, or construction of a transportation, collection, and distribution system and related peripheral parking facilities, in a county with a population of 4 million persons or more, enter into an agreement with the rapid transit district that includes the county, or a portion thereof, under which the rapid transit district is required to be given specified responsibilities. The bill also authorizes the agency to pay for all or part of the value of the land for, and the cost of the installation and construction of, any building, facility, structure, or other improvement that is publicly owned and is partially located in the project area, but extends beyond the project area's boundaries, if the legislative body makes specified determinations.

This bill also authorizes an agency, with the consent of the legislative body to pay all or a part of the value of the land for, and the cost of the installation and construction of, any building, facility, structure, or other improvement that is publicly owned and is located outside and not contiguous to the project area, but is located within the community, if the legislative body makes specified findings based on substantial evidence in the record. This bill also adds information required to be included in the summary of facts supporting the findings required to be made by the legislative body in support of this section. This bill would require an action to challenge these findings to be filed and served within 60 days after the date of the resolution containing the findings. The bill prohibits an agency from paying for the normal maintenance or operations of buildings, facilities, structures, or other improvements that are publicly owned. These provisions would not apply if the financing, construction, or installation of the land, buildings, facilities, structures, or other improvements is an obligation of the agency under a contract existing on December 31, 2009, is specifically described in the implementation plan prepared by

the agency as of July 1, 2009, pursuant to Section 33490, or is specifically provided for in the redevelopment plan as of December 31, 2009.

The bill also prohibits the agency and legislative body from authorizing or approving the settlement of specified judicial actions that contest the validity of the adoption or amendment of a redevelopment plan if the settlement requires the expenditure of funds outside the project area unless the agency and the legislative body have first held a public hearing on the proposed settlement, as specified. The bill provides specified notice requirements and procedures for the public hearing and requires that copies of the proposed settlement be made available for public inspection and copying not later than the first date of publication of the public notice.

**SB 251 Chapter 632, effective January 1, 2010**

This bill amended section 33334.14 relating to Housing Construction and Community Development generally. It made a technical change to a reference to a statute.

**SB 67 Chapter 634, effective January 1, 2010**

This bill amends Section 33681.12 making technical changes to the statute.

**SB 68 Chapter 652, effective November 12, 2009**

This bill amends sections 33690 and 33690.5 enacted in the 4th Executive Session by AB 4X-26. The bill additionally authorizes an agency, in order to make the required allocation to the county Supplemental Educational Revenue Augmentation Fund, to borrow any moneys in the Low and Moderate Income Housing Fund under the same condition. The bill also makes adjustments to the calculation made by the Director of Finance with respect to a redevelopment agency that, prior to August 1, 2009, deleted territory from any project area and reported to the State Board of Equalization in accordance with existing law and that deletion is not reflected in certain described reports.

**SUMMARY OF SECTIONS AFFECTED:**

| | | |
|---|---|---|
| 33007.5 | Repealed | AB 1246, Ch. 520 (eff. 1/1/10) |
| 33020.5 | Added | AB4x-26, Ch. 21 (eff. 10/26/09) |
| 33331.5 | Added | AB4x-26, Ch. 21 (eff. 10/26/09) |
| 33333.13 | Added | SB3X-8, Ch. 4 (eff. 2/20/09) |
| 33334.14 | Amended | SB 251, Ch. 632 (eff. 1/1/10) |
| 33334.2 | Amended | AB4x-26, Ch. 21 (eff. 10/26/09) |

| | | |
|---|---|---|
| 33413.7 | Amended | AB 1246, Ch. 520 (eff. 1/1/10) |
| 33445 | Amended | SB 93, Ch. 555 (eff. 1/1/10) |
| 33445.1 | Added | SB 93, Ch. 555 (eff. 1/1/10) |
| 33505 | Added | SB 93, Ch. 555 (eff. 1/1/10) |
| 33679 | Amended | SB 93, Ch. 555 (eff. 1/1/10) |
| 33681.12 | Amended | AB4x-15, Ch. 14 (eff. 7/28/2009) |
| 33681.12 | Amended | SB 67, Ch. 634 (eff. 1/1/10) |
| 33684 | Amended | AB1164, Ch. 140 (eff. 1/1/10) |
| 33688 | Amended | AB4x-26, Ch. 21 (eff. 10/26/09) |
| 33690 | Added | AB4x-26, Ch. 21 (eff. 10/26/09) |
| 33690 | Amended | SB 68, Ch. 652 (eff. 11/12/09) |
| 33690.5 | Added | AB4x-26, Ch. 21 (eff. 10/26/09) |
| 33690.5 | Amended | SB 68, Ch. 652 (eff. 11/12/09) |
| 33691 | Added | AB4x-26, Ch. 21 (eff. 10/26/09) |
| 33692 | Added | AB4x-26, Ch. 21 (eff. 10/26/09) |
| 34004.1 | Added | SB 430Chapter 13 (eff. 1/1/10) |

# 2010 Community Redevelopment Law of the State of California

Health & Safety Code Sections 33000, *et seq.*

As of January 1, 2010

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# PART 1. COMMUNITY REDEVELOPMENT LAW

## CHAPTER 1. GENERAL

### Article 1. General Definitions

**33000. Community Redevelopment Law**

This part may be cited as the Community Redevelopment Law.

**33001. Construction of Community Redevelopment Law**

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

**33002. *Community* defined**

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

**33003. *Agency* defined**

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

**33004. *Public body* defined**

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

**33005. *State* defined**

"State" includes any state agency or instrumentality.

**33006. *Federal government* defined**

"Federal government" means the United States or any of its agencies or instrumentalities.

**33007. *Legislative body* defined**

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

**33007.5. [REPEALED BY A.B. 1246, Ch 520, Stats 2009, eff. 1/1/10]**

**33008. *Planning commission* defined**

"Planning commission" means a planning agency established pursuant to law or charter.

**33009. *Obligee* defined**

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

**33010. *Redevelopment project* defined**

"Redevelopment project" means any undertaking of an agency pursuant to this part.

**33011. *Department* defined**

"Department" means the Department of Housing and Community Development.

**33011.2. *Director* defined**

"Director" means the Director of Housing and Community Development.

**33013. *Small housing project* defined**

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

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

(b) The real property is owned by the agency and is proposed to be conveyed to persons and families of low or moderate income or developed for rental by private parties (nonprofit or otherwise) pursuant to an agreement with the redevelopment agency.

## Article 2. Redevelopment

**33020. *Redevelopment* defined**

(a) "Redevelopment" means the planning, development, replanning, redesign, clearance, reconstruction, or rehabilitation, or any combination of these, of all or part of a survey area, and the

provision of those residential, commercial, industrial, public, or other structures or spaces as may be appropriate or necessary in the interest of the general welfare, including recreational and other facilities incidental or appurtenant to them and payments to school and community college districts in the fiscal years specified in Sections 33681, 33681.5, 33681.7, 33681.9, and 33681.12.

**33020.5. *Redevelopment* further defined**

In addition to Section 33020, "redevelopment" also means payments to school districts in the fiscal years specified in Sections 33690 and 33690.5.

**33021. Public and private improvements; open space; replanning**

Redevelopment includes:

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

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

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

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

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

**33021.1. Emergency shelters for homeless persons**

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

**33022. Continuance of existing buildings and uses**

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

## Article 3. Declaration of State Policy—Blighted Areas

**33030. *Blighted areas* defined**

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

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

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

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

(c) A blighted area that contains the conditions described in subdivision (b) may also be characterized by the existence of inadequate public improvements or inadequate water or sewer utilities.

**33031. Physical and economic blight**

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

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

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

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

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

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

(1) Depreciated or stagnant property values.

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

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

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

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

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

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

**33035. Legislative findings and declarations**

It is further found and declared that:

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

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

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

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

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

**33036. Legislative findings and declarations**

It is further found and declared that:

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

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

(c) Such conditions of blight are chiefly found in areas subdivided into small parcels, held in divided and widely scattered ownerships, frequently under defective titles, and in many such instances the private assembly of the land in blighted areas for redevelopment is so difficult and costly that it is

uneconomic and as a practical matter impossible for owners to undertake because of lack of the legal power and excessive costs.

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

**33037. Public policy**

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

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

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

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

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

**33038. Temporary wartime housing projects**

It is found and declared that blighted areas may include housing areas constructed as temporary government-owned wartime housing projects, and that such areas may be characterized by one or more of the conditions enumerated in Sections 33031 to 33034, inclusive.

**33039. Public policy**

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

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

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

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

(d) The neglect of absentee landlords.

It is, therefore, declared to be the public policy of this State that, in order to cope with the problems of the rehabilitation of slum or blighted areas, these factors shall be taken into consideration in

any rehabilitation or redevelopment program. It is further declared to be the public policy of this State that such rehabilitation or redevelopment programs shall not be undertaken and operated in such a manner as to exchange new slums for old slums or as to congest individuals from one slum to another slum.

## Article 4. Declaration of State Policy—Antidiscrimination

### 33050. Prohibition against discrimination

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

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

### 33051. Prohibition against discrimination on basis of sexual orientation: City and County of San Francisco

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

## Article 5. Further Declaration of State Policy

### 33070. Importance of housing and employment opportunities

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

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

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

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

### 33071. Expansion of housing and employment opportunities

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

## Article 6. Reporting Requirement

**33080. Annual report: preparation and filing**

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

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

**33080.1. Annual report: submission to legislative body**

Every redevelopment agency shall submit the final report of any audit undertaken by any other local, state, or federal government entity to its legislative body within 30 days of receipt of that audit report. In addition, every redevelopment agency shall present an annual report to its legislative body within six months of the end of the agency's fiscal year. The annual report shall contain all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

**33080.2. Annual report: review by legislative body**

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

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

**33080.3. Annual report: compliance audit**

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

**33080.4. Annual report: housing and displacement**

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

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

(2) Pursuant to Section 33413.5, the total number of nonelderly and elderly households, including separate subtotals of the numbers of very low income

households, other lower income households, and persons and families of moderate income, that the agency estimates will be displaced or will move from their dwellings as part of a redevelopment project of the agency during the present fiscal year and the date of adoption of a replacement housing plan for each project area subject to Section 33413.5.

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

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

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

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

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

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

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

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

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

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

(b) As used in this section:

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

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

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

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

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

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

**33080.5. Annual report: fiscal statement**

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

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

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

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

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

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

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

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

**33080.6. Report of Department of Housing and Community Development**

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

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

**33080.7. Annual report: excess surplus in housing fund**

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

**33080.8. Annual report: major violations**

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

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

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

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

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

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

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

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

(B) Adopting a redevelopment plan.

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

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

(E) Incurring any indebtedness.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

# CHAPTER 2. REDEVELOPMENT AGENCIES

## Article 1. Creation of Agencies

### 33100. Existence in each community

There is in each community a public body, corporate and politic, known as the redevelopment agency of the community.

### 33101. Ordinance declaring need for redevelopment agency

An agency which, on September 15, 1961, was not authorized to transact any business or exercise any powers by a resolution adopted prior to such date, shall not transact any business or exercise any powers under this part unless, by ordinance, the legislative body declares that there is need for an agency to function in the community. The ordinance of the legislative body declaring that there is need for an agency to function in the community shall be subject to referendum as prescribed by law for a county or a city ordinance.

### 33102. Filing of ordinance

The agency shall cause a certified copy of the ordinance to be filed in the office of the county clerk.

### 33103. Validity of establishment and authority of agency

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

### 33103.5. Validity of establishment and authority of agency: City of Crescent City

Any ordinance of a legislative body heretofore adopted declaring the need for an agency to function in Crescent City is hereby validated, and in any proceeding involving the validity of, or enforcement of, or relating to, any contract by such an agency, the agency is conclusively deemed to have been established and authorized to transact business and exercise its powers upon proof that a copy of such ordinance has been filed with the Secretary of State.

Notwithstanding Section 33101, any such ordinance adopted as an emergency ordinance is not subject to referendum.

### 33104. Validity of establishment and authority of agencies transacting business before September 15, 1961

Agencies which transacted business and exercised powers prior to September 15, 1961, shall, in any proceeding involving the validity of, or enforcement of, or relating to, any contract by an agency, be conclusively deemed to have been established and authorized to transact business and exercise its powers upon proof of the adoption of a resolution adopted pursuant to the provisions of this part which were in effect prior to September 15, 1961, or upon proof that a copy of such resolution has been filed with the Secretary of State.

### 33105. Validity of establishment and authority of reactivated agency

In any case where an agency was activated in a community by a resolution adopted pursuant to Section 33101 prior to January 1, 1951, and where thereafter and prior to January 1, 1951, the legislative body of the community purported to dissolve the agency under circumstances where Section 33140 was not applicable, and where as a result of such purported dissolution the agency was inactive for a period of at least 10 years, and where subsequent to January 1, 1962, the legislative body of the community adopted an ordinance pursuant to Section 33101 declaring that there is need for an agency to function in the community, which ordinance was not suspended by referendum, and where subsequent to the adoption of such ordinance new members of the agency were appointed pursuant to Section 33110, such agency is a valid and existing agency with full power to transact any business and exercise its powers and the members appointed subsequent to the adoption of such ordinance are the legally appointed and existing members of the agency, each for the term designated in his appointment. For the purpose of applying Section 33140 to such agency, the two-year period referred to in that section shall be measured from the date of adoption of such ordinance.

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

### 33110. Appointment

When the legislative body adopts an ordinance declaring the need for an agency, the mayor or chairman of the board of supervisors, with the approval of the legislative body, shall appoint five persons, who are resident electors of the community, and may include tenants of a public housing authority created pursuant to Part 2 (commencing with Section 34200) of this division, as members of the agency. The legislative body may, either at the time of the adoption of the ordinance declaring the need for an agency or at any time thereafter, adopt an ordinance increasing to seven the number of members to be appointed to the agency. Upon the exercise of such option by the legislative body, the membership of the agency shall remain at seven.

### 33111. Qualifications

A member may not be an elective officer or an employee of the community, but, notwithstanding any other law, he may be a member, commissioner, or employee of any other agency or authority of, or created for, the community.

### 33112. Terms of office

Three of the members first appointed shall be designated to serve the terms of one, two, and three years, respectively, from the date of their appointments and two shall be designated to serve for terms of four years from the date of their appointments. If and when the membership of the agency is increased to seven, one of the additional members shall be appointed to a term, or unexpired portion thereof, which is concurrent with the term then held by the member originally appointed for a term of three years or by his successor, and the other additional member shall be appointed to a term, or unexpired portion thereof, which is concurrent with the term then held by the member originally appointed for a term of two years or by his successor. Their successors shall be appointed for four-year terms. Vacancies occurring during a term shall be filled for the unexpired term. A member shall hold office until his successor has been appointed and has qualified.

### 33113. Chairman

The appointing officer shall designate the first chairman from among the members. When there is a vacancy in such office, the agency shall elect a chairman from among its members. Unless otherwise

prescribed by the legislative body, the term of office as chairman is for the calendar year, or for that portion remaining after he is designated or elected.

### 33114. Compensation

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

### 33114.5. Compensation when legislative body is agency

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

### 33115. Removal from office

For inefficiency, neglect of duty, or misconduct in office, a member may be removed by the appointing officer, but only after he has been given a copy of the charges at least 10 days prior to a public hearing on them and has had an opportunity to be heard in person or by counsel. If a member is removed, a record of the proceedings and the charges and findings shall be filed in the office of the clerk of the community.

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

### 33120. Territorial jurisdiction

The territorial jurisdiction of the agency of a county is the unincorporated territory in the county, and that of a city or city and county is the territory within its limits.

### 33121. Powers vested in members

The powers of each agency are vested in the members in office.

### 33121.5. Delegation of obligation to decide

When a decision, determination, or other action by the agency or legislative body is required by this part, neither the agency nor the legislative body shall delegate the obligation to decide, determine, or act to another entity unless a provision of this part specifically provides for that delegation.

### 33122. Powers prescribed by Community Redevelopment Law

Each redevelopment agency exercises governmental functions and has the powers prescribed in this part.

**33123. Public function of community**

Each agency is performing a public function of the community.

**33125. General powers**

An agency may:

(a) Sue and be sued.

(b) Have a seal.

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

(d) Make, amend, and repeal bylaws and regulations not inconsistent with, and to carry into effect, the powers and purposes of this part.

**33125.5. Record of proceedings**

An agency shall keep a record of the proceedings of its meetings and those records shall be open to examination by the public to the extent required by law.

**33126. Employment of personnel**

(a) An agency may select, appoint, and employ such permanent and temporary officers, agents, counsel, and employees as it requires, and determine their qualifications, duties, benefits, and compensation, subject only to the conditions and restrictions imposed by the legislative body on the expenditure or encumbrance of the budgetary funds appropriated to the community redevelopment agency administrative fund. To the greatest extent feasible, the opportunities for training and employment arising from a redevelopment project planning and execution shall be given to lower income residents of the project area. The agency shall adopt personnel rules and regulations applicable to all employees. Such rules shall contain procedures affecting conflicts of interest, use of funds, personnel procedures on hiring and firing including removal of personnel for inefficiency, neglect of duties, or misconduct in office. Such rules and regulations shall be of public record.

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

**33127. Office and administrative expenses**

An agency may:

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

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

**33128. Access to community services and facilities**

For the purposes of the agency, it shall have access to the services and facilities of the planning commission, the city engineer, and other departments and offices of the community.

**33129. Administrative fund**

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

**33130. Conflicts of interest; exceptions**

(a) No agency or community officer or employee who in the course of his or her duties is required to participate in the formulation of, or to approve plans or policies for, the redevelopment of a project area shall acquire any interest in any property included within a project area within the community. If any such officer or employee owns or has any direct or indirect financial interest in property included within a project area, that officer or employee shall immediately make a written disclosure of that financial interest to the agency and the legislative body and the disclosure shall be entered on the minutes of the agency and the legislative body. Failure to make the disclosure required by this subdivision constitutes misconduct in office.

(b) Subdivision (a) does not prohibit any agency or community officer or employee from acquiring an interest in property within the project area for the purpose of participating as an owner or reentering into business pursuant to this part if that officer or employee has owned a substantially equal interest as that being acquired for the three years immediately preceding the selection of the project area.

(c) A rental agreement or lease of property which meets all of the following conditions is not an interest in property for purposes of subdivision (a):

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

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

(3) The property which is subject to the rental or lease agreement is used in the pursuit of the principal business, occupation, or profession of the officer or employee.

(4) The agency or community officer or employee who obtains the rental or lease agreement immediately makes a written disclosure of that fact to the agency and the legislative body.

**33130.5. Conflicts of interest; exceptions**

Notwithstanding any other provisions of law, an officer, employee, consultant, or agent of the agency or community, for personal residential use, may purchase or lease property within a project area after the agency has certified that the improvements to be constructed or the work to be done on the property to be purchased or leased have been completed, or has certified that no improvements need to be constructed or that no work needs to be done on the property. Any such officer or employee who purchases or leases such property shall immediately make a written disclosure to the agency and the legislative body,

which disclosure shall be entered on the minutes of the agency. Any such officer or employee shall thereafter be disqualified from voting on any matters directly affecting such a purchase, lease, or residency. Failure to so disclose constitutes misconduct in office.

**33131. Redevelopment activities**

An agency may:

(a) From time to time prepare and carry out plans for the improvement, rehabilitation, and redevelopment of blighted areas.

(b) Disseminate redevelopment information.

(c) Prepare applications for various federal programs and grants relating to housing and community development and plan and carry out such programs within authority otherwise granted by this part, at the request of the legislative body.

**33132. Financial assistance**

The agency may accept financial assistance from public or private sources as authorized by Chapter 6 (commencing with Section 33600) or any other provision in this part.

**33133. Other assistance**

The agency may accept any other assistance from the state or federal government or any public or private source for any redevelopment project within its area of operation or for the agency's activities, powers, and duties.

**33134. Insurance**

Within the survey area or for purposes of redevelopment an agency may insure or provide for the insurance of any operations of the agency against risks or hazards.

**33135. Relocation and other assistance**

Upon request from and at the expense of any public body, an agency may, outside any survey area, with the approval of the legislative body, provide (1) relocation assistance to persons displaced by governmental action, and (2) aid and assistance to property owners in connection with rehabilitation loans and grants.

**33136. Insurance premiums: lower income housing**

An agency may finance the cost of premiums necessary for the provision of insurance during the construction or rehabilitation of properties that are administered by governmental entities or nonprofit organizations to provide housing for lower income households, as defined in Section 50079.5, including rental properties, emergency shelters, transitional housing, or special residential care facilities.

## Article 4. Suspension and Dissolution of Agencies

### 33140. Ordinance declaring no need for agency after 2 years inactivity; suspension of powers

If an agency has not redeveloped or acquired land for, or commenced the redevelopment of, a project, or entered into contracts for redevelopment within two years after the adoption of an ordinance pursuant to Section 33101, or, in the case of an agency authorized to transact business and exercise powers by resolution adopted pursuant to the provisions of Section 33101 that were in effect prior to the adoption of that resolution, the legislative body may by ordinance declare that there is no further need for the agency. A legislative body shall not adopt an ordinance declaring that there is no further need for the agency if, in one or more project areas, the agency has not complied with subdivision (a) of Section 33333.8. Upon the adoption of the ordinance the offices of the agency members are vacated and the capacity of the agency to transact business or exercise any powers is suspended until the legislative body adopts an ordinance declaring the need for the agency to function.

### 33141. Ordinance declaring no need for agency after motion of legislative body or recommendation of agency; conditions

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

### 33142. Filing of ordinance

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

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# CHAPTER 3. OTHER ENTITIES UNDERTAKING OR ASSISTING REDEVELOPMENT

## Article 1. Legislative Body as the Agency

**33200. Ordinance declaring legislative body as agency**

(a) As an alternative to the appointment of five members of the agency, the legislative body may, at the time of the adoption of an ordinance pursuant to Section 33101 or 33140 of this part, or at any time thereafter by adoption of an ordinance, declare itself to be the agency; in which case, all the rights, powers, duties, privileges and immunities, vested by this part in an agency, except as otherwise provided in this article, shall be vested in the legislative body of the community. If a member of the legislative body of a city or county does not wish to serve on the agency, the members may so notify the legislative body of the city or county, and the legislative body of the city or county shall appoint a replacement who is an elector of the city or county to serve out the term of the replaced member.

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

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

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

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

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

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

**33201. Community redevelopment commission: creation**

(a) A legislative body which has declared itself to be the agency pursuant to Section 33200 may by ordinance create a community redevelopment commission. The ordinance shall establish the number of members of the commission, but not less than seven, their terms of office, and the method of their appointment and removal.

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

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

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

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

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

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

**33202. Community redevelopment commission: functions**

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

**33203. Legislative body no longer to function as agency; appointment of resident electors**

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

### 33204. Charter cities

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

### 33205. Delegation of authority

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

### 33206. Contracts for staff services

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

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

### 33210. Joint exercise of powers

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

### 33210.5. Applicable only to the City of San Leandro and County of Alameda; Joint exercise of powers

(a) As used in this section, the following terms have the following meanings:

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

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

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

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

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

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

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

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

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

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

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

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

**33211. Reports of planning commissions**

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

**33212. Cooperation between agency and planning commissions**

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

**33213. Authorization for redevelopment by another community**

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

**33214. Territorial jurisdiction**

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

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

**33214.5 Definitions**

As used in Sections 33215 and 33216:

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

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

**33215. Transfer of territorial jurisdiction to agency of city; procedure; effective date; effect; agreements to facilitate transfer**

(a) If all of the territory included within a project area, including any noncontiguous territory within the project area, selected pursuant to Section 33322 or 34004 is subsequently annexed to a city or included within the boundaries of a new city, the territorial jurisdiction of the creating agency over all of the territory in that project area may be transferred from the creating agency to a receiving agency pursuant to this section.

(b) The legislative body of the community of the receiving agency, in which the territory described in subdivision (a) is located, may unilaterally transfer the territorial jurisdiction described in subdivision (a) if that legislative body agrees to reimburse the community of the creating agency for all

costs incurred by the community of the creating agency in conducting the transfer and adopts, or has adopted, both of the following ordinances:

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

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

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

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

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

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

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

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

**33216. Transfer of territorial jurisdiction to agency of city; agreement and adoption of ordinances; contents of agreement; effective date; rights, powers, debts and obligations**

(a) If all, or a substantial portion, of the territory included within a project area selected pursuant to Section 33322 or 34004 is subsequently annexed to a city or included within the boundaries of a new city, the territorial jurisdiction of the creating agency over all, or a substantial portion, of the territory in that project area may be transferred from the creating agency to the receiving agency pursuant to this section. If all, or a substantial portion, of the noncontiguous territory of a project area of a creating agency is subsequently annexed to a city or included within the boundaries of a new city, the jurisdiction of the creating agency over all, or a substantial portion, of the noncontiguous territory may be transferred to the receiving agency pursuant to this section.

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

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

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

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

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

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

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

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

(B) If a substantial portion of the territory included within the project area is transferred from the creating agency to the receiving agency, a provision for the allocation of taxes payable from the project area pursuant to subdivision (b) of Section 33670 between the receiving agency and the creating agency. That allocation of taxes shall be reasonably related to the costs that the community of the creating agency and the community of the receiving agency expect to incur in carrying out the redevelopment plan and the outstanding indebtedness that the creating agency has incurred in carrying out the redevelopment plan. That indebtedness shall include repayment of expenditures to, or on behalf of, the redevelopment project area from other resources or borrowing of the creating agency. That allocation of taxes may differ from the allocation that would have been made if the portion of the project area under the territorial jurisdiction of the creating agency and the portion of the project area under the territorial jurisdiction of the receiving agency had been separate project areas at the time of adoption of the redevelopment plan by the legislative body of the creating agency.

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

(4) If a substantial portion of the territory included within the project area is transferred from the creating agency to the receiving agency, a requirement that

any amendment to the redevelopment plan for that portion of the territory of the project area under the jurisdiction of the creating agency shall, in addition to any other requirements under this part, be approved by an ordinance adopted by the legislative body of the receiving agency, and that any amendment to the redevelopment plan for that portion of the territory of the project area under the jurisdiction of the receiving agency shall, in addition to any other requirements under this part, be approved by an ordinance adopted by the legislative body of the creating agency.

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

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

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

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

(1) Except as otherwise provided by the agreement entered into pursuant to paragraph (1) of subdivision (b), the receiving agency and its legislative body shall have all of the rights, powers, and responsibilities provided by this part with respect to all, or the portion, of the project area for which the territorial jurisdiction has been transferred to the receiving agency and with respect to all, or the portion, of the redevelopment plan for all, or that portion, of the project area.

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

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

**33216.1. Transfer of territorial jurisdiction: County of Orange to city agency**

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

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

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

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

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

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

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

**33216.5. Transfer of territorial jurisdiction: County of Shasta to City of Shasta Lake**

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

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

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

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

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

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

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

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

**33217. Territorial jurisdiction: New city**

If a portion of a city containing a portion of a redevelopment project area is incorporated as a new city, and the new city establishes an agency to be the receiving agency for that portion of the project area, the creating agency and the receiving agency shall have six months from the date of the establishment of that receiving agency to enter into an agreement pursuant to Section 33216. If that agreement is not entered into within that six-month period, the creating agency shall not thereafter expend any money pursuant to this part or Part 1.5 (commencing with Section 34000) within the project area, except to repay existing indebtedness, until those agencies have entered into that agreement. That indebtedness shall include outstanding bonded indebtedness, existing agreements, contracts, leases, and expenditures made to, or on behalf of, the project area from other resources or borrowings of the creating agency.

## Article 3. Aid, Assistance and Co-operation

**33220. Aid and cooperation of public bodies**

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

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

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

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

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

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

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

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

**33221. Bond purchases**

The bonds and obligations issued by an agency also may be purchased, invested in, or used for security as authorized in Section 33663.

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# CHAPTER 4. REDEVELOPMENT PROCEDURES AND ACTIVITIES

## Article 1. Community Prerequisites

### 33300. Compliance with requirements of article

Before any area is designated for redevelopment, the community authorized to undertake such development shall comply with the requirements of this article.

### 33301. Planning agency

The community shall have a planning agency established pursuant to law or charter.

### 33302. General plan

The community shall have a general plan which complies with Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 of the Government Code, and which includes, but is not limited to, a housing element that substantially complies with state law.

## Article 2. Designation of Survey Area

### 33310. Resolution designating survey area

Survey areas may be designated by resolution of the legislative body, or the legislative body may by resolution authorize the designation of survey areas by resolution of the planning commission or by resolution of the members of the agency.

### 33311. Request for designation of survey area

Any person, group, association or corporation may in writing, request the legislative body (or the planning commission or the agency if they are authorized by the legislative body to designate survey areas) to designate a survey area or areas for project study purposes, and may submit with their request plans showing the proposed redevelopment of such areas or any part or parts thereof.

### 33312. Contents of resolution designating survey area

The resolution designating a survey area or areas shall contain the following:

(a) A finding that the area requires study to determine if a redevelopment project or projects within said area are feasible;

(b) A description of the boundaries of the area designated.

## Article 3. Selection of Project Area and Formulation of Preliminary Plans

### 33320.1. *Project area* defined

(a) "Project area" means, except as provided in Section 33320.2, 33320.3, 33320.4, or 33492.3, a predominantly urbanized area of a community that is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in this part, and that is selected by the planning commission pursuant to Section 33322.

(b) As used in this section, "predominantly urbanized" means that not less than 80 percent of the land in the project area is either of the following:

(1) Has been or is developed for urban uses.

(2) Is an integral part of one or more areas developed for urban uses that are surrounded or substantially surrounded by parcels that have been or are developed for urban uses. Parcels separated by only an improved right-of-way shall be deemed adjacent for the purpose of this subdivision. Parcels that are not blighted shall not be included in the project area for the purpose of obtaining the allocation of taxes from the area pursuant to Section 33670 without other substantial justification for their inclusion.

(c) For the purposes of this section, a parcel of property as shown on the official maps of the county assessor is developed if that parcel is developed in a manner that is consistent with zoning standards or is otherwise permitted under law.

(d) The requirement that a project be predominantly urbanized shall apply only to a project area for which a final redevelopment plan is adopted on or after January 1, 1984, or to an area that is added to a project area by an amendment to a redevelopment plan, which amendment is adopted on or after January 1, 1984.

### 33320.2. Contiguous or noncontiguous areas; limitation on eminent domain

(a) The area included within a project and a project area may be either contiguous or noncontiguous. All noncontiguous areas of a project area shall be either blighted or necessary for effective redevelopment. An unblighted, noncontiguous area shall be conclusively deemed necessary for effective redevelopment if that area is being used predominantly for:

(1) The relocation of owners or tenants from other noncontiguous areas in the same project area or from other project areas in the community.

(2) The construction and rehabilitation of low- or moderate-income housing.

(b) An unblighted, noncontiguous area shall be deemed not necessary for effective redevelopment if that area is included for the purpose of obtaining the allocation of taxes from such area pursuant to Section 33670 without other substantial justification for its inclusion.

(c) The redevelopment agency shall not use the power of eminent domain for acquisition of property, other than vacant land, in noncontiguous, unblighted areas.

### 33320.3. Contiguous or noncontiguous areas: City of Victorville

(a) The area included within a project and a project area may be either contiguous or noncontiguous. All noncontiguous areas of a project area shall be either blighted or necessary for effective

redevelopment. An unblighted, noncontiguous area within the City of Victorville which is a part of a freeway interchange project that is included in the State Transportation Improvement Program, as adopted by the California Transportation Commission in June 1984, and an unblighted area contiguous to that freeway interchange project east of Armagosa, north of Seneca Road, west of Seventh Street, and South of Plaza Drive and Mohave Drive, excluding any subdivided and developed area, shall be conclusively deemed necessary for effective redevelopment and may be included within a noncontiguous project area by the redevelopment agency in the City of Victorville.

(b) The redevelopment agency shall not use the power of eminent domain for acquisition of property, other than vacant land, in noncontiguous, unblighted areas.

(c) This section shall only apply to a redevelopment project area and the redevelopment agency within the City of Victorville.

**33320.4. Unblighted territory contiguous to existing project areas: City of Sanger**

(a) The unblighted territory that is described in paragraphs (1) and (2) is contiguous to an existing redevelopment project area within the City of Sanger, California. If all of that unblighted territory is annexed to the City of Sanger, the planning agency within the City of Sanger may, with the approval of the redevelopment agency, include that territory in a proposed project area, or the redevelopment agency may amend the redevelopment plan to include that territory within an existing contiguous project area, if the planning agency or the redevelopment agency, as the case may be, determines that the inclusion of that territory is necessary for effective redevelopment of the project area. If either, or both, of those determinations are made, the territory shall be conclusively presumed necessary for effective redevelopment within the proposed or existing project area. Any actions taken by the planning agency or redevelopment agency in accordance with this section shall comply with all of the other requirements of this part.

(1) All that portion of Fresno County, California, within the City of Sanger in Sections 26 and 25, Township 14 South, Range 22 East, Mount Diablo Base and Meridian, according to the United States Government Township Plat thereof, described as follows:

Beginning at the southwest corner of the northwest quarter of Section 26; thence along the existing city limits line of Sanger as follows, N. 89 47' E., a distance of 2638.53 feet to the southeast corner of the northwest quarter of Section 26; thence N. 0 03' W., along the west line of the northeast quarter of that Section, a distance of 345.52 feet to the northerly right-of-way line of the Garfield Ditch; thence northeasterly along northerly right-of-way line, a distance of 913.00 feet, a little more or less, to a point on the westerly right-of-way line of the Centerville and Kingsburg Canal; thence along the easterly right-of-way line of the Centerville and Kingsburg Canal as follows: N. 09 52'28" E., 708.50 feet; N. 09 26'40" E., 297.07 feet; N. 07 14'16" E., 549.23 feet; and N. 09 15'10" E., a distance of 539.47 feet to a point on a line 30.00 feet south of the north line of the northeast quarter of Section 26; thence leaving the westerly right-of-way line, N. 89 43' E., along that line 30.00 feet south of and parallel with the north line of the northeast quarter of Section 26 and the easterly prolongation thereof, a distance of 1860.41 feet; thence S. 0 14' E., 1151.07 feet; thence S. 73 01' W., 357.58 feet; thence S. 55 46' W., 985.00 feet; thence S. 40 46' W., 218.00 feet; thence S. 24 31' W., 364.00 feet; thence N. 75 44' W., 312.87 feet to a point on the west line of the southeast quarter of the northeast quarter of Section 26; thence S. 0 17'12" E., along said west line, 413.31 feet to the southwest corner thereof; thence S. 0 16'28" E., along the west line of the northeast quarter of the southeast quarter of Section 26, 1332.38 feet to the southwest corner thereof; thence leaving the existing city limits line of Sanger, N. 89 06'46" W., along the north line of the south half of the southeast quarter of Section 26, 592.10 feet to the northeast corner of that parcel of land conveyed to Archie Mekealian and

Verlene Mekealian by deed dated February 23, 1944, and recorded in Book 2157 at Page 119, Fresno County records, with the corner being 742.00 feet east of the northwest corner of the south half of the southeast quarter of Section 26; thence S. 4 36'52" W., along the east line to the parcel, 1330.31 feet to the southeast corner thereof and to a point on the south line of the southeast quarter of Section 26; thence N. 88 44'19" W., along the south line, 619.00 feet, more or less to the southwest corner of the southeast quarter of Section 26; thence S. 89 51'20" W., along the south line of the southwest quarter of Section 26, 2639.90 feet to the southwest corner thereof; thence north, along the west line of the southwest quarter of Section 26, 2643.60 feet to the northwest corner thereof and the point of beginning. This territory contains a little more or less than 316.58 acres.

(2) All that portion of Fresno County, California, within the City of Sanger, in the northeast quarter of Section 15 in Township 14 South, Range 22 East, Mount Diablo Base and Meridian, according to the United States Government Township Plat thereof, described as follows:

Commencing at the northeast corner of the northeast quarter of the northeast quarter of Section 15, thence southerly along the east line of the northeast quarter of Section 15 992.05 feet to the existing city limits line of Sanger, then continuing south along the east line of the northeast quarter of Section 15 475.01 feet, that being contiguous with the existing city limit of Sanger, for a total of 1467.06 feet, thence westerly, along a line 1180.15 feet 15, 880.90 feet, more or less to the easterly right-of-way line of the Southern Pacific Railroad Company's right-of-way; thence leaving the existing city limits line of Sanger, northwesterly, along the easterly right-of-way line of the railroad as the same is shown on the Map of Mountain View Addition to Sanger, recorded February 18, 1891, in Book 4 of Plats, Page 66, Fresno County Records, to the point of intersection with the north line of the northeast quarter of Section 15; thence easterly along the north line, 2191.00 feet to the point of commencement. This territory contains a little more or less than 50.13 acres.

(b) The conclusive presumption that the unblighted territory described in subdivision (a) is necessary for effective redevelopment applies only to territory within the City of Sanger.

**33320.8. Exception to prohibited inclusion within project area of certain agricultural and open space lands**

(a) The territory that is described in subdivision (b) shall not be subject to the requirements of subdivision (b) of Section 33321.5.

(b) All lands not enforceably restricted within the Counties of Riverside and San Bernardino, within the spheres of influence of the Cities of Chino and Ontario as of January 1, 1996, according to the United States Government Township Plat thereof, described as follows:

(1) That portion of Township 2 South, Range 7 West, San Bernardino Meridian, in the County of San Bernardino, State of California, described as follows:

Beginning at the center line intersection of Euclid Avenue and Riverside Drive, said intersection being on the existing city limits of Ontario; thence east along said city limits line and continuing along said line, following all of its various courses to the intersection of Riverside Drive with the San Bernardino County line; thence leaving said city limits line south and southwesterly along said county line to the north line of Section 27, said Township 2 South, Range 7 West; thence west along said north line, being also the center line of Remington

Avenue, to the center line of Carpenter Avenue; thence north along said center line to the center line of Merrill Avenue; thence west along said center line to the east line of Grove Avenue; thence north along said east line to the north line of Merrill Avenue; thence west along said north line and its prolongation to the center line of Euclid Avenue; thence north along said center line to the Point of Beginning.

(2) Those portions of Townships 2 and 3 South, Ranges 7 and 8 West, San Bernardino Meridian, in the County of San Bernardino, State of California, described as follows:

Beginning at the intersection of the center line of Merrill Avenue with the east line of Grove Avenue; thence east along said center line of Merrill Avenue to the center line of Carpenter Avenue; thence south along said center line to the north line of Government Lot 1 of Section 27, said Township 2 South, Range 7 West, said point being also on the center line of Remington Avenue; thence east along said center line to the San Bernardino County line; thence southwesterly, southerly and westerly along said county line to the center line of State Highway 71 being also on the existing city limits line of Chino Hills; thence northwesterly along said center line and city limits line to the southwesterly prolongation of the center line of Pine Avenue; thence easterly along said prolongation and center line to the center line of Chino Creek; thence southeasterly along said center line to the west line of Section 6, said Township 3 South, Range 7 West; thence north along said west line and the west line of Section 31, said Township 2 South, Range 7 West, to the center line of Pine Avenue; thence westerly along said center line to the center line of El Prado Road, formerly Central Avenue; thence northwesterly along said center line to the center line of Kimball Avenue, said point being on the existing city limits of Chino; thence east along said city limits line and continuing along said city limits, following all of its various courses to the center line intersection of Kimball Avenue and vacated Campus Avenue; thence leaving said city limits line east along said center line of Kimball Avenue to the center line of Grove Avenue; thence north along said center line to the center line of Remington Avenue, vacated; thence east along said vacated center line to the east line of Grove Avenue; thence north along said last line to the Point of Beginning.

(3) Those portions of Sections 6, 7, 18, 19, 30, and 31, Township 2 South, Range 6 West, San Bernardino Meridian; Sections 23, 24, 25, 26, 27, 34, 35, and 36, Township 2 South, Range 7 West, San Bernardino Meridian; and Sections 2, 3, and 10, Township 3 South, Range 7 West, San Bernardino Meridian, within the unincorporated area of the County of Riverside.

### 33320.51. Base year for redevelopment plans of joint powers agency in County of San Bernardino

(a) Any redevelopment plan, or any amendment to an existing redevelopment plan adopted on or after July 1, 1993, that is subject to Section 33320.5, may utilize as the base year either the year it was adopted or the 1994-95 fiscal year, at the option of the adopting agency, as referenced by a duly adopted ordinance of the governing board. If the governing board adopts the 1994-95 fiscal year as the base year, that designation shall remain in effect only until the time that the county assessor certifies that assessed values for the redevelopment project area equal or exceed the assessed value in the initial base year. When that certification is made by the county assessor, the base year shall revert to the initial base year at the time of plan adoption.

(b) To the extent any adjustment in the base year pursuant to this section creates a negative fiscal impact on the state, the governing board shall, on or before the expiration of five years from the date of the adjustment of the base year pursuant to this section, remit to the State Controller the total amount of

increased aid to schools received from the state as a result of the adjustment in the base year as determined by the Department of Finance in consultation with the governing board.

### 33321. Project area: properties included

A project area need not be restricted to buildings, improvements, or lands which are detrimental or inimical to the public health, safety, or welfare, but may consist of an area in which such conditions predominate and injuriously affect the entire area. A project area may include lands, buildings, or improvements which are not detrimental to the public health, safety or welfare, but whose inclusion is found necessary for the effective redevelopment of the area of which they are a part. Each such area included under this section shall be necessary for effective redevelopment and shall not be included for the purpose of obtaining the allocation of tax increment revenue from such area pursuant to Section 33670 without other substantial justification for its inclusion.

### 33321.5. Prohibited inclusion within project area of certain agricultural and open space lands

(a) Agricultural land and open-space land that is enforceably restricted shall not be included within a project area.

(b) A parcel of land that is larger than two acres and is in agricultural use, but that is not enforceably restricted, shall not be included within a project area unless the agency makes each of the following findings, based upon substantial evidence in the record:

(1) The inclusion of the land in the project area is consistent with the purposes of this part.

(2) The inclusion of the land in the project area will not cause the removal of adjacent land, designated for agricultural use in the community's general plan, from agricultural use.

(3) The inclusion of the land within the project area is consistent with the community's general plan.

(4) The inclusion of the land in the project area will result in a more contiguous pattern of development.

(5) There is no proximate land that is not in agricultural use, that is both available and suitable for inclusion within the project area, and is not already proposed to be within the project area.

(c) As used in this section the following definitions apply:

(1) "Agricultural use" has the same meaning as that term is defined in subdivision (b) of Section 51201 of the Government Code.

(2) "Enforceably restricted" has the same meaning as that term is defined in Sections 422 and 422.5 of the Revenue and Taxation Code.

(3) "Suitable" has the same meaning as that term is defined in subdivision (c) of Section 51282 of the Government Code.

(d) The provisions of subdivision (b) shall not apply to the territory described in Section 33320.8.

**33322. Project area: selection of boundaries and formulation of preliminary plan**

The planning commission may select one or more project areas comprised of all or part of any survey area, on its own motion, or at the request of the agency. The planning commission shall select one or more project areas comprised of all or part of any survey area, at the direction of the legislative body, or upon the written petition of the owners in fee of the majority in area of a proposed project area, excluding publicly owned areas or areas dedicated to a public use.

The planning commission shall formulate a preliminary plan for the redevelopment of each selected project area.

**33323. Cooperation between agency and planning commission**

The agency and planning commission shall cooperate in the selection of project areas and in the preparation of the preliminary plan.

**33324. Preliminary plan: contents**

A preliminary plan need not be detailed and is sufficient if it:

(a) Describes the boundaries of the project area.

(b) Contains a general statement of the land uses, layout of principal streets, population densities and building intensities, and standards proposed as the basis for the redevelopment of the project area.

(c) Shows how the purposes of this part would be attained by redevelopment.

(d) Shows that the proposed redevelopment is consistent with the community's general plan.

(e) Describes, generally, the impact of the project upon the area's residents and upon the surrounding neighborhood.

**33325. Preliminary plan: submission to agency**

The planning commission shall submit the preliminary plan for each project area to the agency.

**33326. Project area: change of boundaries**

Prior to publication of notice of the agency public hearing, the planning commission may change the boundaries of a project area with the approval of the agency.

**33327. Statement of preparation of redevelopment plan**

After receipt of any preliminary redevelopment plan pursuant to Section 33325, the agency shall transmit to the county auditor and county assessor of the county in which the proposed project is located, or to the officer or officers performing the functions of the auditor or assessor for any taxing agencies which, in levying or collecting its taxes, do not use the county assessment roll or do not collect its taxes through the county, to the legislative or governing bodies of local agencies which receive a portion of the property tax levied pursuant to Part 0.5 (commencing with Section 50) of the Revenue and Taxation Code and to the State Board of Equalization:

(a) A description of the boundaries of the project area.

(b) A statement that a plan for the redevelopment of the area is being prepared.

(c) A map indicating the boundaries of the project area.

In addition, the agency may include a listing, by tax rate area, of all parcels within the boundaries of the project area and the value used for each parcel on the secured property tax roll.

Thereafter, if the boundaries of the proposed project are changed, the agency shall notify the taxing officials and the State Board of Equalization within 30 days by transmitting a description and map indicating each boundary change made. The State Board of Equalization shall prescribe the format of the description of boundaries and statements, and the form, size, contents, and number of copies of the map required to be transmitted pursuant to this section.

**33328. Report of county taxing officials; consultations with taxing entities**

When it transmits the map of the project area to the county officials, taxing agencies, and the State Board of Equalization pursuant to Section 33327, the redevelopment agency shall also advise those officials and agencies of the last equalized assessment roll it proposes to use for the allocation of taxes that will comply with Sections 33670 and 33670.5. That roll shall be known and referred to as the base year assessment roll. The county officials charged with the responsibility of allocating taxes under Sections 33670 and 33670.5 shall prepare and deliver to the redevelopment agency and each of the taxing agencies, a report which shall include all of the following:

(a) The total assessed valuation of all taxable property within the project area as shown on the base year assessment roll.

(b) The identifications of each taxing agency levying taxes in the project area.

(c) The amount of tax revenue to be derived by each taxing agency from the base year assessment roll from the project area, including state subventions for homeowners, business inventory, and similar subventions.

(d) For each taxing agency, its total ad valorem tax revenues from all property within its boundaries, whether inside or outside the project area.

(e) The estimated first year taxes available to the redevelopment agency, if any, based upon information submitted by the redevelopment agency, broken down by taxing agencies.

(f) The assessed valuation of the project area for the preceding year, or, if requested by the redevelopment agency, for the preceding five years, except for state assessed property on the board roll. However, in preparing this information, the requirements of Section 33670.5 shall be observed. The assessed value shall be reported by block if the property is divided by blocks, or by any other geographical area as may be agreed upon by the agency and county officials.

The report shall be prepared and delivered to the redevelopment agency and each of the taxing agencies within 60 days of the date of filing by the redevelopment agency with the State Board of Equalization or as otherwise agreed upon by the agency and the State Board of Equalization, unless the redevelopment agency requests the assessed valuation for the preceding five years, in which case the report shall be prepared and delivered within 90 days. If the proposed base year assessment roll has not yet been equalized at the time of the receipt of that advice, then the report shall be prepared and delivered within 60 days, or other period, otherwise agreed upon, by the agency and the State Board of Equalization, from the date set forth in Section 2052 of the Revenue and Taxation Code, unless the agency requests the assessed valuation for the preceding five years, in which case, the report shall be prepared and delivered within 90 days.

If the filing does not comply with the requirements of Section 33327, the State Board of Equalization or the official of the taxing agency entitled to receive those documents shall notify the filing agency within 10 days, stating the manner in which the filing of documents does not comply with this section. If no notice is given it shall be conclusively presumed that the agency has complied with the provisions of this section.

If the report is not received within the time prescribed by this section, the redevelopment agency may proceed with the adoption of the redevelopment plan. The county officials may transmit a partial report, and any final report or additional information, if received by the agency prior to the close of the public hearing on the redevelopment plan, shall become part of the record of the public hearing.

The State Board of Equalization and officials of all taxing agencies shall provide the county officials preparing the report with all information necessary for its preparation. All data and information upon which the report is based shall be available to the agency to the extent permitted by law.

Prior to the publication of notice of the legislative body's public hearing on the plan, the agency shall consult with each taxing agency which levies taxes, or for which taxes are levied, on property in the project area with respect to the plan and to the allocation of taxes pursuant to Section 33670.

**33328.1. Report of county taxing officials; content**

(a) When the county officials charged with the responsibility of allocating taxes pursuant to Sections 33670 and 33670.5 deliver the report required pursuant to Section 33328, they shall also prepare and deliver to the Department of Finance, in the form and manner prescribed by the department, a report that includes all of the following:

(1) The information specified in subdivisions (a), (b), and (c) of Section 33328.

(2) A projection of the total amount of tax revenues that may be allocated pursuant to Sections 33670 and 33670.5 for the duration of the project area.

(3) A projection of the amount of tax revenues that would have been allocated to each school district, county office of education, and community college district for the duration of the project area, but for the allocation of tax revenues pursuant to Sections 33670 and 33670.5.

(4) A projection of the amount of tax revenues that may be allocated to each school district, county office of education, and community college district pursuant to Sections 33401, 33607.5, 33607.7, and 33676 for the duration of the project area.

(b) When the redevelopment agency transmits the map of the project area pursuant to Section 33327, the agency shall also prepare and deliver to the Department of Finance, in the form and manner prescribed by the department, a report that includes all of the following:

(1) A projection of any change in the number of residents, including, but not limited to, the number of school age children, within the project area for the duration of the project area.

(2) A projection prepared by each school district, county office of education, and community college district within the project area of any change in the need for school facilities within the project area for the duration of the project area.

### 33328.3. Statement of preparation and report by county taxing officials for change of project area boundaries

If the boundaries of an existing project area for which the redevelopment plan contains a provision for the division of taxes as permitted by Section 33670 are changed pursuant to Article 4 (commencing with Section 33330), the redevelopment agency shall notify the county officials by transmitting to them, the legislative or governing bodies of the taxing agencies, and to the State Board of Equalization, the information required by Section 33327 indicating the areas to be added or detached. Within 60 days from the date of filing or a period as otherwise agreed to by the agency and the State Board of Equalization, the county officials shall prepare and submit to the redevelopment agency and the taxing agencies a report containing the information required under Section 33328, with respect to those areas to be added to or detached from the project area.

If a filing does not comply with the requirements of this section, the State Board of Equalization or the official of the taxing agency entitled to receive those documents shall notify the filing agency within 10 days, stating the manner in which the filing of documents does not comply with this section. If no notice is given, it shall be conclusively presumed that the agency has complied with the provisions of this section.

### 33328.4. State Board of Equalization fees

The State Board of Equalization shall establish a schedule of fees for filing and processing the statements and maps which are required to be filed with the State Board of Equalization pursuant to Section 33327, 33328.3, 33328.5, 33375, or 33457. This schedule shall not include any fee which exceeds the reasonably anticipated cost to the State Board of Equalization of performing the work to which the fee relates. The agency forwarding the statement and map pursuant to Section 33327, 33328.3, 33328.5, 33375, or 33457 shall accompany the statement and map with the necessary fee.

### 33328.5. Change in base year assessment roll

(a) If a redevelopment agency proposes to use the equalized assessment roll for the year following the equalized assessment roll which the redevelopment agency advised it would use pursuant to Section 33328, the redevelopment agency shall, prior to the adoption of the redevelopment plan using that different equalized assessment roll, either notify the county officials, taxing agencies, and the State Board of Equalization of the change in the equalized assessment roll that it proposes to use for the allocation of taxes pursuant to Section 33670 or prepare a report containing the information specified in subdivisions (a), (b), (c), (d), (e), and (f) of Section 33328.

(b) Upon receipt of a notice pursuant to subdivision (a), the county officials charged with the responsibility of allocating taxes under Section 33670 and 33670.5 shall prepare and deliver to the redevelopment agency a report containing the information specified in subdivisions (a), (b), (c), (d), (e), and (f) of Section 33328. The report shall be prepared and delivered within the time periods specified in Section 33328 for reports prepared pursuant to that section. If a redevelopment agency gives the notice specified in subdivision (a), the redevelopment plan specified in the notice shall not be adopted until the time period for delivery of the report has expired.

(c) At least 14 days prior to the public hearing on the redevelopment plan for which the redevelopment agency proposes to use a different equalized assessment roll, the redevelopment agency shall prepare and deliver to each taxing agency a supplementary report analyzing the effect of the use of the different equalized assessment roll which shall include those subjects required by subdivisions (b), (e), and (n) of Section 33352. In lieu of a supplementary report, a redevelopment agency may include in the report required to be prepared pursuant to Section 33352, the information required to be included in the supplementary report.

(d) A redevelopment agency shall not be required to prepare a subsequent preliminary report specified in Section 33344.5, unless the report prepared pursuant to subdivision (b) states that the total assessed value in the project area is less than the total assessed value in the project area contained in the original report prepared pursuant to Section 33328, in which case a new preliminary report shall be prepared.

(e) The use of a different assessment roll pursuant to this section shall meet the requirements of Section 16 of Article XVI of the California Constitution.

(f) This section shall only apply to redevelopment plans adopted on or after January 1, 1993. The Legislature finds and declares that the enactment of this section shall not be deemed to invalidate or limit the adoption of redevelopment plans pursuant to a different procedure prior to January 1, 1993.

### 33328.7. Reimbursement of county or school district costs

Any costs incurred by a county, a school district, a county office of education, or a community college district, in preparing a report pursuant to Section 33328, 33328.1, 33328.3, or 33328.5, shall be reimbursed by the redevelopment agency which filed for the report as provided in those sections. In the event a final redevelopment plan is adopted for all or a portion of the project area concerning which the report is prepared, the agency may charge and account for the reimbursed costs as a cost of the redevelopment project. Otherwise these costs shall be accounted for as general administrative expenses of the agency.

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

### 33330. Preparation and approval

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

### 33331. Conformity to general plan

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

### 33331.5. Supplemental Educational Revenue Augmentation Fund payment; amending the redevelopment plan to extend time limit

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.

**33332. Legal description; preliminary plan as basis**

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

**33333. Open space; street layout; building restrictions; dwelling units; property for public use**

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.

**33333.2. Limitations on incurring and repaying indebtedness, duration of plan and use of eminent domain**

(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.

**33333.3. Environmental information to affected taxing agencies**

(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.

**33333.4. Limitations on tax increments, incurring indebtedness and use of eminent domain: retrospective application**

(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.

**33333.5. Redevelopment: City of South Gate**

(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.

**33333.6. Limitations on incurring and repaying indebtedness and duration of plan: retrospective application**

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.

**33333.7 Redevelopment Plans: San Francisco**

(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.

**33333.8. Redevelopment plans; affordable housing compliance; time limit**

(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.

**33333.10. Amendment of redevelopment plans; extension of time limitations**

(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 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 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.

**33333.11. Amendment of redevelopment plans; community participation; participation by other entities**

(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, a project area committee, if any, residents, or community organizations have expressed written objections or concerns with the proposed amendment as part of these consultations, the agency shall include a response to these concerns.

(5) A summary of the consultation with residents and community organizations, including the project area committee, if any.

(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. 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. 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.

**33333.13 Amendment of redevelopment plan - Glendora Community Redevelopment Agency**

(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.

***Notes***

*Section 33333.14 was added by an urgency statute that was chaptered on February 20, 2009 and took effect immediately.*

**33334. Method of financing**

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

**33334.1. Limitation on bonded indebtedness**

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.

**33334.2. Low and moderate income housing set aside: purposes; findings**

(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 to the time that the agency receives allocations of tax revenue pursuant to Section 33670.

**33334.2a. Low and moderate income housing funds: Orange County Development Agency**

(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.

**33334.3. Low and moderate income housing fund**

(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.

(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.

**33334.4. Public policy for expenditure of housing funds**

(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.

### 33334.5. Replacement housing

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.

### 33334.6. Low and moderate income housing set aside: retrospective application; purposes; findings

(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.

### 33334.7. Low and moderate income housing programs: priority consideration for assistance

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.

### 33334.8. Multifamily rental housing: notice requirements

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.

### 33334.9. Low and moderate income housing set aside: credit for certain assistance

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.

### 33334.10. Low and moderate income housing fund: excess surplus; plan for expenditure

(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).

**33334.12. Low and moderate income housing fund: transfer of excess surplus after 1 year**

(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).

### 33334.13. Assistance to mortgagors: *area median income* defined; limitations

(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.

**33334.14. Low and moderate income housing affordability restrictions: subordination**

(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.

### 33334.15. Low and moderate income housing: subsidies

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.

### 33334.16. Low and moderate income housing fund: time limit for development of real property acquired

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.

### 33334.19. Low and moderate income set aside: use within transit village plan

(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.

**33334.22 Housing assistance: Santa Cruz County [OPERATIVE UNTIL JANUARY 1, 2013]**

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

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

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

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

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

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

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

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

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

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

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

**33334.25 Joint Powers Authority; conditions; legislative intent [OPERATIVE UNTIL JANUARY 1, 2010]**

(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 is 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) Notwithstanding any other provision of law, contiguous agencies located within adjoining cities within a single Metropolitan Statistical Area (MSA) may create and participate in a joint powers authority for the purpose of pooling their low- and moderate-income housing funds for affordable housing uses. 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.

(c) Each of the following conditions shall be met and described in a mutually binding agreement between the joint powers authority and each participating agency:

(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 50025.5.

(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 agreement shall require compliance by the joint powers authority with the provisions of this section.

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

(d) Each of the following conditions shall be met and described in a mutually binding contract between the joint powers authority and a receiving entity:

(1) Pooled housing funds may only be used to pay for the direct costs of constructing, substantially rehabilitating, or preserving the affordability of housing units that are affordable to very low or low income households. Units assisted with pooled funds shall remain available at affordable housing costs in accordance with subdivision (f) of Section 33334.3.

(2) Except as provided in this section, pooled housing funds may not be used in any way that is inconsistent with the requirements of Section 33334.3. Pooled housing funds may 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 Section 7260 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.

(4) The Department of Housing and Community Development has evaluated each proposed use of pooled funds to construct, substantially rehabilitate, or preserve the affordability of housing and determined that the proposed use is in compliance with this section. In considering whether a proposed use of funds will exacerbate racial or economic segregation, the department shall consider all of the following:

(A) The record of participating jurisdictions in meeting their share of the regional need for low and very low income households allocated to the jurisdiction pursuant to Section 65584 of the Government Code.

(B) The distance of the proposed housing from a redevelopment area from which pooled funds originated.

(C) The income and ethnicity of the residents of the census tract from which the pooled funds originated and in which the housing will be located.

(D) The housing need and availability of sufficient site for housing within jurisdictions from which pooled funds originated.

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

(1) "Housing funds" mean 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.

(f) On or after January 1, 2008, no participating agency shall create a new joint powers authority or transfer funds to an existing joint powers authority pursuant to this section, unless a later enacted statute, which is enacted before January 1, 2008, deletes or extends that date.

(g) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2010, deletes or extends that date.

**33334.28. Public policy for expenditure of housing funds – City of Covina [OPERATIVE UNTIL JANUARY 1, 2012]**

(a) Until January 1, 2012, subdivision (b) of Section 33334.4 shall not apply to the Redevelopment Agency of the City of Covina insofar as it exceeds the authorized ratio due exclusively to the use of Low and Moderate Income Housing Fund moneys to continue to provide rental subsidies to households with members over the age of 65 years if those rental subsidies were initially provided to these households prior to January 1, 2002.

(b) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date.

**33334.29. Public policy for expenditure of housing funds – City of Redding**

(a) Notwithstanding Sections 33334.2, 33334.3, and 33334.6, the redevelopment agency of the City of Redding, of the County of Shasta, or of any other city located within the County of Shasta, may borrow and use up to two million three hundred thousand dollars ($2,300,000) from its Low and Moderate Income Housing Fund to provide financial assistance for the acquisition of property for a veterans home within the territorial jurisdiction of the agency of the City of Redding. As used in this section, "veterans' home" shall mean a veterans' home authorized pursuant to Division 5 (commencing with Section 1010) of the Military and Veterans Code.

(b) Funds borrowed pursuant to subdivision (a) shall be repaid within 15 years from the date they are loaned, with interest at the rate earned from time to time on funds deposited in the State of California Local Agency Investment Fund. The indebtedness created pursuant to this section shall not be considered to meet the requirements imposed by Section 33333.8, and the agency shall comply in full with that section. If a redevelopment agency described in subdivision (a) is required to remit an amount of tax increment funds 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, then the time limit on repayment of the funds borrowed pursuant to this section shall be suspended for one year after the funds are remitted to the county auditor. In addition, the agency shall receive and use tax increment funds to pay the loan described in subdivision (a) until the funds borrowed pursuant to subdivision (a) have been fully repaid. The agency may not incur any obligation with respect to loans, advance of money, or indebtedness, or whether funded, refunded, assumed or otherwise, that would impair or delay its ability or capacity to repay the funds loaned pursuant to this section; except that the agency may incur indebtedness against non-Low and Moderate Income Housing Fund moneys if the proceeds of the indebtedness will be used to repay the funds borrowed pursuant to this section.

**33334.30. Public policy for expenditure of housing funds - County of San Mateo [OPERATIVE UNTIL JANUARY 1, 2010]**

(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 County of San Mateo, within one-third of a mile of the Peninsula Corridor Joint Powers Authority right-of-way, on property provided by the San Mateo County Transit Authority for the purpose of providing affordable housing that is of benefit to the project area producing the tax increment.

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

(b) Notwithstanding any other provision of law, an agency of a community within San Mateo County that has a housing element certified by the Department of Housing and Community Development

and has met 40 percent of its very low and low-income housing needs may create and participate in a joint powers authority for the purpose of pooling low- and moderate-income housing funds for affordable housing uses pursuant to this section. No participating agency may transfer in any fiscal year more than 25 percent of the tax increment that is deposited into the Low and Moderate Income Housing Fund 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 territorial jurisdiction of a participating agency in San Mateo County on property provided by the San Mateo County Transit District, the San Mateo County Transportation Authority, or the Peninsula Corridor Joint Powers Authority and located within one-half of a mile of the San Mateo County Transit District, the San Mateo County Transportation Authority or the Peninsula Corridor Joint Powers Authority right-of-way, 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.

(c) Each of the following conditions shall be met and described in a mutually binding agreement between the joint powers authority and each participating agency:

(1) The community of each participating agency shall have adopted an up-to-date housing element pursuant to Article 10.6 (commencing with Section 65580) of Division 1 of Title 7 of the Government Code, that has been determined to be in substantial 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, 40 percent or more of its share of the region's affordable housing needs, as defined in Section 65584 of the Government Code, in each of the very low and lower income categories of income groups defined in Section 50025.5.

(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 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 territorial jurisdiction of a participating agency within the County of San Mateo, within one-half of a mile of the San Mateo County Transit District, the San Mateo County Transportation Authority, or the Peninsula Corridor Joint Powers Authority right-of-way on property provided by any of these entities.

(7) The agreement shall require compliance by the joint powers authority with the provisions of 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 may 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.

(d) Each of the following conditions shall be met and described in a mutually binding contract between the joint powers authority and a receiving entity:

(1) Pooled housing funds may only be used to pay for the direct costs of constructing, substantially rehabilitating, or preserving the affordability of housing units that are affordable to very low or low-income households. Units assisted with pooled funds shall remain available at affordable housing costs in accordance with subdivision (f) of Section 33334.3.

(2) Except as provided in this section, pooled housing funds may not be used in any way that is inconsistent with the requirements of Section 33334.3. Pooled housing funds may 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 Section 7260 of the Government Code.

(3) Pooled housing funds may not be used to construct a development in a census tract that currently has more than 50 percent of its population comprised of racial minorities or low-income families.

(4) The Department of Housing and Community Development has evaluated each proposed use of pooled funds to construct, substantially rehabilitate, or preserve the affordability of housing and determined that the proposed use is in compliance with this section. In considering whether a proposed use of funds will exacerbate racial or economic segregation, the department shall consider all of the following:

(A) The record of participating jurisdictions in meeting their share of the regional need for very low and low-income households allocated to the jurisdiction pursuant to Section 65584 of the Government Code.

(B) The distance of the proposed housing from a redevelopment area from which pooled funds originated.

(C) The income and ethnicity of the residents of the census tract from which the pooled funds originated and in which the housing will be located.

(D) The housing need and availability of sufficient sites for housing within jurisdictions from which pooled funds originated.

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

(1) "Housing funds" mean 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.

(f) On or after January 1, 2009, no participating agency shall create a new joint powers authority or transfer funds to an existing joint powers authority pursuant to this section, unless a later enacted statute, which is enacted before January 1, 2009, deletes or extends that date.

(g) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2010, deletes or extends that date.

**33335. Redevelopment plan to provide for lease or sale of real property**

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.

**33336. Redevelopment plan to provide safeguards and controls for proper redevelopment**

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.

**33337. Redevelopment plan to provide that instruments of transfer must contain nondiscrimination clauses**

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.

**33338. Redevelopment plan to provide other covenants, conditions and restrictions**

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

**33339. Redevelopment plan to provide for owner participation**

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.

**33339.5. Redevelopment plan to provide for business reentry**

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.

**33340. Redevelopment plan to provide alternatives on failure of owner participation**

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.

**33341. Redevelopment plan may provide authority to issue bonds**

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.

**33342. Redevelopment plan may provide authority to acquire real property**

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.

**33342.5. Redevelopment plan shall describe agency's eminent domain program – Plans adopted on or after January 1, 2007**

(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).

**33342.7. Redevelopment plan shall describe agency's eminent domain program – plans adopted prior to January 1, 2007**

(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).

**33343. Redevelopment plan may provide for community expenditures**

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

**33344. Redevelopment plan may provide for community undertakings**

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

**33344.5. Preliminary report to affected taxing entities**

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.

### 33344.6. Preliminary Report to affected taxing entities – Time limit to transmit

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.

**33345. Owner participation rules**

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.

**33346. Report of planning commission**

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.

**33347. Time for report of planning commission**

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.

**33347.5. Report of project area committee**

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.

**33348. Public hearing by agency**

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

**33349. Notice of public hearing by agency**

(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.

**33349.5. Notice and public hearing by Redevelopment Agency of the City of Crescent City**

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.

**33350. Statements regarding acquisition by purchase or condemnation**

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 assesses with the notices of hearing.

**33350.5. Exclusion of land from proposed project area**

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.

**33351. Submission of redevelopment plan to legislative body**

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

**33352. Report of agency to legislative body**

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.

### 33353.2. *Affected taxing entity* defined

"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."

### 33354.5. Redevelopment plan amendment adding tax increment authority

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.

### 33354.6. Redevelopment plan amendment adding new territory, increasing financing limits, extending duration, merging areas or adding capital projects

(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.

## Article 4.5. Alternative Procedures for a Joint Public Hearing by the Agency and the Legislative Body

### 33355. Authority to hold joint public hearing

As an alternative to the separate public hearings required by Sections 33348 and 33360 of this part, the agency and the legislative body, with the consent of both, may hold a joint public hearing on a redevelopment plan. The presiding officer of the legislative body shall preside over such joint public hearing.

### 33356. Procedure prior to joint public hearing

Prior to such joint public hearing, the agency shall submit the plan to the planning commission by the same procedure as is provided in Section 33346, and to the legislative body. The submission of the plan to the legislative body shall be accompanied by the report required by Section 33352. Notice of the joint public hearing shall conform to all requirements prescribed by Sections 33349, 33350, and 33361. The joint public hearing shall thereafter proceed by the same requirements as are provided in Sections 33360, 33362, 33363, and 33363.5.

### 33357. Action by agency after joint public hearing

After the close of the joint public hearing, the agency may proceed to approve the plan and submit its approval together with any recommendations for changes to the legislative body. If the agency desires to recommend any changes in the plan, such changes shall be submitted to the planning commission for its report and recommendation by the same procedure as is provided in Sections 33346 and 33347.

### 33358. Action by legislative body after joint public hearing

After receipt of the approval and any recommendations for changes as well as the report and recommendation of the planning commission of the recommended changes, the legislative body may proceed to act upon the plan pursuant to Sections 33363.5 to 33375, inclusive.

### 33359. Action by legislative body which is also agency after joint public hearing

When a joint public hearing is held where the legislative body is also the agency, action to approve and adopt the plan need be taken only by the legislative body. At the conclusion of the joint public hearing on the plan, the legislative body may proceed to adopt the plan pursuant to Sections 33363.5 to 33375, inclusive, with no further actions necessary by the agency, even as to the recommendations required of the agency by Section 33363.5.

## Article 5. Procedure for Adoption of Redevelopment Plans by the Legislative Body

### 33360. Public hearing by legislative body

The legislative body at a public hearing shall consider the redevelopment plan submitted by the agency. The legislative body may adjourn the hearing from time to time.

### 33360.5. Delivery of report to the Department of Finance and Department of Housing and Community Development prior to public hearing by legislative body

(a) No later than 45 days prior to the public hearing on a proposed plan adoption by an agency or the joint public hearing of the agency and the legislative body, the agency shall deliver a copy of the preliminary report and notice of the date of the public hearing to the Department of Finance and the Department of Housing and Community Development by first-class mail.

(b) Upon receiving the report, the Department of Finance shall prepare an estimate of how the proposed plan adoption will affect the General Fund. The Department of Finance shall determine whether the adoption will affect the need for school facilities.

(c) Within 21 days of the receipt of the report, the Department of Finance or the Department of Housing and Community Development may send any comments regarding the proposed plan adoption in writing to the agency and the legislative body. The agency and the legislative body shall consider these comments, if any, at the public hearing on the proposed plan adoption. If these comments are not available within the prescribed time limit, the agency and the legislative body may proceed without them.

(d) The Department of Finance or the Department of Housing and Community Development may also send their comments regarding the proposed plan adoption to the Attorney General for further action pursuant to Chapter 5 (commencing with Section 33501).

**33361. Notice of public hearing by legislative body**

Notice of the public hearing shall be given by publication not less than once a week for four successive weeks in a newspaper of general circulation published in the county in which the land lies. The notice shall:

(a) Describe specifically the boundaries of the proposed redevelopment project area; and

(b) State the day, hour and place when and where any and all persons having any objections to the proposed redevelopment plan or who deny the existence of blight in the proposed project area, or the regularity of any of the prior proceedings, may appear before the legislative body and show cause why the proposed plan should not be adopted.

**33362. Written objections to redevelopment plan**

At any time not later than the hour set for hearing objections to the proposed redevelopment plan, any person may file in writing with the clerk of the legislative body a statement of his objections to the proposed plan.

**33363. Written findings in response to written objections**

At the hour set in the notice required by Section 33361 for hearing objections, the legislative body shall proceed to hear all written and oral objections. Before adopting the redevelopment plan the legislative body shall evaluate the report of the agency, the report and recommendation of the project area committee, and all evidence and testimony for and against the adoption of the plan and shall make written findings in response to each written objection of an affected property owner or taxing entity. The legislative body shall respond in writing to the written objections received before or at the noticed hearing, including any extensions thereof, and may additionally respond to written objections that are received after the hearing. The written responses shall describe the disposition of the issues raised. The legislative body shall address the written objections in detail, giving reasons for not accepting specified objections and suggestions. The legislative body shall include a good-faith, reasoned analysis in its response and, for this purpose, conclusionary statements unsupported by factual information shall not suffice.

**33363.5. Changes to redevelopment plan or project boundaries by legislative body**

After the redevelopment plan and accompanying documents have been submitted by the agency to the legislative body and at any time prior to the adoption of the plan, the legislative body upon the recommendation of the agency, without additional agency public hearings, may change such plan, or change the boundaries of the project area to exclude land from the project area, after receipt of a report and recommendation from the planning commission concerning such changes. The planning commission may recommend for or against the changes. Within 30 days after a change is submitted to it for consideration the planning commission shall make and file its report and recommendation with the legislative body. If the planning commission does not report upon the change within 30 days after its submission by the legislative body, the planning commission shall be deemed to have waived its report and recommendation concerning the change and the legislative body may proceed to act upon the plan without the report and recommendation of the planning commission. The legislative body shall consider any proposed changes at a public hearing reopened for that limited purpose.

**33364. Adoption of redevelopment plan by legislative body delayed where written objections are received**

If no objections in writing have been delivered to the clerk of the legislative body prior to the hour set for the hearing thereon, and if no written objections are presented during the hearing thereon, the

legislative body may proceed to adopt the plan at the time set for hearing thereon. If any written objections are delivered or presented, as specified in this article, the legislative body may adopt the plan only after consideration of the objections, and adoption of written findings in response thereto, pursuant to Section 33363 at a subsequent date not less than one week after the time the hearing on objections is commenced pursuant to Section 33363.

**33365. Adoption of redevelopment plan by ordinance subject to referendum**

The legislative body by ordinance may adopt the redevelopment plan as the official redevelopment plan for the project area.

Except as otherwise provided in Section 33378, the ordinance adopting the redevelopment plan shall be subject to referendum as prescribed by law for the ordinances of the legislative body.

**33366. Vote required to adopt redevelopment plan**

If the planning commission or the project area committee has recommended against the approval of the redevelopment plan, the legislative body may adopt such plan by a two-thirds vote of its entire membership eligible and qualified to vote on such plan. If the planning commission or the project area committee has recommended approval or failed to make any recommendation within the time allowed, the legislative body may adopt the redevelopment plan by a majority vote of the entire membership eligible and qualified to vote on such plan.

**33367. Contents of ordinance adopting redevelopment plan**

The ordinance shall contain all of the following:

(a) The purposes and intent of the legislative body with respect to the project area.

(b) The plan incorporated by reference.

(c) A designation of the approved plan as the official redevelopment plan of the project area.

(d) The findings and determinations of the legislative body, which shall be based on clearly articulated and documented evidence, that:

(1) The project area is a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in this part.

(2) The redevelopment plan would redevelop the area in conformity with this part and in the interests of the public peace, health, safety, and welfare.

(3) The adoption and carrying out of the redevelopment plan is economically sound and feasible.

(4) The redevelopment plan is consistent with the general plan of the community, including, but not limited to, the community's housing element, which 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.

(5) The carrying out of the redevelopment plan would promote the public peace, health, safety, and welfare of the community and would effectuate the purposes and policy of this part.

(6) The condemnation of real property, if provided for in the redevelopment plan, is necessary to the execution of the redevelopment plan and adequate provisions have been made for payment for property to be acquired as provided by law.

(7) The agency has a feasible method or plan for the relocation of families and persons displaced from the project area, if the redevelopment plan may result in the temporary or permanent displacement of any occupants of housing facilities in the project area.

(8) (A) There are, or shall be provided, in the project area or in other areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and persons displaced from the project area, decent, safe, and sanitary dwellings equal in number to the number of and available to the displaced families and persons and reasonably accessible to their places of employment.

(B) Families and persons shall not be displaced prior to the adoption of a relocation plan pursuant to Sections 33411 and 33411.1. Dwelling units housing persons and families of low or moderate income shall not be removed or destroyed prior to the adoption of a replacement housing plan pursuant to Sections 33334.5, 33413, and 33413.5.

(9) All noncontiguous areas of a project area are either blighted or necessary for effective redevelopment and are not included for the purpose of obtaining the allocation of taxes from the area pursuant to Section 33670 without other substantial justification for their inclusion.

(10) Inclusion of any lands, buildings, or improvements which are not detrimental to the public health, safety, or welfare is necessary for the effective redevelopment of the area of which they are a part; that any area included is necessary for effective redevelopment and is not included for the purpose of obtaining the allocation of tax increment revenues from the area pursuant to Section 33670 without other substantial justification for its inclusion.

(11) The elimination of blight and the redevelopment of the project area could not be reasonably expected to be accomplished by private enterprise acting alone without the aid and assistance of the agency.

(12) The project area is predominantly urbanized, as defined by subdivision (b) of Section 33320.1.

(13) The time limitation and, if applicable, the limitation on the number of dollars to be allocated to the agency that are contained in the plan are reasonably related to the proposed projects to be implemented in the project area and to the ability of the agency to eliminate blight within the project area.

(14) The implementation of the redevelopment plan will improve or alleviate the physical and economic conditions of blight in the project area, as described in the report prepared pursuant to Section 33352.

(e) A statement that the legislative body is satisfied that permanent housing facilities will be available within three years from the time occupants of the project area are displaced and that, pending the development of the facilities, there will be available to the displaced occupants adequate temporary housing facilities at rents comparable to those in the community at the time of their displacement.

**33368. Conclusive presumption of blight**

The decision of the legislative body shall be final and conclusive, and it shall thereafter be conclusively presumed that the project area is a blighted area as defined by Section 33031 and that all prior proceedings have been duly and regularly taken.

This section shall not apply in any action questioning the validity of any redevelopment plan, or the adoption or approval of a redevelopment plan, or any of the findings or determinations of the agency or the legislative body in connection with a redevelopment plan brought pursuant to Section 33501 within the time limits prescribed by Section 33500.

**33369. Legislative body to provide for community expenditures**

If the plan provides for the expenditure of any money by the community, the legislative body shall provide for such expenditure at the time of or in connection with the approval of the plan.

**33370. Legislative body to provide for community undertakings**

The legislative body at the time of, or in connection with, the adoption of the plan, shall declare its intention to undertake and complete any proceedings necessary to be carried out by the community under the provisions of the plan.

**33371. Legislative body may require agency to obtain approval for certain contracts**

Before entering into any or certain types of contracts in connection with the redevelopment plan, the legislative body may require the agency to submit such contracts to the legislative body and obtain its approval.

**33372. Agency vested with responsibility to carry out redevelopment plan**

Upon the filing of the ordinance adopting the redevelopment plan with the clerk or other appropriate officer of the legislative body, a copy of the ordinance shall be sent to the agency, and the agency is vested with the responsibility for carrying out the plan.

**33373. Recordation of project area description and statement of redevelopment proceedings**

(a) Not later than 60 days after the adoption of the redevelopment plan by the legislative body there shall be recorded with the county recorder of the county in which the project area is situated a description of the land within the project area and a statement that proceedings for the redevelopment of the project area have been instituted under this part.

(b) If the redevelopment plan authorizes the agency to acquire property by eminent domain, the statement required pursuant to subdivision (a) shall contain the following:

(1) A prominent heading in boldface type noting that the property that is the subject of the statement is located within a redevelopment project.

(2) A general description of the provisions of the redevelopment plan that authorize the use of the power of eminent domain by the agency.

(3) A general description of any limitations on the use of the power of eminent domain contained in the redevelopment plan, including, without limitation, the time limit required by Section 33333.2.

(c) For a redevelopment plan adopted on or before December 31, 2006, that authorizes the acquisition of property by eminent domain, the agency shall, on or before December 31, 2007, cause a revised statement to be recorded with the county recorder of the county in which the project area is located containing all of the information required by subdivisions (a) and (b).

(d) An agency shall not commence an action in eminent domain until the statement required by this section is recorded with the county recorder of the county in which the project area is located.

(e) Additional recordation of documents may be effected pursuant to Section 27295 of the Government Code.

### 33374. Building department to notify applicants

After the adoption of a redevelopment plan for a project area by the legislative body, all applicants for building permits in the area for a period of two years thereafter shall be advised by the building department of the community that the site for which a building permit is sought for the construction of buildings or for other improvements is within a redevelopment project area.

### 33375. Transmittal of redevelopment plan adoption documents to taxing officials and entities

After the adoption by the legislative body of a redevelopment plan that contains the provision permitted by Section 33670, the clerk of the community shall transmit a copy of the description and statement recorded pursuant to Section 33373, a copy of the ordinance adopting the plan, and a map or plat indicating the boundaries of the project area to the auditor and assessor of the county in which the project is located; to the officer or officers performing the functions of auditor or assessor for any taxing agencies which, in levying or collecting its taxes, do not use the county assessment roll or do not collect its taxes through the county; to the governing body of each of the taxing agencies which levies taxes upon any property in the project area; and to the State Board of Equalization.

Those documents shall be transmitted within 30 days following the adoption of the redevelopment plan. The legal effect of those transmittals shall be as set forth in Section 33674.

### 33376. Emergency ordinance for Crescent City disaster area

Any ordinance adopted pursuant to this article adopting a redevelopment plan for the Crescent City disaster area, may be adopted as an emergency ordinance and shall not be subject to referendum.

## Article 5.5. Referendums

### 33378. Referendum measures

(a) With respect to any ordinance that is subject to referendum pursuant to Sections 33365 and 33450, the language of the statement of the ballot measure shall set forth with clarity and in language understandable to the average person that a "Yes" vote is a vote in favor of adoption or amendment of the redevelopment plan and a "No" vote is a vote against the adoption or amendment of the redevelopment plan.

(b) (1) Notwithstanding any other provision of law, including the charter of any city or city and county, referendum petitions circulated in cities or counties over 500,000 in population shall bear valid signatures numbering not less than 10 percent of the total votes cast within the city or county for Governor at the last gubernatorial election.

(2) Notwithstanding any other provision of law, including the charter of any city or city and county, or Section 9242 of the Elections Code, the referendum petitions of all cities and counties shall be submitted to the clerk of the legislative body within 90 days of the adoption of an ordinance subject to referendum under this act.

(c) With respect to any ordinance that is subject to referendum pursuant to Sections 33365 and 33450 and either provides for tax-increment financing pursuant to Section 33670 or expands a project area that is subject to tax-increment financing, the referendum measure shall include, in the ballot pamphlet, an analysis by the county auditor-controller and, at the option of the legislative body, a separate analysis by the agency, of the redevelopment plan or amendment that will include both of the following:

(1) An estimate of the potential impact on property taxes per each ten thousand dollars ($10,000) of assessed valuation for taxpayers located in the city or county, as the case may be, outside the redevelopment project area during the life of the redevelopment project.

(2) An estimate of what would happen to the project area in the absence of the redevelopment project or in the absence of the proposed amendment to the plan.

### 33378.5. Exemption for certain charter cities until January 1, 1983

The provisions of this part establishing a right of referendum shall not be applicable to a charter city in the County of Los Angeles containing a population of 1,000 or less until January 1, 1983.

## Article 6. Owner Participation

### 33380. Owner participation to be permitted

An agency shall permit owner participation in the redevelopment of property in the project area in conformity with the redevelopment plan adopted by the legislative body for the area.

### 33381. Alternatives on failure of owner participation

If the redevelopment plan adopted provides for participation in the redevelopment of property in the area by the owners of such property, and the owners fail or refuse to enter into a binding agreement for participation in accordance with the rules adopted by the agency pursuant to Section 33339, the alternative provisions provided for in Section 33340 become effective as the official redevelopment plan of the project area.

## Article 6.5. Project Area Committee

**33385. Formation of project area committee**

(a) The legislative body of a city or county shall call upon the residents and existing community organizations in a redevelopment project area to form a project area committee in either of the following situations:

(1) A substantial number of low-income persons or moderate-income persons, or both, reside within the project area, and the redevelopment plan as adopted will contain authority for the agency to acquire, by eminent domain, property on which any persons reside.

(2) The redevelopment plan as adopted contains one or more public projects that will displace a substantial number of low-income persons or moderate-income persons, or both.

(b) The legislative body shall, by resolution, adopt a procedure pursuant to this section for the formation of the project area committee. The procedure shall include, but not be limited to, all of the following:

(1) Publicizing the opportunity to serve on the project area committee, by providing written notice by first-class mail to all residents, businesses, and community organizations, including religious institutions and other nonprofit organizations, within the project area at least 30 days prior to the formation of the project area committee.

(2) The agency shall conduct a minimum of one public meeting to explain the establishment of, functions of, and opportunity to serve on, the project area committee. At the public meeting, the agency shall distribute copies of this article, copies of Sections 33347.5 and 33366, copies of the procedure adopted pursuant to this subdivision, copies of the redevelopment plan or preliminary plan or the pertinent portions thereof, and any other materials the agency determines would be useful.

(3) Providing published notice of all meetings, hearings, or plebiscites conducted by, or on behalf of, the agency or legislative body relative to the formation and selection of the project area committee in the same manner as specified in subdivision (a) of Section 65090 of the Government Code.

(4) (A) Providing written notice to all residents, businesses, and community organizations in the project area of all meetings, hearings, or plebiscites conducted by, or on behalf of, the agency or legislative body relative to the formation and selection of the project area committee. This mailed notice requirement 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." In lieu of providing separate notice for each meeting, hearing, or plebiscite, the agency may provide a single notice pursuant to this paragraph stating all dates, times, and locations of any meetings, hearings, and plebiscites relative to the formation and selection of the project area committee.

(B) If the agency has acted in good faith to comply with the notice requirements of this paragraph, 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 the formation or actions of the project area committee.

(5) Providing other forms of notice appropriate to the community in which the project area is to be established, as determined by the agency. Notice provided pursuant to this paragraph may include public service announcements, advertisements in foreign-language publications, or flyers.

(6) The number of community organizations and the method of selection, which may include election, appointment, or both.

(7) Any other forms of assistance which the legislative body requires in connection with the formation of the project area committee.

(c) The project area committee shall only include, when applicable, elected representatives of residential owner occupants, residential tenants, business owners, and existing organizations within the project area. Each group shall be adequately represented. Each organization represented pursuant to this subdivision shall appoint one of its members to the project area committee. No project area committee member may be appointed by the legislative body or the redevelopment agency or any member of either body. The members of the committee shall serve without compensation.

(d) (1) The election of a representative project area committee shall be held in each project area within 100 days after the project area is selected. The legislative body shall adopt, after a duly noticed public hearing, communitywide procedures for filing for election, publicizing an election, holding an election, and for reviewing disputed elections, filling vacated seats, and other matters related to the electoral process. These procedures shall prohibit crossover voting between categories of residential owner occupants, residential tenants, and business owners to ensure, for example, that a business owner cannot vote for a tenant representative. However, if the legislative body determines that the method of selection of community organizations shall include election pursuant to subdivision (b), the legislative body shall determine the appropriate electorate and may authorize crossover voting in the election of community organizations.

(2) The procedures adopted pursuant to this subdivision shall provide that a challenge to an election or to an electoral procedure shall be filed with the legislative body no more than 15 calendar days after the election. The legislative body shall adopt a finding that all adopted procedures of the legislative body were followed in the election. The procedures shall require that the validity of all challenges be determined within 30 days following the date of the election.

(e) For project areas selected prior to March 7, 1973, the legislative body may, but shall not be required to, call upon the residents and existing community organizations to form a project area committee.

(f) If the project does not contain a substantial number of low- and moderate-income individuals, the agency shall either call upon the residents and existing community organizations to form a project area committee or the agency shall consult with, and obtain the advice of, residents and community organizations as provided for project area committees in Section 33386 and provide those persons and organizations with the redevelopment plan prior to submitting it to the legislative body.

(g) Nothing contained in this section shall prevent an agency, or the legislative body of any city or county, from creating any other committee for a project area. However, these committees shall not be merged into the project area committee subsequent to the formation thereof, and a member of any of

these other committees shall not be entitled to vote in meetings of the project area committee, unless he or she is also a member of the project area committee.

(h) The meeting of a project area committee shall be subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code).

(i) The agency may charge fees to persons purchasing or leasing property from the agency in the project area and to persons participating in redevelopment of the project area under an owner participation agreement to defray any cost to the agency or legislative body in implementing this section.

(j) The amendments made to this section by the act that adds this subdivision shall be applicable only to a redevelopment plan that is adopted or amended on or after the effective date of the act that adds this subdivision.

**33385.3. Formation of project area committee for redevelopment plan amendments adding eminent domain or new territory**

(a) If a project area committee does not exist, and the agency proposes to amend a redevelopment plan, the agency shall establish a project area committee pursuant to Section 33385 if the proposed amendment to a redevelopment plan would do either of the following:

(1) Grant the authority to the agency to acquire by eminent domain property on which persons reside in a project area in which a substantial number of low- and moderate-income persons reside.

(2) Add territory in which a substantial number of low- and moderate-income persons reside and grant the authority to the agency to acquire by eminent domain property on which persons reside in the added territory. The project area committee may be composed of persons from only the added territory or both the added area and the existing project area.

(b) Once a project area committee is formed, the requirements of Section 33385.5, except for project area committee expansion, shall be followed.

**33385.5. Consideration of redevelopment plan amendments by project area committee; expansion of membership for new territory**

The agency shall forward copies of the proposed amendment to the redevelopment plan to the project area committee, if one exists, at least 30 days before the hearing of the legislative body, required in Section 33454.

Where the proposed amendment would enlarge the project area, the redevelopment agency shall call upon the project area committee to expand its membership to include additional members on the project area committee in compliance with Section 33385. Such expansion of membership shall be submitted to the legislative body within 30 days for the body's approval within 60 days to assure that the project area committee is representative. The legislative body shall not hold the public hearing, required by Section 33454, until the enlarged project area committee has had at least 30 days to consider the proposed amendment.

The committee, if it chooses, may prepare a report and recommendations for submission to the legislative body. If the project area committee opposes the adoption of the proposed amendment, the legislative body may only adopt the amendment by a two-thirds vote of its entire membership eligible and qualified to vote on such amendments.

**33386. Role of project area committee to consult with and advise agency**

The redevelopment agency through its staff, consultants, and agency members shall, upon the direction of and approval of the legislative body consult with, and obtain the advice of, the project area committee concerning those policy matters which deal with the planning and provision of residential facilities or replacement housing for those to be displaced by project activities. The agency shall also consult with the committee on other policy matters which affect the residents of the project area. The provisions of this section shall apply throughout the period of preparation of the redevelopment plan and for a three-year period after the adoption of the redevelopment plan, subject to one-year extensions by the legislative body.

**33387. Agency to maintain record of proceedings of project area committee**

Minutes of all the meetings of the redevelopment agency with the project area committee, which meetings shall be open and public, together with a record of all information presented to the project area committee by the redevelopment agency or by the project area committee for the redevelopment agency for the purpose of carrying out the provisions of this article shall be maintained by the redevelopment agency. Such minutes and record shall be open to public inspection and a summary of such record shall be included in the report to the legislative body, submitted by the agency pursuant to Section 33352.

**33388. Allocation of operating funds to project area committee**

(a) Upon recommendation of the project area committee, funds as determined necessary by the legislative body for the operation of the project area committee shall be allocated to the committee by the legislative body. This allocation shall include funds or equivalent resources for a committee office, equipment and supplies, legal counsel, and adequate staff for the purposes set forth in Section 33386.

(b) No funds allocated under this section shall be used for any litigation, other than litigation to enforce or defend the rights of the project area committee under this part.

## Article 7. Property Acquisition

**33390. *Real property* defined**

"Real property" means:

(a) Land, including land under water and waterfront property.

(b) Buildings, structures, fixtures, and improvements on the land.

(c) Any property appurtenant to or used in connection with the land.

(d) Every estate, interest, privilege, easement, franchise, and right in land, including rights-of-way, terms for years, and liens, charges, or encumbrances by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens.

**33391. Methods of acquiring property**

Within the survey area or for purposes of redevelopment an agency may:

(a) Purchase, lease, obtain option upon, acquire by gift, grant, bequest, devise, or otherwise, any real or personal property, any interest in property, and any improvements on it, including repurchase of developed property previously owned by the agency.

(b) Acquire real property by eminent domain.

**33392. Acquisition after formulation of preliminary plan and before adoption of redevelopment plan**

Notwithstanding any other provision of this part, an agency with the approval of the legislative body of the community may acquire, by negotiation or other means, real property in a project area at any time after formulation of the preliminary plan for the area by the planning commission, and prior to the adoption of the redevelopment plan by the legislative body of the community, provided, however, that an agency may not exercise the power of eminent domain in connection with that acquisition prior to adoption of the redevelopment plan.

**33393. Acquisition from members or officers**

An agency shall not acquire from any of its members or officers any property or interest in property except through eminent domain proceedings.

**33394. Consent of owner required**

Without the consent of an owner, an agency shall not acquire any real property on which an existing building is to be continued on its present site and in its present form and use unless such building requires structural alteration, improvement, modernization or rehabilitation, or the site or lot on which the building is situated requires modification in size, shape or use or it is necessary to impose upon such property any of the standards, restrictions and controls of the plan and the owner fails or refuses to agree to participate in the redevelopment plan pursuant to Sections 33339, 33345, 33380 and 33381.

**33395. Consent of public body required**

Property already devoted to a public use may be acquired by the agency through eminent domain, but property of a public body shall not be acquired without its consent.

**33396. Acquisition/disposition of surplus property**

An agency at the request of the legislative body of the community may accept a conveyance of real property (located either within or outside a survey area) owned by a public entity and declared surplus by the public entity, or owned by a private entity.

The agency may dispose of such property to private persons or to public or private entities, by sale or long-term lease for development. All or any part of the funds derived from the sale or lease of such property may at the discretion of the legislative body of the community be paid to the community, or to the public entity from which any such property was acquired.

**33397. Effect of acquisition on existing covenants, conditions or restrictions**

(a) Any covenants, conditions, or restrictions existing on any real property within a project area prior to the time the agency acquires title to such property, which covenants, conditions, or restrictions restrict or purport to restrict the use of, or building upon, such real property, shall be void and

unenforceable as to the agency and any other subsequent owners, tenants, lessees, easement holders, mortgagees, trustees, beneficiaries under a deed of trust, or any other persons or entities acquiring an interest in such real property from such time as title to the real property is acquired by an agency whether acquisition is by gift, purchase, eminent domain, or otherwise.

(b) Thirty days prior to the acquisition of real property other than by eminent domain, the agency shall provide notice of such acquisition and the provisions of this section to holders of interests which would be made void and unenforceable pursuant to this section as follows:

(1) The agency shall publish notice once in a newspaper of general circulation in the community in which the agency is functioning.

(2) The agency shall mail notice to holders of such interests if such holders appear of record 60 days prior to the date of acquisition.

The agency may accept any release by written instrument from the holder of any such interest or may commence action to acquire such interest after the date of acquisition of the real property.

(c) This section shall not apply to covenants, conditions or restrictions imposed by a redevelopment plan or by an agency pursuant to a redevelopment plan. This section also shall not apply to covenants, conditions or restrictions where an agency in writing expressly acquires or holds property subject to such covenants, conditions, or restrictions.

This section shall not limit or preclude any rights of reversion of owners, assignees, or beneficiaries of such covenants, conditions, or restrictions limiting the use of land in gifts of land to cities, counties, or other governmental entities. This section shall not limit or preclude the rights of owners or assignees of any land benefited by any covenants, conditions, or restrictions to recover damages against the agency if under law such owner or assignee has any right to damages. No right to damages shall exist against any purchaser from the agency or his successors or assigns, or any other persons or entities.

**33398. Applicability of inverse condemnation provisions**

Section 1245.260 of the Code of Civil Procedure shall not apply to any resolution or ordinance adopting, approving, amending, or approving the amendment of a redevelopment project or plan. Section 1245.260 of the Code of Civil Procedure shall apply to a resolution adopted by a redevelopment agency pursuant to Section 1245.220 of the Code of Civil Procedure with respect to a particular parcel or parcels of real property.

**33399. Inverse condemnation or mandate action by owner**

(a) If a public entity has adopted a redevelopment plan but has not commenced an eminent domain proceeding to acquire any particular parcel of property subject to eminent domain thereunder within three years after the date of adoption of the plan, the owner or owners of the entire fee at any time thereafter may offer in writing to sell the property to the agency for its fair market value. If the agency does not, within 18 months from the date of receipt of the original offer, acquire or institute eminent domain proceedings to acquire the property, the property owner or owners may file an action against the agency in inverse condemnation to recover damages from the agency for any interference with the possession and use of the real property resulting from the plan, provided that this section shall not be construed as establishing or creating a presumption to any right to damages or relief solely by reason of the failure of the agency to acquire the property within the time set forth in this section.

(b) No claim need be presented against a public entity under Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code as a prerequisite to commencement or

maintenance of an action under subdivision (a), but any such action shall be commenced within one year and six months after the expiration of the 18 months period.

(c) A public entity may commence an eminent domain proceeding or designate the property to be exempt from eminent domain under the plan at any time before the property owner commences an action under this section. If the public entity commences an eminent domain proceeding or designates the property to be exempt from acquisition by eminent domain before the property owner commences an action under this section, the property owner may not thereafter bring an action under this section.

(d) After a property owner has commenced an action under this section, the public entity may declare the property to be exempt from acquisition by eminent domain and abandon the taking of the property only under the same circumstances and subject to the same conditions and consequences as abandonment of an eminent domain proceeding.

(e) Commencement of an action under this section does not affect any authority a public entity may have to commence an eminent domain proceeding, take possession of the property pursuant to Article 3 (commencing with Section 1255.410) of Chapter 6 of Title 7 of the Code of Civil Procedure, or abandon the eminent domain proceeding.

(f) In lieu of bringing an action under subdivision (a) or if the limitations period provided in subdivision (b) has run, the property owner may obtain a writ of mandate to compel the public entity, within such time as the court deems appropriate, to declare the property acquisition exempt or to commence an eminent domain proceeding to acquire the property.

(g) A declaration that property is exempt from acquisition by eminent domain shall be by resolution and shall be recordable. It shall exempt the property from eminent domain under the redevelopment plan, and the redevelopment agency shall have no power of eminent domain as to the property unless the redevelopment plan is thereafter amended to expressly make the property subject to acquisition by eminent domain.

(h) With respect to redevelopment projects for which a final redevelopment plan has been adopted prior to January 1, 1977, the three-year period provided for in subdivision (a) shall begin as of January 1, 1977.

## Article 8. Property Management

### 33400. Insurance, rental, maintenance, etc.

Within the survey area or for purposes of redevelopment an agency may:

(a) Insure or provide for the insurance of any real or personal property of the agency against risks or hazards.

(b) Rent, maintain, manage, operate, repair, and clear such real property.

### 33401. Payments in lieu of taxes

The agency may in any year during which it owns property in a redevelopment project that is tax exempt pay directly to any city, county, city and county, district, including, but not limited to, a school district, or other public corporation for whose benefit a tax would have been levied upon the property had it not been exempt, an amount of money in lieu of taxes that may not exceed the amount of money the public entity would have received if the property had not been tax exempt.

### 33402. Rental property: time for resale

Except as provided in Article 9 (commencing with Section 33410), this part does not authorize an agency to own or operate rental property acquired and rehabilitated in prospect of resale beyond a reasonable period necessary to effect such resale.

## Article 9. Relocation of Persons Displaced by Projects

### 33410. Federal aid; public or private funds

A redevelopment agency may, in order to facilitate the rehousing of families and single persons who are displaced from their homes in a project area, utilize the aids made available through federal urban renewal, redevelopment and housing legislation and may use funds derived from any public or private source to carry out the purposes of this section.

### 33411. Relocation plan

The agency shall prepare a feasible method or plan for relocation of all of the following:

(a) Families and persons to be temporarily or permanently displaced from housing facilities in the project area.

(b) Nonprofit local community institutions to be temporarily or permanently displaced from facilities actually used for institutional purposes in the project area.

### 33411.1. Comparable dwelling units required

The legislative body shall insure that such method or plan of the agency for the relocation of families or single persons to be displaced by a project shall provide 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 such displaced person or family at rents comparable to those at the time of their displacement. Such housing units shall be suitable to the needs of such displaced persons or families and must be decent, safe, sanitary, and otherwise standard dwelling. The agency shall not displace such person or family until such housing units are available and ready for occupancy.

### 33411.2. Definitions

As used in this article:

(a) "Affordable housing cost" has the same meaning as specified in Section 50052.5.

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

(c) "Replacement dwelling unit" means a dwelling unit developed or constructed pursuant to Section 33413 in replacement of a dwelling unit destroyed or removed from the low- and moderate-income housing market by an agency and which is decent, safe, and sanitary and contains at least the same number of bedrooms and other living areas as the dwelling unit destroyed or removed by the agency.

(d) "Very low income households" has the same meaning as specified in Section 50105.

**33411.3. Priority for affordable housing units to displacees**

Whenever all or any portion of a redevelopment project is developed with low- or moderate-income housing units and whenever any low-or moderate-income housing units are developed with any agency assistance or pursuant to Section 33413, the agency shall require by contract or other appropriate means that the housing be made available for rent or purchase to the persons and families of low or moderate income displaced by the redevelopment project. Those persons and families shall be given priority in renting or buying that housing. However, failure to give that priority shall not affect the validity of title to real property. The agency shall keep a list of persons and families of low and moderate income displaced by the redevelopment project who are to be given priority, and may establish reasonable rules for determining the order or priority on the list.

**33411.4. Last resort housing**

If insufficient suitable housing units are available in the community for low- and moderate-income persons and families to be displaced from a redevelopment project area, the legislative body shall assure that sufficient land be made available for suitable housing for rental or purchase by low- and moderate-income persons and families. If insufficient suitable housing units are available in the community for use by such persons and families of low and moderate income displaced by the redevelopment project, the redevelopment agency may, to the extent of that deficiency, direct or cause the development, rehabilitation or construction of housing units within the community, both inside and outside of redevelopment project areas.

**33412. Temporary and permanent housing facilities**

Permanent housing facilities shall be made available within three years from the time occupants are displaced and that pending the development of such facilities there will be available to such displaced occupants adequate temporary housing facilities at rents comparable to those in the community at the time of their displacement.

**33413. Replacement housing; inclusionary requirements**

(a) 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 that is subject to a written agreement with the agency or where financial assistance has been provided by the agency, the agency shall, within four years of the 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 that have an equal or greater number of bedrooms as those destroyed or removed units at affordable housing costs within the territorial jurisdiction of the agency. When dwelling units are destroyed or removed after September 1, 1989, 75 percent of the replacement dwelling units shall replace dwelling units available at affordable housing cost in the same or a lower income level of very low income households, lower income households, and persons and families of low and moderate income, as the persons displaced from those destroyed or removed units. When dwelling units are destroyed or removed on or after January 1, 2002, 100 percent of the replacement dwelling units shall be available at affordable housing cost to persons in the same or a lower income category (low, very low, or moderate), as the persons displaced from those destroyed or removed units.

(b) (1) Prior to the time limit on the effectiveness of the redevelopment plan established pursuant to Sections 33333.2, 33333.6, and 33333.10 at least 30 percent of all new and substantially rehabilitated dwelling units developed by an agency shall be available at affordable housing cost to, and occupied by, persons and families of low or moderate income. Not less than 50 percent of the dwelling units required to be available at affordable housing cost to, and occupied by, persons

and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low income households.

(2) (A) (i) Prior to the time limit on the effectiveness of the redevelopment plan established pursuant to Sections 33333.2, 33333.6, and 33333.10 at least 15 percent of all new and substantially rehabilitated dwelling units developed within a project area under the jurisdiction of an agency by public or private entities or persons other than the agency shall be available at affordable housing cost to, and occupied by, persons and families of low or moderate income. Not less than 40 percent of the dwelling units required to be available at affordable housing cost to, and occupied by, persons and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low income households.

(ii) To satisfy this paragraph, in whole or in part, the agency may cause, by regulation or agreement, to be available, at affordable housing cost, to, and occupied by, persons and families of low or moderate income or to very low income households, as applicable, two units outside a project area for each unit that otherwise would have been required to be available inside a project area.

(iii) On or after January 1, 2002, as used in this paragraph and in paragraph (1), "substantially rehabilitated dwelling units" means all units substantially rehabilitated, with agency assistance. Prior to January 1, 2002, "substantially rehabilitated dwelling units" shall mean substantially rehabilitated multifamily rented dwelling units with three or more units regardless of whether there is agency assistance, or substantially rehabilitated, with agency assistance, single-family dwelling units with one or two units.

(iv) As used in this paragraph and in paragraph (1), "substantial rehabilitation" means rehabilitation, the value of which constitutes 25 percent of the after rehabilitation value of the dwelling, inclusive of the land value.

(v) To satisfy this paragraph, the agency may aggregate new or substantially rehabilitated dwelling units in one or more project areas, if the agency finds, based on substantial evidence, after a public hearing, that the aggregation will not cause or exacerbate racial, ethnic, or economic segregation.

(B) To satisfy the requirements of paragraph (1) and subparagraph (A), the agency may purchase, or otherwise acquire or cause by regulation or agreement the purchase or other acquisition of, long-term affordability covenants on multifamily units that restrict the cost of renting or purchasing those units that either: (i) are not presently available at affordable housing cost to persons and families of low or very low income households, as applicable; or (ii) are units that are presently available at affordable housing cost to this same group of persons or families, but are units that the agency finds, based upon substantial evidence, after a public hearing, cannot reasonably be expected to remain affordable to this same group of persons or families.

(C) To satisfy the requirements of paragraph (1) and subparagraph (A), the long-term affordability covenants purchased or otherwise acquired pursuant to subparagraph (B) shall be required to be maintained on dwelling units at affordable housing cost to, and occupied by, persons and families of low or very low income, for the longest feasible time but not less than 55 years for rental units and 45 years for owner-occupied units. Not more than 50 percent of the units made available pursuant to paragraph (1) and subparagraph (A) may be assisted through the purchase or acquisition of long-term affordability covenants pursuant to subparagraph (B). Not less than 50 percent of the units made available through the purchase or acquisition of long-term affordability covenants pursuant to subparagraph (B) shall be available at affordable housing cost to, and occupied by, very low income households.

(D) To satisfy the requirements of paragraph (1) and subparagraph (A), each mutual self-help housing unit, as defined in subparagraph (C) of paragraph (1) of subdivision (f) of Section 33334.3, that is subject to a 15-year deed restriction shall count as one-third of a unit.

(3) The requirements of this subdivision shall apply independently of the requirements of subdivision (a). The requirements of this subdivision shall apply, in the aggregate, to housing made available pursuant to paragraphs (1) and (2), respectively, and not to each individual case of rehabilitation, development, or construction of dwelling units, unless an agency determines otherwise.

(4) Each redevelopment agency, as part of the implementation plan required by Section 33490, shall adopt a plan to comply with the requirements of this subdivision for each project area. The plan shall be consistent with, and may be included within, the community's housing element. The plan shall be reviewed and, if necessary, amended at least every five years in conjunction with either the housing element cycle or the plan implementation cycle. The plan shall ensure that the requirements of this subdivision are met every 10 years. If the requirements of this subdivision are not met by the end of each 10-year period, the agency shall meet these goals on an annual basis until the requirements for the 10-year period are met. If the agency has exceeded the requirements within the 10-year period, the agency may count the units that exceed the requirement in order to meet the requirements during the next 10-year period. The plan shall contain the contents required by paragraphs (2), (3) and (4) of subdivision (a) of Section 33490.

(c) (1) The agency shall require that the aggregate number of replacement dwelling units and other dwelling units rehabilitated, developed, constructed, or price restricted pursuant to subdivision (a) or (b) remain available at affordable housing cost to, and occupied by, persons and families of low-income, moderate-income, and very low income households, respectively, for the longest feasible time, but for not less than 55 years for rental units, 45 years for home ownership units, and 15 years for mutual self-help housing units, as defined in subparagraph (C) of paragraph (1) of subdivision (f) of Section 33334.3, except as set forth in paragraph (2). Nothing in this paragraph precludes the agency and the developer of the mutual self-help housing units from agreeing to 45-year deed restrictions.

(2) Notwithstanding paragraph (1), the agency may permit sales of owner-occupied units prior to the expiration of the 45-year period, and mutual self-help housing units prior to the expiration of the 15-year period, established by the agency for

a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program that 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. The remainder of the excess proceeds of the sale shall be allocated to the agency, and deposited into the Low and Moderate Income Housing Fund. The agency shall, within three years from the date of sale pursuant to this paragraph of each home ownership or mutual self-help housing unit subject to a 45-year deed restriction, and every third mutual self-help housing unit subject to a 15-year deed restriction, expend funds to make affordable an equal number of units at the same or lowest income level as the unit or units sold pursuant to this paragraph, for a period not less than the duration of the original deed restrictions. Only the units originally assisted by the agency shall be counted towards the agency's obligations under Section 33413.

(3) The requirements of this section shall be made enforceable in the same manner as provided in paragraph (7) of subdivision (f) of Section 33334.3.

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

(5) For each unit counted towards the requirements of subdivisions (a) and (b), the agency shall require the recording in the office of the county recorder of covenants or restrictions that ensure compliance with this subdivision. With respect to covenants or restrictions that are recorded on or after January 1, 2008, the agency shall comply with the requirements of paragraphs (3) and (4) of subdivision (f) of Section 33334.3.

(d) (1) This section applies 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, 1976, and to areas that are added to a project area by amendment to a final redevelopment plan adopted on or after January 1, 1976. In addition, subdivision (a) shall apply to any other redevelopment project with respect to dwelling units destroyed or removed from the low- and moderate-income housing market on or after January 1, 1996, irrespective of the date of adoption of a final redevelopment plan or an amendment to a final redevelopment plan adding areas to a project area. Additionally, any agency may, by resolution, elect to make all or part of the requirements of this section applicable to any redevelopment project of the agency for which the final redevelopment plan was adopted prior to January 1, 1976. In addition, subdivision (b) shall apply to redevelopment plans adopted prior to January 1, 1976, for which an amendment is adopted pursuant to Section 33333.10, except that subdivision (b) shall apply to those redevelopment plans prospectively only so that the requirements of subdivision (b) shall apply only to new and substantially rehabilitated dwelling units for which the building permits are issued on or after the date that the ordinance adopting the amendment pursuant to Section 33333.10 becomes effective.

(2) An agency may, by resolution, elect to require that whenever dwelling units housing persons or 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 replace each dwelling unit with up to three replacement dwelling units pursuant to subdivision (a).

(e) Except as otherwise authorized by law, this section does not authorize an agency to operate a rental housing development beyond the period reasonably necessary to sell or lease the housing development.

(f) Notwithstanding subdivision (a), the agency may replace destroyed or removed dwelling units with a fewer number of replacement dwelling units if the replacement dwelling units meet both of the following criteria:

(1) The total number of bedrooms in the replacement dwelling units equals or exceeds the number of bedrooms in the destroyed or removed units. Destroyed or removed units having one or no bedroom are deemed for this purpose to have one bedroom.

(2) The replacement units are affordable to and occupied by the same income level of households as the destroyed or removed units.

(g) "Longest feasible time," as used in this section, includes, but is not limited to, unlimited duration.

**33413.1. Replacement Housing; Inclusionary Requirements --Eden Redevelopment Project Area, County of Alameda Redevelopment Agency [OPERATIVE UNTIL JANUARY 1, 2012]**

(a) For only the Mt. Eden Sub-Area of the Eden Redevelopment Project Area, the Redevelopment Agency of the County of Alameda may count, towards satisfaction of the housing production requirements of subdivision (b) of Section 33413, the construction of units outside the project area but within the City of Hayward if all of the following conditions are met:

(1) The units shall be available at affordable housing cost to, and occupied by, persons and families of very low or low income.

(2) The units shall comply with subdivision (c) of Section 33413, except that the requirements of that subdivision shall be deemed satisfied if the recorded covenants or restrictions are enforceable by the City of Hayward.

(3) The units shall be located on a parcel or parcels immediately contiguous to the Mt. Eden Sub-Area of the Eden Redevelopment Project Area.

(4) The Redevelopment Agency of the City of Hayward shall provide to the Redevelopment Agency of the County of Alameda written consent to the measures taken pursuant to this section and shall not count any units credited to the Redevelopment Agency of Alameda County pursuant to this section towards its own production or replacement requirements under Section 33413.

(b) The Redevelopment Agency of the County of Alameda shall cause to be made available, at affordable housing cost to, and occupied by, persons and families of very low, low-, or moderate-income households, as applicable, two units outside the project area for each unit that otherwise would have been required to be available inside the project area as required by clause (ii) of subparagraph (A) of paragraph (2) of subdivision (b) of Section 33413.

(c) This section does not apply to a housing unit for which construction commences on or after January 1, 2012.

**33413.5. Replacement housing plan**

Not less than 30 days prior to the execution of an agreement for acquisition of real property, or the execution of an agreement for the disposition and development of property, or the execution of an owner participation agreement, which agreement would lead to the destruction or removal of dwelling units from the low- and moderate-income housing market, the agency shall adopt by resolution a replacement housing plan. For a reasonable time prior to adopting a replacement housing plan by resolution, the agency shall make available a draft of the proposed replacement housing plan for review and comment by the project area committee, other public agencies, and the general public.

The replacement housing plan shall include (1) the general location of housing to be rehabilitated, developed, or constructed pursuant to Section 33413, (2) an adequate means of financing such rehabilitation, development, or construction, (3) a finding that the replacement housing does not require the approval of the voters pursuant to Article XXXIV of the California Constitution, or that such approval has been obtained, (4) the number of dwelling units housing persons and families of low or moderate income planned for construction or rehabilitation, and (5) the timetable for meeting the plan's relocation, rehabilitation, and replacement housing objectives. A dwelling unit whose replacement is required by Section 33413 but for which no replacement housing plan has been prepared, shall not be destroyed or removed from the low- and moderate-income housing market until the agency has by resolution adopted a replacement housing plan.

Nothing in this section shall prevent an agency from destroying or removing from the low- and moderate-income housing market a dwelling unit which the agency owns and which is an immediate danger to health and safety. The agency shall, as soon as practicable, adopt by resolution a replacement housing plan with respect to such dwelling unit.

**33413.7. Limited equity housing cooperatives**

An agency causing the rehabilitation, development, or construction of replacement dwelling units, other than single-family residences, pursuant to Section 33413 or Section 33464, or pursuant to a replacement housing plan as required by Section 33413.5, or pursuant to provisions of a redevelopment plan required by Section 33334.5, primarily for persons of low income, as defined in Section 50093, shall give preference to those developments that are proposed to be organized as limited-equity housing cooperatives, when so requested by a project area committee established pursuant to Section 33385, provided the project is achievable in an efficient and timely manner.

The limited-equity housing cooperatives shall, in addition to the provisions of Section *** 817 of the Civil Code, be organized so that the consideration paid for memberships or shares by the first occupants following construction or acquisition by the corporation, including the principal amount of obligations incurred to finance the share or membership purchase, does not exceed 3 percent of the development cost or acquisition cost, or of the fair market value appraisal by the permanent lender, whichever is greater.

**33414. Rehousing bureau**

An agency may operate a rehousing bureau to assist site occupants in obtaining adequate temporary or permanent housing. It may incur any necessary expenses for this purpose.

**33415. Relocation assistance and payments**

An agency shall provide relocation assistance and shall make all of the payments required by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code, including the making of such payments financed by the federal government.

This section shall not be construed to limit any other authority which an agency may have to make other relocation assistance payments, or to make any relocation assistance payment in an amount which exceeds the maximum amount for such payment authorized by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code.

### 33416. Disposition of surplus real property for housing

In order to facilitate the rehousing of families and single persons displaced by any governmental action, an agency, at the request of the legislative body of the community, may dispose of the real property acquired under the provisions of Section 33396, by sale or long-term lease, for use as, or development of, housing for such displaced persons.

### 33417. Relocation plans: review by Department of Housing and Community Development

Plans prepared pursuant to Section 33411 shall be provided to the Department of Housing and Community Development upon request to be reviewed by the department.

### 33417.5. Relocation appeals board

There is in each city, county, or city and county having an agency a relocation appeals board composed of five members appointed by the mayor of the city or by the chairman of the board of supervisors of the county, subject to the approval of the legislative body. Each board shall promptly hear all complaints brought by residents of the various project areas relating to relocation and shall determine if the redevelopment agency has complied with the provisions of this chapter and, where applicable, federal regulations. The board shall, after a public hearing, transmit its findings and recommendations to the agency. The members of the relocation appeals board shall serve without compensation, but each of the members shall be reimbursed for his necessary expenses incurred in performance of his duties, as determined by the legislative body.

### 33418. Monitoring of affordable housing

(a) An agency shall monitor, on an ongoing basis, any housing affordable to persons and families of low or moderate income developed or otherwise made available pursuant to any provisions of this part. As part of this monitoring, an agency shall require owners or managers of the housing to submit an annual report to the agency. The annual reports shall include for each rental unit the rental rate and the income and family size of the occupants, and for each owner-occupied unit whether there was a change in ownership from the prior year and, if so, the income and family size of the new owners. The income information required by this section shall be supplied by the tenant in a certified statement on a form provided by the agency.

(b) The data specified in subdivision (a) shall be obtained by the agency from owners and managers of the housing specified therein and current data shall be included in any reports required by law to be submitted to the Department of Housing and Community Development or the Controller. The information on income and family size that is required to be reported by the owner or manager shall be supplied by the tenant and shall be the only information on income or family size that the owner or manager shall be required to submit on his or her annual report to the agency.

(c) (1) The agency shall compile and maintain a database of existing, new and substantially rehabilitated, housing units developed or otherwise assisted with moneys from the Low and Moderate Income Housing Fund, or otherwise counted towards the requirements of subdivision (a) or (b) of Section 33413. The database shall be made available to the public on the Internet and updated

on an annual basis. The database shall require all of the following information for each owner-occupied unit or rental unit, or for each group of units, if more than one unit is subject to the same covenant:

(A) The street address and assessor's parcel number of the property.

(B) The size of each unit, measured by the number of bedrooms.

(C) The year in which the construction or substantial rehabilitation of the unit was completed.

(D) The date of recordation and document number of the affordability covenants or restrictions required under subdivision (f) of Section 33334.3.

(E) The date on which the covenants or restrictions expire.

(F) For owner-occupied units that have changed ownership during the reporting year, as described in subdivision (a), the date and document number of the new affordability covenants or other documents recorded to assure that the affordability restriction is enforceable and continues to run with the land.

(2) Notwithstanding subparagraphs (A) and (D) of paragraph (1), the database shall omit any property used to confidentially house victims of domestic violence.

(3) Upon establishment of a database under this section, the agency shall provide reasonable notice to the community regarding the existence of the database.

(d) The agency shall adequately fund its monitoring activities as needed to insure compliance of applicable laws and agreements in relation to affordable units. For purposes of defraying the cost of complying with the requirements of this section and the changes in reporting requirements of Section 33080.4 enacted by the act enacting this section, an agency may establish and impose fees upon owners of properties monitored pursuant to this section.

## Article 10. Demolition, Clearance, Project Improvements and Site Preparation

### 33420. Clearance

An agency may clear or move buildings, structures, or other improvements from any real property acquired.

### 33420.1. Building rehabilitation or alteration

Within a project area, for any project undertaken by an agency for building rehabilitation or alteration in construction, an agency may take those actions which the agency determines necessary and which is consistent with local, state, and federal law, to provide for seismic retrofits as follows:

(a) For unreinforced masonry buildings, to meet the requirements of Chapter 1 of the Appendix of the Uniform Code for Building Conservation of the International Conference of Building Officials.

(b) For any buildings that qualify as "historical property" under Section 37602, to meet the requirements of the State Historical Building Code (Part 2.7 (commencing with Section 18950) of Division 13).

(c) For buildings other than unreinforced masonry buildings and historical properties, to meet the requirements of the most current edition of the Uniform Building Code of the International Conference of Building Officials.

If an agency undertakes seismic retrofits and proposes 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 Section 33333.2, 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 amend its redevelopment plan and follow the same procedure, and the legislative body is subject to the same restrictions, as provided for in Article 4 (commencing with Section 33330) for the adoption of a plan.

### 33420.2. Graffiti eradication

Within a project area, an agency may take any actions that the agency determines are necessary to remove graffiti from public or private property upon making a finding that, because of the magnitude and severity of the graffiti within the project area, the action is necessary to effectuate the purposes of the redevelopment plan, and that the action will assist with the elimination of blight, as defined in Section 33031.

### 33421. Development of building sites

An agency may develop as a building site any real property owned or acquired by it. In connection with such development it may cause, provide or undertake or make provision with other agencies for the installation, or construction of streets, utilities, parks, playgrounds and other public improvements necessary for carrying out in the project area the redevelopment plan.

### 33421.1. Development of building sites for industrial or commercial use; consent by legislative body

Without the prior consent of the legislative body, the agency may not use its authority under Section 33421 to develop a site for industrial or commercial use so as to provide streets, sidewalks, utilities, or other improvements which an owner or operator of the site would otherwise be obliged to provide.

In giving consent, the legislative body shall make a finding that the provision of such improvements is necessary to effectuate the purposes of the redevelopment plan.

### 33422.1. Preference for award of contracts to project area businesses

To the greatest extent feasible, contracts for work to be performed in connection with any redevelopment project shall be awarded to business concerns which are located in, or owned in the substantial part by persons residing in, the project area.

### 33422.3. Preference for employment of project area residents

To insure training and employment opportunities for lower-income project area residents, the agency may specify in the call for bids for any contract over one hundred thousand dollars ($100,000) for

work to be performed in connection with any redevelopment project that project area residents, if available, shall be employed for a specified percentage of each craft or type of workmen needed to execute the contract or work.

**33423. Notice of prevailing wages in call for bids**

Before awarding any contract for such work to be done in a project, the agency shall ascertain the general prevailing rate of per diem wages in the locality in which the work is to be performed, for each craft or type of workman needed to execute the contract or work, and shall specify in the call for bids for the contract and in the contract such rate and the general prevailing rate for regular holiday and overtime work in the locality, for each craft or type of workman needed to execute the contract.

**33424. Payment of prevailing wages required**

The contractor to whom the contract is awarded and any subcontractor under him shall pay not less than the specified prevailing rate of wages to all workmen employed in the execution of the contract.

**33425. Penalty for noncompliance with prevailing wage requirements**

As a penalty to the agency which awarded the contract, the contractor shall forfeit ten dollars ($10) for each calendar day or portion thereof for each workman paid less than the stipulated prevailing rates for any public work done under the contract by him or by any subcontractor under him. A stipulation to this effect shall be included in the contract.

**33426. Record of wage payments**

Each contractor and subcontractor shall keep an accurate record showing the name, occupation, and actual per diem wages paid to each workman employed by him in connection with the work. The record shall be kept open at all reasonable hours to the inspection of the agency.

**33426.5. Limitations on agency assistance: automobile dealerships/undeveloped acreage**

Notwithstanding the provisions of Sections 33391, 33430, 33433, and 33445, or any other provision of this part, an agency shall not provide any form of direct assistance to:

(a) An automobile dealership which will be or is on a parcel of land which has not previously been developed for urban use, unless, prior to the effective date of the act that adds this section, the agency either owns the land or has entered into an enforceable agreement, for the purchase of the land or of an interest in the land, including, but not limited to, a lease or an agreement containing covenants affecting real property, that requires the land to be developed and used as an automobile dealership.

(b) (1) A development that will be or is on a parcel of land of five acres or more which has not previously been developed for urban use and that will, when developed, generate sales or use tax pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code, unless the principal permitted use of the development is office, hotel, manufacturing, or industrial, or unless, prior to the effective date of the act that adds this section, the agency either owns the land or has entered into an enforceable agreement, for the purchase of the land or of an interest in the land, including, but not limited to, a lease or an agreement containing covenants affecting real property, that requires the land to be developed.

(2) For the purposes of this subdivision, a parcel shall include land on an adjacent or nearby parcel on which a use exists that is necessary for the legal development of the parcel.

(c) A development or business, either directly or indirectly, for the acquisition, construction, improvement, rehabilitation, or replacement of property that is or would be used for gambling or gaming of any kind whatsoever including, but not limited to, casinos, gaming clubs, bingo operations, or any facility wherein banked or percentage games, any form of gambling device, or lotteries, other than the California State Lottery, are or will be played.

(d) The prohibition in subdivision (c) is not intended to prohibit a redevelopment agency from acquiring property on or in which an existing gambling enterprise is located, for the purpose of selling or leasing the property for uses other than gambling, provided that the agency acquires the property for fair market value.

(e) This section shall not be construed to apply to agency assistance in the construction of public improvements that serve all or a portion of a project area and that are not required to be constructed as a condition of approval of a development described in subdivision (a), (b), or (c), or to prohibit assistance in the construction of public improvements that are being constructed for a development that is not described in subdivision (a), (b), or (c).

**33426.7. Limitations on agency assistance: automobile dealerships or big box retailers relocating from one community to another within same market area**

(a) Notwithstanding any other provision of this part, a redevelopment agency shall not provide any form of financial assistance to a vehicle dealer or big box retailer, or a business entity that sells or leases land to a vehicle dealer or big box retailer, that is relocating from the territorial jurisdiction of one community to the territorial jurisdiction of another community but within the same market area.

(b) As used in this section:

(1) "Big box retailer" means a store of greater than 75,000 square feet of gross buildable area that will generate sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code).

(2) "Community" and "territorial jurisdiction" have the meanings specified in Sections 33002 and 33120, respectively.

(3) "Financial assistance" includes, but is not limited to, any of the following:

(A) Any appropriation of public funds, including loans, grants, or subsidies or the payment for or construction of parking improvements.

(B) Any tax incentive, including tax exemptions, rebates, reductions, or moratoria of a tax, including any rebate or payment based upon the amount of sales tax generated from the vehicle dealer or big box retailer.

(C) The sale or lease of real property at a cost that is less than fair market value.

(D) Payment for, forgiveness of, or reduction of fees.

(4) (A) "Market area" means a geographical area that is described in independent and recognized commercial trade literature, recognized

and established business or manufacturing policies or practices, or publications of recognized independent research organizations as being an area that is large enough to support the location of the specific vehicle dealer or the specific big box retailer that is relocating.

(B) With respect to a vehicle dealer, a "market area" shall not extend further than 40 miles, as measured by the most reasonable route on roads between two points, starting from the location from which the vehicle dealer is relocating and ending at the location to which the vehicle dealer is relocating.

(C) With respect to a big box retailer, a "market area" shall not extend further than 25 miles, as measured by the most reasonable route on roads between two points, starting from the location from which the big box retailer is relocating and ending at the location to which the big box retailer is relocating.

(5) "Relocating" means the closing of a vehicle dealer or big box retailer in one location and the opening of a vehicle dealer or big box retailer in another location within a 365-day period when a person or business entity has an ownership interest in both the vehicle dealer or big box retailer that has closed or will close and the one that is opening. "Relocating" does not mean and shall not include the closing of a vehicle dealer or big box retailer because the vehicle dealer or big box retailer has been or will be acquired or has been or will be closed as a result of the use of eminent domain.

(6) "Vehicle dealer" means a retailer that is also a dealer as defined by Section 285 of the Vehicle Code.

(c) This section does not apply to agency assistance in the construction of public improvements that serve all or a portion of a project area and that are not required to be constructed as a condition of approval of the vehicle dealer or big box retailer. This section also does not prohibit assistance in the construction of public improvements that are being constructed for a development other than the vehicle dealer or big box retailer.

(d) This section shall not apply to any financial assistance provided by a redevelopment agency pursuant to a lease, contract, agreement, or other enforceable written instrument entered into between the redevelopment agency and a vehicle dealer, big box retailer, or a business entity that sells or leases land to a vehicle dealer or big box retailer, if the lease, contract, agreement, or other enforceable written instrument was entered into prior to December 31, 1999.

## Article 11. Property Disposition, Rehabilitation and Development

### 33430. Disposition of property

An agency may, within the survey area or for purposes of redevelopment, sell, lease, for a period not to exceed 99 years, exchange, subdivide, transfer, assign, pledge, encumber by mortgage, deed of trust, or otherwise, or otherwise dispose of any real or personal property or any interest in property.

### 33431. Lease or sale without public bidding

Any lease or sale made pursuant to Section 33430 may be made without public bidding but only after a public hearing, notice of which shall be given by publication for not less than once a week for two weeks in a newspaper of general circulation published in the county in which the land lies.

**33432. Property required to be leased or sold**

Except as provided in Article 9 (commencing with Section 33410) of this part, an agency shall lease or sell all real property acquired by it in any project area, except property conveyed by it to the community or any other public body. Any such lease or sale shall be conditioned on the redevelopment and use of the property in conformity with the redevelopment plan.

**33433. Sale or lease of property acquired with tax increment funds; approval by legislative body after public hearing**

(a) (1) Except as provided in subdivision (c), before any property of the agency acquired in whole or in part, directly or indirectly, with tax increment moneys is sold or leased for development pursuant to the redevelopment plan, the sale or lease shall first be approved by the legislative body by resolution after public hearing. Notice of the time and place of the hearing shall be published in a newspaper of general circulation in the community at least once per week for at least two successive weeks, as specified in Section 6066 of the Government Code, prior to the hearing.

(2) The agency shall make available, for public inspection and copying at a cost not to exceed the cost of duplication, a report no later than the time of publication of the first notice of the hearing mandated by this section. This report shall contain both of the following:

(A) A copy of the proposed sale or lease.

(B) A summary which describes and specifies all of the following:

(i) The cost of the agreement to the agency, including land acquisition costs, clearance costs, relocation costs, the costs of any improvements to be provided by the agency, plus the expected interest on any loans or bonds to finance the agreements.

(ii) The estimated value of the interest to be conveyed or leased, determined at the highest and best uses permitted under the plan.

(iii) The estimated value of the interest to be conveyed or leased, determined at the use and with the conditions, covenants, and development costs required by the sale or lease. The purchase price or present value of the lease payments which the lessor will be required to make during the term of the lease. If the sale price or total rental amount is less than the fair market value of the interest to be conveyed or leased, determined at the highest and best use consistent with the redevelopment plan, then the agency shall provide as part of the summary an explanation of the reasons for the difference.

(iv) An explanation of why the sale or lease of the property will assist in the elimination of blight, with reference to all supporting facts and materials relied upon in making this explanation.

(v) The report shall be made available to the public no later than the time of publication of the first notice of the hearing mandated by this section.

(b) The resolution approving the lease or sale shall be adopted by a majority vote unless the legislative body has provided by ordinance for a two-thirds vote for that purpose and shall contain a finding that the sale or lease of the property will assist in the elimination of blight or provide housing for low- or moderate-income persons, and is consistent with the implementation plan adopted pursuant to Section 33490. The resolution shall also contain one of the following findings:

(1) The consideration is not less than the fair market value at its highest and best use in accordance with the plan.

(2) The consideration is not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized by the sale or lease.

(c) (1) Subdivisions (a) and (b) shall not apply to the sale or lease of a small housing project, as defined in Section 33013, if the legislative body adopts a resolution that authorizes the agency to sell or lease a small housing project pursuant to this subdivision. The agency may sell or lease a small housing project pursuant to this subdivision if, prior to the sale or lease, the agency holds a public hearing pursuant to Section 33431. Any agency that has sold or leased a small housing project pursuant to this subdivision shall, within 30 days after the end of the agency's fiscal year in which the sale or lease occurred, file a report with the legislative body which discloses the name of the buyer, the legal description or street address of the property, the date of the sale or lease, the consideration for which the property was sold or leased by the agency to the buyer or lessee, and the date on which the agency held its public hearing for the sale or lease, pursuant to Section 33431.

(2) As used in this subdivision and Section 33413, "persons and families of low- and moderate-income" has the same meaning as that term is defined in Section 50093.

**33434. Approval of sale or lease of property acquired from revolving redevelopment fund**

If any property acquired in whole or in part from the redevelopment revolving fund is to be sold or leased by the agency, the sale or lease shall be first approved by the legislative body by resolution adopted after public hearing. Notice of the time and place of the hearing shall be published once in the official newspaper of the community at least one week prior to the hearing. The resolution shall be adopted by a majority vote unless the legislative body has provided by ordinance for a two-thirds vote for such purpose.

**33435. Obligation to refrain from discrimination**

(a) Agencies shall obligate lessees and purchasers of real property acquired in redevelopment projects and owners of property improved as a part of a redevelopment project to refrain from restricting the rental, sale, or lease of the property on any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code. All deeds, leases, or contracts for the sale, lease, sublease, or other transfer of any land in a redevelopment project shall contain or be subject to the nondiscrimination or nonsegregation clauses hereafter prescribed.

(b) Notwithstanding subdivision (a), with respect to familial status, subdivision (a) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code.

With respect to familial status, nothing in subdivision (a) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to subdivision (a).

**33436. Nondiscrimination and nonsegregation clauses**

Express provisions shall be included in all deeds, leases, and contracts that the agency proposes to enter into with respect to the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of any land in a redevelopment project in substantially the following form:

(a) (1) In deeds the following language shall appear — "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

(b) (1) In leases the following language shall appear — "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4,

51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1).

(c) In contracts entered into by the agency relating to the sale, transfer, or leasing of land or any interest therein acquired by the agency within any survey area or redevelopment project the foregoing provisions in substantially the forms set forth shall be included and the contracts shall further provide that the foregoing provisions shall be binding upon and shall obligate the contracting party or parties and any subcontracting party or parties, or other transferees under the instrument.

**33437. Obligations of lessees or purchasers**

An agency shall obligate lessees or purchasers of property acquired in a redevelopment project to:

(a) Use the property for the purpose designated in the redevelopment plans.

(b) Begin the redevelopment of the project area within a period of time which the agency fixes as reasonable.

(c) Comply with the covenants, conditions, or restrictions that the agency deems necessary to prevent speculation or excess profittaking in undeveloped land, including right of reverter to the agency. Covenants, conditions, and restrictions imposed by an agency may provide for the reasonable protection of lenders.

(d) Comply with other conditions which the agency deems necessary to carry out the purposes of this part.

**33437.5. Property not to be the subject of real estate speculation**

It is the intent of the Legislature that property acquired from a redevelopment agency pursuant to a redevelopment plan not be the subject of real estate speculation.

**33438. Covenants and conditions running with land**

The agency may provide in the contract that any of the obligations of the purchaser are covenants or conditions running with the land, the breach of which shall cause the fee to revert to the agency.

**33439. Controls, restrictions and covenants running with land**

The agency shall retain controls and establish restrictions or covenants running with land sold or leased for private use for such periods of time and under such conditions as are provided in the redevelopment plan. The establishment of such controls is a public purpose under the provisions of this part.

**33440. Construction of buildings**

Except as provided in Article 9 (commencing with Section 33410), this part does not authorize an agency to construct any of the buildings for residential, commercial, industrial, or other use contemplated by the redevelopment plan, except that, in addition to its powers under Section 33445, an agency may construct foundations, platforms, and other like structural forms necessary for the provision or utilization of

air rights sites for buildings to be used for residential, commercial, industrial, or other uses contemplated by the redevelopment plan.

### 33442. Disposition of land for public housing projects

An agency may sell, lease, grant, or donate real property owned or acquired by the agency in a survey area to a housing authority or to any public agency for public housing projects.

### 33443. Report of unsold property

Property acquired by an agency for rehabilitation and resale shall be offered for resale within one year after completion of rehabilitation, or an annual report shall be published by the agency in a newspaper of general circulation published in the community listing any rehabilitated property held by the agency in excess of such one-year period, stating the reasons such property remains unsold and indicating plans for its disposition.

### 33444. Annual report to Legislature

In undertaking rehabilitation of structures pursuant to this part, every redevelopment agency shall, on or before February 15th of each year, commencing with February 15, 1963, render a report to the Legislature setting forth in detail the activities of the agency involving rehabilitation, including, but not limited to, each of the following:

(a) Expenditure of public funds.

(b) Number and kinds of units rehabilitated.

(c) Disposition of rehabilitated units.

### 33444.5. Commercial rehabilitation loans

An agency may establish a program under which it loans funds to owners or tenants for the purpose of rehabilitating commercial buildings or structures within the project area.

### 33444.6. Financing of facilities/capital equipment: industrial or manufacturing projects

(a) Within a project area and as part of an agreement that provides for the development or rehabilitation of property that will be used for industrial or manufacturing purposes, an agency may assist with the financing of facilities or capital equipment, including, but not necessarily limited to, pollution control devices.

(b) Prior to entering into an agreement for a development that will be assisted pursuant to this section, the agency shall find, after a public hearing, that the assistance is necessary for the economic feasibility of the development and that the assistance cannot be obtained on economically feasible terms in the private market.

### 33445. Payment for publicly owned buildings, facilities, structures or other improvements

(a) Notwithstanding Section 33440, an agency may, with the consent of the legislative body, pay all or a part of the value of the land for and the cost of the installation and construction of any building,

facility, structure, or other improvement that is publicly owned *** and is located inside or contiguous to the project area, if the legislative body determines all of the following:

(1) That the acquisition of land or the installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned are of benefit to the project area*** by helping to eliminate blight within the project area or providing housing for low-or moderate-income persons***.

(2) That no other reasonable means of financing the acquisition of the land or installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned, are available to the community.

(3) That the payment of funds for the acquisition of land or the cost of buildings, facilities, structures, or other improvements *** that are publicly owned is consistent with the implementation plan adopted pursuant to Section 33490.

(b) (1) The determinations made by the agency and the local legislative body pursuant to subdivision (a) shall be final and conclusive.

(2) For redevelopment plans, and amendments to those plans that add territory to a project, adopted after October 1, 1976, acquisition of property and installation or construction of each facility shall be provided for in the redevelopment plan.

(3) A redevelopment agency shall not pay for the normal maintenance or operations of buildings, facilities, structures, or other improvements that are publicly owned. Normal maintenance or operations do not include the construction, expansion, addition to, or reconstruction of, buildings, facilities, structures, or other improvements that are publicly owned otherwise undertaken pursuant to this section.

(c) (1) When the value of the land or the cost of the installation and construction of the building, facility, structure, or other improvement that is publicly owned, or both, has been, or will be, paid or provided for initially by the community or other public corporation, the agency may enter into a contract with the community or other public corporation under which it agrees to reimburse the community or other public corporation for all or part of the value of the land or all or part of the cost of the building, facility, structure, or other improvement that is publicly owned, or both, by periodic payments over a period of years.

(2) The obligation of the agency under the contract shall constitute an indebtedness of the agency for the purpose of carrying out the redevelopment project for the project area,*** and the indebtedness may be made payable out of taxes levied in the project area and allocated to the agency under subdivision (b) of Section 33670 or out of any other available funds.

(d) In a case where the land has been or will be acquired by, or the cost of the installation and construction of the building, facility, structure or other improvement that is publicly owned has been paid by, a parking authority, joint powers entity, or other public corporation to provide a building, facility, structure, or other improvement that has been or will be leased to the community, the contract may be made with, and the reimbursement may be made payable to, the community.

(e) (1) Notwithstanding any other authority granted in this section, an agency shall not pay for, either directly or indirectly, with tax increment funds the construction, including land acquisition, related site clearance, and design costs, or rehabilitation of a building that is, or that will be used as, a city hall or county administration building.

(2) This subdivision shall not preclude an agency from making payments to construct, rehabilitate, or replace a city hall if an agency does any of the following:

(A) Allocates tax increment funds for this purpose during the 1988-89 fiscal year and each fiscal year thereafter in order to comply with federal and state seismic safety and accessibility standards.

(B) Uses tax increment funds for the purpose of rehabilitating or replacing a city hall that was seriously damaged during an earthquake that was declared by the President of the United States to be a natural disaster.

(C) Uses the proceeds of bonds, notes, certificates of participation, or other indebtedness that was issued prior to January 1, 1994, for the purpose of constructing or rehabilitating a city hall, as evidenced by documents approved at the time of the issuance of the indebtedness.

(f) As used in this section, "contiguous" means that the parcel on which the building, facility, structure, or other improvement that is publicly owned is located shares a boundary with the project area or is separated from the project area only by a public street or highway, flood control channel, waterway, railroad right-of-way, or similar feature.

(g) Notwithstanding Section 33445.1, an agency may pay for all or part of the value of the land for and the cost of the installation and construction of any building, facility, structure, or other improvement that is publicly owned and is partially located in the project area, but extends beyond the project area's boundaries, if the legislative body makes the determinations required by subdivision (a).

**33445.1. Payment for publicly owned buildings, facilities, structures or other improvements outside the project area**

(a) Notwithstanding Section 33440, an agency may, with the consent of the legislative body, pay all or a part of the value of the land for and cost of the installation and construction of any building, facility, structure, or other improvement that is publicly owned and is located outside and not contiguous to the project area, but is located within the community, if the legislative body finds, based on substantial evidence in the record, all of the following:

(1) The acquisition of the land or the installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned are of primary benefit to the project area.

(2) The acquisition of the land or the installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned benefits the project area by helping to eliminate blight within the project area, or will directly assist in the provision of housing for low- or moderate-income persons.

(3) No other reasonable means of financing the acquisition of the land or the installation or construction of the buildings, facilities, structures, or other improvements that are publicly owned, are available to the community, including, but not limited to, general obligation bonds, revenue bonds, special assessment bonds, or bonds issued pursuant to the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code). In determining whether other means of financing are feasible, the legislative body may take into account any relevant factors, including, but not limited to:

(A) Legal factors, such as the eligibility of the improvements for funding under the governing statutes.

(B) Economic factors, such as prevailing interest rates and market conditions.

(C) Political factors, such as the priority of commitments of other public funding sources, the ability or willingness of property owners or taxpayers to bear the cost of any special assessments, taxes, or other charges, and the likelihood of obtaining voter approval, if required.

(4) The payment of funds for the acquisition of land or the cost of buildings, facilities, structures, or other improvements that are publicly owned is consistent with the implementation plan adopted pursuant to Section 33490.

(5) The acquisition of land and the installation of each building, facility, structure, or improvement that is publicly owned is provided for in the redevelopment plan.

(b) An agency shall not pay for the normal maintenance or operations of buildings, facilities, structures, or other improvements that are publicly owned. Normal maintenance or operations do not include the construction, expansion, addition to, or reconstruction of, buildings, facilities, structures, or other improvements that are publicly owned otherwise undertaken pursuant to this section.

(c) An action to challenge the findings required by this section shall be filed and served within 60 days after the date of the resolution containing the findings.

(d) The provisions of this section shall not apply if the financing, construction, or installation of the land, buildings, facilities, structures, or other improvements is an obligation of the agency under a contract existing on December 31, 2009, specifically described in the implementation plan prepared by the agency as of July 1, 2009, pursuant to Section 33490, or specifically provided for in the redevelopment plan as of December 31, 2009.

**33445.3. California City Redevelopment Agency: limitations**

Notwithstanding any other provision of law, the California City Redevelopment Agency shall not directly support the activities of, or pay for any part of the land or any building, facility, structure, or other improvements that specifically benefit, the California City Museum and Restoration Facility.

**33445.5. School districts: overcrowding resulting from redevelopment plan**

(a) If the governing board of a school district finds that conditions of overcrowding, as defined by subdivision (a) of Section 65973 of the Government Code, exist in one or more attendance areas within the district that serve pupils who reside in housing, located within or adjacent to a project area, and that the conditions of overcrowding result from actions taken by the redevelopment agency in implementing the redevelopment plan, the governing board may transmit a written copy of those findings, together with supporting information, materials, and documents, to the redevelopment agency. The redevelopment agency shall conduct a public hearing within 45 days after receiving the findings to receive public testimony identifying the effects of the redevelopment plan on the impacted attendance area or areas and suggesting revisions to the plan as adopted or amended by the legislative body that would alleviate or eliminate the overcrowding in the attendance area or areas caused by the implementation of the redevelopment plan. The redevelopment agency shall send written notice of the public hearing to, and at the hearing receive public testimony from, any affected taxing entity. After receiving that testimony at the hearing, the agency shall consider amendments of the plan necessary to alleviate or eliminate that overcrowding and may recommend those amendments for adoption by the legislative body.

(b) Section 33353 does not apply to an amendment of the plan proposed pursuant to subdivision (a) when both of the following occur:

(1) The amendment proposes only to add significant additional capital improvement projects to alleviate or eliminate the overcrowding in the attendance area or areas caused by the implementation of the plan.

(2) The amendment will delete capital improvement projects that are equivalent in financial impact on any affected taxing entity or otherwise modify the plan in a way that the agency finds there will be no additional financial impact or any affected taxing entity as a result of the amendment.

(c) Any funds received by a school district from a redevelopment agency to alleviate or eliminate the overcrowding in the attendance area or areas caused by implementation of a redevelopment plan as the result of a public hearing conducted pursuant to subdivision (a) shall be used only for capital expenditures.

(d) The governing body of a school district shall not make the findings permitted by subdivision (a) with respect to any project area more than once.

(e) This section applies only to redevelopment plans adopted prior to January 1, 1984.

**33445.6. Fire protection districts: financial burden or detriment resulting from redevelopment plan**

(a) If the governing board of a fire protection district finds that it is suffering a financial burden or detriment as a result of actions taken by the redevelopment agency in implementing the redevelopment plan, the district board may transmit a written copy of those findings, together with supporting information, materials, and documents, to the redevelopment agency. The redevelopment agency shall conduct a public hearing within 45 days after receiving the findings to receive public testimony identifying the effects of the redevelopment plan on the fire protection district and suggesting revisions to the redevelopment plan as adopted or amended by the legislative body that would alleviate or eliminate the financial burden or detriment in the area or areas caused by the implementation of the redevelopment plan. The redevelopment agency shall send written notice of the public hearing to, and at the hearing receive public testimony from, any affected taxing entity. After receiving that testimony at the hearing, the agency shall consider amendments of the plan necessary to alleviate or eliminate the financial burden or detriment in the area or areas caused by the implementation of the redevelopment plan. The agency may recommend those amendments for adoption by the legislative body.

(b) Section 33353 does not apply to an amendment of the plan proposed pursuant to subdivision (a) when both of the following occur:

(1) The amendment proposes only to add significant additional capital improvement projects to alleviate or eliminate the financial burden or detriment caused by the implementation of the plan.

(2) The amendment will delete capital improvement projects or otherwise modify the plan in a way that the agency finds will result in no additional financial impact on any affected taxing entity.

(c) Any funds received by a fire protection district from a redevelopment agency to alleviate or eliminate the financial burden or detriment caused by implementation of a redevelopment plan as a result of a public hearing conducted pursuant to subdivision (a) may be used for any lawful purpose of the district.

(d) The district board of a fire protection district shall not make the findings permitted by subdivision (a) with respect to any project area more than once.

(e) The agency may recover its actual costs of complying with the procedural requirements of this section from the fire protection district.

(f) This section applies only to redevelopment plans adopted prior to January 1, 1977.

**33446. Construction and lease of buildings to school districts**

The governing board of any school district may enter into an agreement with an agency under which the agency shall construct, or cause to be constructed, a building or buildings to be used by the district upon a designated site within a project area and, pursuant to the agreement, the district may lease the buildings and site. The agreement shall provide that the title to the building or buildings and site shall vest in the district at the expiration of the lease, and may provide the means or method by which the title to the building or buildings and the site shall vest in the district prior to the expiration of the lease, and shall contain other terms and conditions that the governing board of the district deems to be in the best interest of the district. The agreements and leases may be entered into by the governing board of any school district without regard to bidding, election, or any other requirement of Article 2 (commencing with Section 17400) of Chapter 4 of Part 10.5 of the Education Code.

**33447. Payment for public improvements: City of Paramount**

In addition to any other authority contained in this division and subject to the requirements of this section, taxes levied in a project area and allocated to the agency as provided in subdivision (b) of Section 33670 may be used as provided thereby anywhere within the territorial jurisdiction of the agency to finance the construction or acquisition of public improvements meeting the following criteria, as determined by resolution of the agency:

(a) The public improvements will enhance the environment of a residential neighborhood containing housing for persons and families of low or moderate income, as defined in Section 50093, including very low income households, as defined in Section 50105.

(b) The public improvements will be of benefit to the project area. That determination shall be final and conclusive as to the issue of benefit to the project area.

(c) Public improvements eligible for financing under this section shall be limited to the following:

(1) Street improvements.

(2) Water, sewer, and storm drainage facilities.

(3) Neighborhood parks and related recreational facilities.

This section shall be applicable to redevelopment projects within the City of Paramount for which the redevelopment plan authorizes tax-increment financing pursuant to Section 33670, whether the redevelopment plan is adopted prior or subsequent to January 1, 1978. Financing of public improvements pursuant to this section shall be authorized by the redevelopment plan or by resolution of the agency. Any ordinance or resolution implementing this section shall specify the public improvements to be financed thereunder.

As a condition to financing public improvements as provided in this section on or after January 1, 1983, the redevelopment agency of the City of Paramount shall establish a Low and Moderate Income Housing Fund, and, with respect to any project made subject to this section, shall deposit in that fund not

less than 20 percent of that portion of revenues allocated and paid to the agency pursuant to subdivision (b) of Section 33670 on and after January 1, 1983, which is not required to pay the principal of, or interest on, bonds or other indebtedness of the agency issued or incurred prior to that date. Moneys deposited in the Low and Moderate Income Housing Fund pursuant to this section shall be used pursuant to Article 4 (commencing with Section 33330).

The Legislature finds and declares that effective redevelopment within the City of Paramount requires the existence of adequate public services and facilities for persons residing in the surrounding community, including persons employed by industry which is located in a redevelopment project, and that public improvements of the types specified in this section are particularly needed in the low- and moderate-income neighborhoods of the City of Paramount in order to encourage stability and prevent decline which could have serious negative impact on redevelopment, as well as necessitate additional redevelopment. Because of the unusually compelling need in the City of Paramount and because of the impracticability of financing all required improvements by other means, it is the intent of the Legislature in enacting this section to augment the powers of the redevelopment agency of the City of Paramount to permit the use of tax-increment revenues in the manner and for the purposes prescribed by this section.

### 33448. Counties over 4,000,000 persons or cities over 500,000 persons: transportation systems and peripheral parking facilities

In a county with a population of 4,000,000 persons or more, or in a city of 500,000 persons or more, an agency may, with the consent of the legislative body, acquire, construct, and finance by the issuance of bonds or otherwise a public improvement whether within or without a project area consisting of a transportation collection and distribution system and peripheral parking structures and facilities, including sites therefor, to serve the project area and surrounding areas, upon a determination by resolution of the agency and the legislative body that such public improvement is of benefit to the project area. Such determination by the agency and the legislative body shall be final and conclusive as to the issue of benefit to the project area.

The agency shall, in order to exercise the powers granted by this section, enter into an agreement with the rapid transit district which includes the county or city, or a portion thereof, in which agreement the rapid transit district shall be given all of the following responsibilities:

(a) To participate with the other parties to the agreement to design, determine the location and extent of the necessary rights-of-way for, and construct the transportation, collection, and distribution systems and related peripheral parking structures and facilities.

(b) To operate and maintain such transportation, collection, and distribution systems and related peripheral parking structures and facilities in accordance with the rapid transit district's outstanding agreements and the agreement required by this paragraph.

### 33449. Activities to provide affordable housing

Notwithstanding Section 33440, or any other provision of law, an agency may, inside or outside any project area, acquire land, donate land, improve sites, or construct or rehabilitate structures in order to provide housing for persons and families of low or moderate income, as defined in Section 41056, and very low income households, as defined in Section 41067, and may provide subsidies to, or for the benefit of, such persons and families or households to assist them in obtaining housing within the community.

Except as otherwise authorized by law, nothing in this section shall empower an agency to operate a rental housing development beyond such period as is reasonably necessary to sell or lease the housing development.

This section shall apply to all redevelopment project areas for which a redevelopment plan has been adopted, whether the redevelopment plan is adopted before or after January 1, 1976.

## Article 12. Amendment of Redevelopment Plans

### 33450. Authority to amend redevelopment plan

If at any time after the adoption of a redevelopment plan for a project area by the legislative body, it becomes necessary or desirable to amend or modify such plan, the legislative body may by ordinance amend such plan upon the recommendation of the agency. The agency recommendation to amend or modify a redevelopment plan may include a change in the boundaries of the project area to add land to or exclude land from the project area. Except as otherwise provided in Section 33378, the ordinance shall be subject to referendum as prescribed by law for the ordinances of the legislative body.

### 33451. Public hearing by agency

Before recommending amendment of the plan the agency shall hold a public hearing on the proposed amendment.

### 33451.5. Public hearing by agency- plan amendment - report on blight

(a) This section shall apply only to proposed plan amendments that would do any of the following:

(1) Change the limitation on the number of dollars of taxes which may be divided and allocated to the redevelopment agency.

(2) Change the limit on the amount of bonded indebtedness that can be outstanding at one time.

(3) Change 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.

(4) Change the time limit on the effectiveness of the redevelopment plan.

(5) Change the boundaries of the project area.

(6) Merge existing project areas.

(b) No later than 45 days prior to the public hearing on a proposed plan amendment by an agency or the joint public hearing of the agency and the legislative body, the agency shall notify the Department of Finance and the Department of Housing and Community Development by first-class 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 (c).

(c) No later than 45 days prior to the public hearing on a proposed plan amendment by the agency or the joint public hearing by the agency and the legislative body, the agency shall prepare a 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, 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 any remaining blight.

(4) A description of how these projects or programs will improve the conditions of blight.

(5) The reasons why the projects or programs cannot be completed without the plan amendment.

(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 as a result of the proposed plan amendment, including amounts projected to be deposited into the Low and Moderate Income Housing Fund and amounts to be paid to the affecting 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.

(d) Upon receiving the report, the Department of Finance shall prepare an estimate of how the proposed plan amendment will affect the General Fund. The Department of Finance shall determine whether the amendment will affect the need for school facilities.

(e) Within 21 days of the receipt of the report, the Department of Finance or the Department of Housing and Community Development may send any comments regarding the proposed plan amendment in writing to the agency and the legislative body. The agency and the legislative body shall consider these comments, if any, at the public hearing on the proposed plan amendment. If these comments are not available within the prescribed time limit, the agency and the legislative body may proceed without them.

(f) The Department of Finance or the Department of Housing and Community Development may also send their comments regarding the proposed plan amendment to the Attorney General for further action pursuant to Chapter 5 (commencing with Section 33501).

**33452. Notice of public hearing by agency**

(a) Notice of the hearing shall be published pursuant to Section 6063 of the Government Code prior to the date of hearing 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 legal description of the boundaries of the project area by reference to the description recorded with the county recorder pursuant to Section 33373 and of the boundaries of the land proposed to be added to the project area, if any, and a general statement of the purpose of the amendment.

(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 not owned by the agency within the boundaries

referred to in subdivision (a), 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 these boundaries as the ownership is shown on the records of the county recorder 30 days prior to the date the notice is published, and to persons, firms, or corporations which have acquired property within these boundaries from the agency, at his or her last known address as shown by the records of the agency.

(c) (1) Copies of the notice published pursuant to this section shall be mailed, by first-class mail, to all residents and businesses within the project area designated in the redevelopment plan as proposed to be amended 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 obtained by the agency at a reasonable cost. The notice may be addresses to "occupant." If the agency 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 an 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 redevelopment plan as proposed to be amended. Notices sent pursuant to this subdivision shall be mailed by certified mail with return receipt requested.

**33453. Submission of changes to planning commission**

If after the public hearings the agency recommends substantial changes in the plan which affect the general plan adopted by the planning commission or the legislative body, such changes shall be submitted to the planning commission for its report and recommendation to the legislative body within 30 days after such submission. If the planning commission does not report upon the changes within 30 days after its submission by the agency, the planning commission shall be deemed to have waived its report and recommendations concerning such changes.

**33454. Public hearing by legislative body**

After receiving the recommendation of the agency concerning such changes in the plan, 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, notice of which hearing shall be published in a newspaper in the manner and at the times designated above for notice of hearing by the agency.

**33455. Submission of further changes to planning commission; ordinance amending prior ordinance**

After receiving the recommendation of the agency concerning such changes in the plan, the legislative body upon further recommendation by the agency, without additional agency public hearing, may make further changes, including changes in area or boundaries to exclude land from the project area, for consideration at the public hearing. If such changes are substantial changes in the plan which affect the master or community plan adopted by the planning commission or the legislative body, such changes shall be submitted to the planning commission for its report and recommendation to the legislative body within 30 days after such submission. If the planning commission does not report upon the changes within 30 days after its submission by the legislative body, the planning commission shall be deemed to have waived its report and recommendation concerning the changes. If after the public hearing the legislative body

determines that the amendments in the plan, proposed by the agency, or the further recommended changes by the agency are necessary or desirable, the legislative body shall adopt an ordinance amending the ordinance adopting the plans thus amended. The legislative body shall consider any proposed changes at a public hearing reopened for that limited purpose.

**33456. Recordation of amendments**

(a) Not later than 60 days after the adoption of an amendment to a redevelopment plan pursuant to this article there shall be recorded with the county recorder of the county in which the project area is located a statement that the redevelopment plan has been amended. If the amendment adds territory to the redevelopment project area, the statement shall contain a description of the added territory, a prominent heading in boldface type noting that the property that is the subject of the statement is located within a redevelopment project, a general description of the provisions of the amended redevelopment plan, if any, that authorize the use of the power of eminent domain by the agency within the added territory, and a general description of any limitations on the use of the power of eminent domain within the added territory, including, without limitation, the time limit required by Section 33333.2. If the amendment changes any limitation on the use of eminent domain contained in the redevelopment plan, the statement shall contain a description of the land within the project area and a general description of the change.

(b) An agency shall not commence an action in eminent domain to acquire property located within territory added to a project area by an amendment to a redevelopment plan until the statement required by this section is recorded with the county recorder of the county in which the project area is located.

(c) Additional recordation of documents may be effected pursuant to Section 27295 of the Government Code.

**33457. Transmittal of redevelopment plan amendment documents to taxing officials and entities**

After the amendment of a redevelopment plan to add the provision permitted by Section 33670, or to increase or reduce the size of the project area, the clerk of the community shall transmit a copy of the ordinance amending the plan, a description of the annexed or detached land within the project area and a map or plat indicating the amendments to the redevelopment plan, to the following parties:

(1) The auditor and assessor of the county in which the project is located;

(2) The officer or officers performing the functions of the auditor or assessor for any taxing agencies which, in levying or collecting taxes, do not use the county assessment roll or do not collect taxes through the county;

(3) The governing body of each of the taxing agencies which levies taxes upon any property in the project area; and

(4) The State Board of Equalization.

Such documents shall be transmitted within 30 days following the adoption of the amended redevelopment plan. The legal effect of such transmittal shall be as set forth in Section 33674.

### 33457.1. Findings, reports and information required

To the extent warranted by a proposed amendment to a redevelopment plan, (1) the ordinance adopting an amendment to a redevelopment plan shall contain the findings required by Section 33367 and (2) the reports and information required by Section 33352 shall be prepared and made available to the public prior to the hearing on such amendment.

### 33458. Authority to hold joint public hearing

As an alternative to the separate public hearing required by Sections 33451 and 33454, the agency and the legislative body, with the consent of both, may hold a joint public hearing on the proposed amendment. The presiding officer of the legislative body shall preside over such joint public hearing. Prior to such joint public hearing, the agency shall submit the proposed changes to the planning commission as provided in Section 33453. Notice of the joint public hearing shall conform to all requirements of Section 33452. The joint public hearing shall thereafter proceed by the same requirements as are provided in Sections 33450 and 33454 to 33455, inclusive.

When a joint public hearing is held where the legislative body is also the agency, the legislative body may adopt the amended plan with no actions necessary by the agency, even as to the recommendations required of the agency by Sections 33454 and 33455.

## Article 12.5. Hazardous Substance Release Cleanup

### 33459. Definitions

For purposes of this article, the following terms shall have the following meanings:

(a) "Department" means the Department of Toxic Substances Control.

(b) "Director" means the Director of Toxic Substances Control.

(c) "Hazardous substance" means any hazardous substance as defined in subdivision (h) of Section 25281, and any reference to hazardous substance in the definitions referenced in this section shall be deemed to refer to hazardous substance, as defined in this subdivision.

(d) "Local agency" means a single local agency that is one of the following:

(1) A local agency authorized pursuant to Section 25283 to implement Chapter 6.7 (commencing with Section 25280) of, and Chapter 6.75 (commencing with Section 25299.10) of, Division 20.

(2) A local officer who is authorized pursuant to Section 101087 to supervise a remedial action.

(e) "Qualified independent contractor" means an independent contractor who is any of the following:

(1) An engineering geologist who is certified pursuant to Section 7842 of the Business and Professions Code.

(2) A geologist who is registered pursuant to Section 7850 of the Business and Professions Code.

(3) A civil engineer who is registered pursuant to Section 6762 of the Business and Professions Code.

(f) "Release" means any release, as defined in Section 25320.

(g) "Remedy" or "remove" means any action to assess, evaluate, investigate, monitor, remove, correct, clean up, or abate a release of a hazardous substance or to develop plans for those actions. "Remedy" includes any action set forth in Section 25322 and "remove" includes any action set forth in Section 25323.

(h) "Responsible party" means any person described in subdivision (a) of Section 25323.5 of this code or subdivision (a) of Section 13304 of the Water Code .

**33459.01. Title**

This article shall be known, and may be cited as, the "Polanco Redevelopment Act."

**33459.1. Remedy or removal of release**

(a) (1) An agency may take any actions that the agency determines are necessary and that are consistent with other state and federal laws to remedy or remove a release of hazardous substances on, under, or from property within a project area, whether the agency owns that property or not, subject to the conditions specified in subdivision (b). Unless an administering agency has been designated under Section 25262, the agency shall request cleanup guidelines from the department or the California regional water quality control board before taking action to remedy or remove a release. The department or the California regional water quality control board shall respond to the agency's request to provide cleanup guidelines within a reasonable period of time. The agency shall thereafter submit for approval a cleanup or remedial action plan to the department or the California regional water quality control board before taking action to remedy or remove a release. The department or the California regional water quality control board shall respond to the agency's request for approval of a cleanup or remedial action plan within a reasonable period of time.

(2) The agency shall provide the department and local health and building departments, the California regional water quality control board, with notification of any cleanup activity pursuant to this section at least 30 days before the commencement of the activity. If an action taken by an agency or a responsible party to remedy or remove a release of a hazardous substance does not meet, or is not consistent with, a remedial action plan or cleanup plan approved by the department or the California regional water quality control board, the department or the California regional water quality control board that approved the cleanup or remedial action plan may require the agency to take, or cause the taking of, additional action to remedy or remove the release, as provided by applicable law. If an administering agency for the site has been designated under Section 25262, any requirement for additional action may be imposed only as provided in Sections 25263 and 25265. If methane or landfill gas is present, the agency shall obtain written approval from the California Integrated Waste Management Board prior to taking that action.

(b) Except as provided in subdivision (c), an agency may take the actions specified in subdivision (a) only under one of the following conditions:

(1) There is no responsible party for the release identified by the agency.

(2) A party determined by the agency to be a responsible party for the release has been notified by the agency or has received adequate notice from the department, a California regional water quality control board, the Environmental Protection Agency, or other governmental agency with relevant authority and has been given 60 days to respond and to propose a remedial action plan and schedule, and the responsible party has not agreed within an additional 60 days to implement a plan and schedule to remedy or remove the release that is acceptable to the agency and that has been found by the agency to be consistent, to the maximum extent possible, with the priorities, guidelines, criteria, and regulations contained in the National Contingency Plan and published pursuant to Section 9605 of Title 42 of the United States Code for similar releases, situations, or events.

(3) The party determined by the agency to be the responsible party for the hazardous substance release entered into an agreement with the agency to prepare a remedial action plan for approval by the department, the California regional water quality control board, or the appropriate local agency and to implement the remedial action plan in accordance with an agreed schedule, but failed to prepare the remedial action plan, failed to implement the remedial action plan in accordance with the agreed schedule, or otherwise failed to carry out the remedial action in an appropriate and timely manner. Any action taken by the agency pursuant to this paragraph shall be consistent with any agreement between the agency and the responsible party and with the requirements of the state or local agency that approved or will approve the remedial action plan and is overseeing or will oversee the preparation and implementation of the remedial action plan.

(c) Subdivision (b) does not apply to either of the following agencies:

(1) An agency taking actions to investigate or conduct feasibility studies concerning a release.

(2) An agency taking the actions specified in subdivision (a) if the agency determines that conditions require immediate action.

(d) An agency may designate a local agency in lieu of the department or the California regional water quality control board to review and approve a cleanup or remedial action plan and to oversee the remediation or removal of hazardous substances from a specific hazardous substance release site in accordance with the following conditions:

(1) The local agency may be so designated if it is designated as the administering agency under Section 25262. In that event, the local agency, as the administering agency, shall conduct the oversight of the remedial action in accordance with Chapter 6.65 (commencing with Section 25260) and all provisions of that chapter shall apply to the remedial action.

(2) The local agency may be so designated if cleanup guidelines were requested from a California regional water quality control board, and the site is an underground storage tank site subject to Chapter 6.7 (commencing with Section 25280) of Division 20, the local agency has been certified as a certified unified program agency pursuant to Section 25404.1, the State Water Resources Control Board has entered into an agreement with the local agency for oversight of those sites pursuant to Section 25297.1, the local agency determines that the site is within the guidelines and protocols established in, and pursuant to, that agreement, and the local agency consents to the designation.

(3) A local agency may not consent to the designation by an agency unless the local agency determines that it has adequate staff resources and the requisite technical expertise and capabilities available to adequately supervise the remedial action.

(4) (A) Where a local agency has been designated pursuant to paragraph (2), the department or a California regional water quality control board may require that a local agency withdraw from the designation, after providing the agency with adequate notice, if both of the following conditions are met:

(i) The department or a California regional water quality control board determines that an agency's designation of a local agency was not consistent with paragraph (2), or makes one of the findings specified in subdivision (d) of Section 101480.

(ii) The department or a California regional water quality control board determines that it has adequate staff resources and capabilities available to adequately supervise the remedial action, and assumes that responsibility.

(B) Nothing in this paragraph prevents a California regional water quality control board from taking any action pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(5) Where a local agency has been designated pursuant to paragraph (2), the local agency may, after providing the agency with adequate notice, withdraw from its designation after making one of the findings specified in subdivision (d) of Section 101480.

(e) To facilitate redevelopment planning, the agency may require the owner or operator of any site within a project area to provide the agency with all existing environmental information pertaining to the site, including the results of any Phase I or subsequent environmental assessment, as defined in Section 25200.14, any assessment conducted pursuant to an order from, or agreement with, any federal, state or local agency, and any other environmental assessment information, except that which is determined to be privileged. The person requested to furnish the information shall be required only to furnish that information as may be within their possession or control, including actual knowledge of information within the possession or control of any other party. If environmental assessment information is not available, the agency may require the owner of the property to conduct an assessment in accordance with standard real estate practices for conducting phase I or phase II environmental assessments.

**33459.3. Immunity from liability**

(a) Notwithstanding any other provision of law, except as provided in Section 33459.7, an agency that undertakes and completes an action, or causes another person to undertake and complete an action, pursuant to Section 33459.1, as specified in subdivision (c), to remedy or remove a hazardous substance release on, under, or from property within a redevelopment project, in accordance with a cleanup or remedial action plan prepared by a qualified independent contractor and approved by the department or a California regional water quality control board or the local agency, as appropriate, pursuant to subdivision (b), is not liable, with respect to that release only, under Division 7 (commencing with Section 13000) of the Water Code or Chapter 6.5 (commencing with Section 25100), Chapter 6.7 (commencing with Section 25280), Chapter 6.75 (commencing with Section 25299.10), or Chapter 6.8 (commencing with Section 25300), of Division 20 of this code, or any other state or local law providing liability for remedial or removal actions for releases of hazardous substances. If the remedial action was also performed pursuant to Chapter 6.65 (commencing with Section 25260) of Division 20, and a certificate of completion is issued pursuant to subdivision (b) of Section 25264, the immunity from agency action provided by the certificate of completion, as specified in subdivision (c) of Section 25264, shall apply to the agency, in addition to the

immunity conferred by this section. In the case of a remedial action performed pursuant to Chapter 6.65 (commencing with Section 25260) of Division 20, and for which the administering agency is a local agency, the limitations on the certificate of completion set forth in paragraphs (1) to (6), inclusive, of subdivision (c) of Section 25264 are limits on any immunity provided for by this section and subdivision (c) of Section 25264.

(b) Upon approval of any cleanup or remedial action plan, pursuant to applicable statutes and regulations, the director or the California regional water quality control board or the local agency, as appropriate, shall acknowledge, in writing, within 60 days of the date of approval, that upon proper completion of the remedial or removal action in accordance with the plan, the immunity provided by this section shall apply to the agency.

(c) Notwithstanding any provision of law or policy providing for certification by a person conducting a remedial or removal action that the action has been properly completed, a determination that a remedial or removal action has been properly completed pursuant to this section shall be made only upon the affirmative approval of the director or the California regional water quality control board or the local agency, as appropriate. The department, California regional water quality control board, or local agency, as appropriate, shall, within 60 days of the date it finds that a remedial action has been completed, notify the agency in writing that the immunity provided by this section is in effect.

(d) The approval of a cleanup or remedial action plan under this section by a local agency shall also be subject to the concurrent approval of the department or a California regional water quality control board when the agency receiving the approval was formed by the same entity of which the local agency is a part.

(e) Upon proper completion of a remedial or removal action, as specified in subdivision (c), the immunity from agency action provided by the certificate of completion provided pursuant to subdivision (c) of Section 25264 and the immunity provided by this section extends to all of the following, but only for the release or releases specifically identified in the approved cleanup or remedial action plan and not for any subsequent release or any release not specifically identified in the approved cleanup or remedial action plan:

(1) Any employee or agent of the agency, including an instrumentality of the agency authorized to exercise some, or all, of the powers of an agency within, or for the benefit of, a redevelopment project and any employee or agent of the instrumentality.

(2) Any person who enters into an agreement with an agency for the redevelopment of property, if the agreement requires the person to acquire property affected by a hazardous substance release or to remove or remedy a hazardous substance release with respect to that property.

(3) Any person who acquires the property after a person has entered into an agreement with an agency for redevelopment of the property as described in paragraph (2).

(4) Any person who provided financing to a person specified in paragraph (2) or (3).

(f) Notwithstanding any other provision of law, the immunity provided by this section does not extend to any of the following:

(1) Any person who was a responsible party for the release before entering into an agreement, acquiring property, or providing financing, as specified in subdivision (e).

(2) Any person specified in subdivision (a) or (e) for any subsequent release of a hazardous substance or any release of a hazardous substance not specifically identified in the approved cleanup or remedial action plan.

(3) Any contractor who prepares the cleanup or remedial action plan, or conducts the removal or remedial action.

(4) Any person who obtains an approval, as specified in subdivision (b), or a determination, as specified in subdivision (c), by fraud, negligent or intentional nondisclosure, or misrepresentation, and any person who knows before the approval or determination is obtained or before the person enters into an agreement, acquires the property or provides financing, as specified in subdivision (e), that the approval or determination was obtained by these means.

(g) The immunity provided by this section is in addition to any other immunity of an agency provided by law.

(h) This section does not impair any cause of action by an agency or any other party against the person, firm, or entity responsible for the hazardous substance release which is the subject of the removal or remedial action taken by the agency or other person immune from liability pursuant to this section.

(i) This section does not apply to, or limit, alter, or restrict, any action for personal injury, property damage, or wrongful death.

(j) This section does not limit liability of a person described in paragraph (3) or (4) of subdivision (e) for damages under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.).

(k) This section does not establish, limit, or affect the liability of an agency for any release of a hazardous substance that is not investigated or remediated pursuant to this section or Chapter 6.65 (commencing with Section 25260) of Division 20.

(l) The immunity provided for by this section is only conferred if both of the following apply:

(1) The action is in accordance with a cleanup or remedial action plan prepared by a qualified independent contractor and approved by the department or a California regional water quality control board or the local agency, as appropriate, pursuant to subdivision (b).

(2) The remedial or removal action is undertaken and properly completed, as specified in subdivision (c).

(m) The agency shall reimburse the department, the California regional water quality control board, and the local agency for costs incurred in reviewing or approving cleanup or remedial action plans pursuant to this section.

**33459.4. Costs of remedy or removal of release**

(a) Except as provided in Section 33459.7, if a redevelopment agency undertakes action to remedy or remove, or to require others to remedy or remove, including compelling a responsible party through a civil action, to remedy or remove a release of hazardous substance, any responsible party or parties shall be liable to the redevelopment agency for the costs incurred in the action. An agency may not recover the costs of goods and services that were not procured in accordance with applicable procurement procedures. The amount of the costs shall include the interest on the costs accrued from the date of

expenditure and reasonable attorney's fees and shall be recoverable in a civil action. Interest shall be calculated based on the average annual rate of return on an agency's investment of surplus funds for the fiscal year in which costs were incurred.

(b) The only defenses available to a responsible party shall be the defenses specified in subdivision (b) of Section 25323.5.

(c) An agency may recover any costs incurred to develop and to implement a cleanup or remedial action plan approved pursuant to Sections 33459.1 and 33459.3, to the same extent the department is authorized to recover those costs. The scope and standard of liability for cost recovery pursuant to this section shall be the scope and standard of liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9601 et seq.) as that act would apply to the department; provided, however, that any reference to hazardous substance therein shall be deemed to refer to hazardous substance as defined in subdivision (c) of Section 33459.

(d) An action for recovery of costs of a remedy or removal undertaken by a redevelopment agency under this section shall be commenced within three years after completion of the remedy or removal.

(e) The action to recover costs provided by this section is in addition to, and is not to be construed as restricting, any other cause of action available to a redevelopment agency.

(f) Except as provided in subdivision (m) of Section 33459.3, notwithstanding any other provision of state law or policy, an agency that undertakes and completes a remedial action, or otherwise causes a remedial action to be undertaken and completed pursuant to Sections 33459.1 and 33459.3, shall not be liable based on its ownership of property after a release occurred, for any costs that any responsible party for that release incurs to investigate or remediate the release or to compensate others for the effects of that release.

### 33459.5. Enforcement of Water Code

Except as provided in Section 33459.3, nothing in this article shall limit the powers of the State Water Resources Control Board or a California regional water quality control board to enforce Division 7 (commencing with Section 13000) of the Water Code.

### 33459.8. Redevelopment plan amendments for remedial or removal actions

If an agency undertakes any action to remedy or remove a release of hazardous substances on, under, or from property within a project area, the agency shall amend its redevelopment plan and follow the same procedure, as specified, and the legislative body is subject to the same restrictions as provided for in Article 4 (commencing with Section 33330), for the adoption of a redevelopment plan, if the agency determines that as a result of the remedial or removal action, it will also be taking any of the following actions:

(a) Proposing to add new territory to the project area.

(b) Increasing either the limitation on the amount of funds to be allocated to the agency or the time limit on the establishing of loans, advances, and indebtedness established pursuant to subdivisions (1) and (2) of Section 33333.2.

(c) Lengthening the period during which the redevelopment plan is effective.

(d) Merging project areas.

(e) Adding significant additional capital improvement projects.

## Article 14. Merger of Redevelopment Project Areas in the City of San Bernardino

### 33470. Amendment of redevelopment plans; continuation of each project under its own plan

For the purpose of allocating taxes pursuant to Section 33670 and subject to the provisions of this article, redevelopment project areas under the jurisdiction of the redevelopment agency of the City of San Bernardino, for which redevelopment plans have been adopted pursuant to Article 5 (commencing with Section 33360) of this chapter, may be merged, irrespective of contiguity, by the amendment of each affected redevelopment plan as provided in Article 12 (commencing with Section 33450) of this chapter. Upon merger, the provisions of subdivisions (a) and (c) of Section 33413 shall apply to the project areas merged pursuant to this article and the redevelopment agency shall use all reasonable efforts and all available subsidies to implement the provisions of subdivision (b) of Section 33413. Each constituent project area so merged, including, without limitation, those previously merged pursuant to this section, shall continue under its own redevelopment plan, but, except as otherwise provided in this article, taxes attributable to each project area merged pursuant to this section which are allocated to the redevelopment agency pursuant to Section 33670 shall be allocated, as provided in subdivision (b) of such section, to the entire merged project area for the purpose of paying the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the redevelopment agency to finance or refinance, in whole or in part, such merged redevelopment project.

### 33471. Prior indebtedness of constituent project areas

If the redevelopment agency has, prior to merger of redevelopment project areas pursuant to Section 33470, incurred any indebtedness on account of a constituent project area so merged, taxes attributable to such area which are allocated to the agency pursuant to subdivision (b) of Section 33670 shall be first used to comply with the terms of any bond resolution or other agreement pledging such taxes from such constituent project area until a refunding has occurred which satisfies the terms of such resolution or agreement.

### 33471.5. Low and moderate income housing

After the refunding has occurred as provided in Section 33471, not less than 20 percent of all taxes which are allocated to the redevelopment agency pursuant to subdivision (b) of Section 33670 for redevelopment projects merged pursuant to this article shall be used by the agency for the purposes set forth in Section 33334.2, provided that such taxes shall first be used for the payment of principal, interest, and premium, if any, under the bond resolution or resolutions providing for the issuance of the refunding bonds and providing necessary reserves for such refunding bonds, but only to the extent that such refunding is necessary to refinance existing bonded obligations.

### 33472. Notice of public hearing by agency and legislative body

The redevelopment plan for a project area which is merged pursuant to Section 33470 shall be amended in the same manner as other redevelopment plans are amended. Notice of the public hearing shall be mailed to the last known assessee of each parcel of land not owned by the agency within the boundaries of the project area described in the redevelopment plan being amended. Notice of the public hearing need not be mailed to assessees of parcels of land within the boundaries of other project areas combined into a merged project area pursuant to Section 33470, except that notice of the public hearing shall be given to the project area committee for each project area which is part of the merged project area.

**33473. Extension of duration of redevelopment plans**

In the proceedings for the merger of a redevelopment project, pursuant to this article, the legislative body may provide for the extension of any termination date in the redevelopment plan for any particular project area to such date as will enable a refunding to be accomplished by the issuance of bonds for the merged project area which will extend debt service for the purpose of attempting to prevent default. The termination date may also be extended for the purpose of financing projects under Section 33334.2 or 33471.5 or for any other purposes permitted by law.

**33475. Applicable only to City of San Bernardino; legislative findings and declarations**

This article is, unless otherwise provided, applicable only to redevelopment projects of the redevelopment agency of the City of San Bernardino for which a final redevelopment plan was adopted by ordinance on or before January 1, 1978.

The Legislature finds and declares that conditions unique to the financing of redevelopment in the City of San Bernardino require the granting of authority to merge project areas in the manner provided in this article.

**33476. Merger of project areas**

Notwithstanding any other provision of this article, except Section 33471.5, for the purpose of allocating taxes pursuant to Section 33670 that are subject to this article, redevelopment project areas under the jurisdiction of the redevelopment agency of the City of San Bernardino designated Meadowbrook/Central City, Central City East, and Central City South, are hereby merged into one contiguous project areas designated Central City. Each constituent project area so merged shall continue under its own redevelopment plan for the longest term of the three plans, but, except as otherwise provided in this article, taxes attributable to each project area merged pursuant to this section that are allocated to the redevelopment agency pursuant to Section 33670 shall be allocated, as provided in subdivision (b) of that section, to the entire merged project area for the purpose of paying the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, incurred by the redevelopment agency to finance or refinance, in whole or in part, the merged redevelopment project.

**33476.3. Prior indebtedness of constituent project areas**

If the redevelopment agency has, prior to merger of redevelopment project areas pursuant to Section 33476, incurred any indebtedness on account of a constituent project area so merged, taxes attributable to such area which are allocated to the agency pursuant to subdivision (b) of Section 33670 shall be first used to comply with the terms of any bond resolution or other agreement pledging such taxes from such constituent project area until a refunding has occurred which satisfies the terms of such resolution or agreement.

**33476.5. Legislative findings and declarations**

The Legislature finds and declares that the merger of the project areas specified in Section 33476 in the City of San Bernardino is necessary to prevent a default on the outstanding bonds of the Meadowbrook/Central City Project due to the drastic reduction in property taxes caused by the adoption of Article XIIIA to the Constitution. This project area is already substantially redeveloped, making it unlikely that further redevelopment can be used to increase the tax base. The Redevelopment Agency of the City of San Bernardino has already had to call on the state for support of its bonded debt. This is an undesirable burden on the state which can be avoided by merging the two contiguous project areas into the combined Central City Project so that the tax increment from the buildout in Central City East and Central City South Project areas, when added to the tax increment of the Meadowbrook/Central City Project Area, resulting

from combining the project areas, can serve the debt of all three projects, or the debt as refunded, thus preventing an undesirable default, or, in lieu thereof, further draws on the funds of the state.

## Article 14.5. Merger of Redevelopment Project Areas in the Cities of Richmond and Pittsburg

### 33478. Amendment of redevelopment plans; prior indebtedness of constituent project areas; fiscal review

(a) For the purpose of allocating taxes pursuant to Section 33670 and subject to the provisions of this article, redevelopment project areas under the jurisdiction of the redevelopment agency of the City of Richmond or the City of Pittsburg for which redevelopment plans have been adopted pursuant to Article 5 (commencing with Section 33360), may be merged, without regard to contiguity of such areas, by the amendment of each affected redevelopment plan as provided in Article 12 (commencing with Section 33450). Except as provided in subdivision (b), taxes attributable to each project area merged pursuant to this section which are allocated to the redevelopment agency pursuant to Section 33670 may be allocated, as provided in subdivision (b), to the entire merged project area for the purpose of paying the principal of, and interest on, indebtedness incurred by the redevelopment agency to finance or refinance, in whole or in part, such merged redevelopment project.

(b) If the redevelopment agency has, prior to merger of redevelopment project areas pursuant to subdivision (a), incurred any indebtedness on account of a constituent project area so merged, taxes attributable to that area which are allocated to the agency pursuant to Section 33670 shall be first used to comply with the terms of any bond resolution or other agreement pledging such taxes from the constituent project area.

(c) In connection with any amendment which proposes merger of redevelopment project areas pursuant to subdivision (a), the county or any affected taxing entity may call for the creation of a fiscal review committee as provided for in Article 4 (commencing with Section 33330).

(d) After merger of redevelopment projects pursuant to subdivision (a), the clerk of the legislative body shall transmit a copy of the ordinance amending the plans for projects to be merged to the governing body of each of the taxing agencies which levies taxes upon any property in the project.

### 33478.1. Low and moderate income housing

(a) Subject to the provisions of subdivisions (a) and (b) of Section 33478, not less than 20 percent of all taxes which are allocated to the redevelopment agency pursuant to Section 33670 for redevelopment projects merged pursuant to this article, irrespective of the date of adoption of the final redevelopment plans shall be deposited by the agency in the Low and Moderate Income Housing Fund established pursuant to Section 33334.3, or which shall be established for purposes of this section, except if the agency finds that not less than 4 percent of the housing units within its jurisdiction receive subsidies to make such units affordable to low- or moderate-income households. The agency shall use the moneys in such fund to assist in the construction or rehabilitation of housing units which will be available to, or occupied by, persons and families of low or moderate income, as defined in Section 50093, and very low income households, as defined in Section 50105, for a period of not less than 30 years. For the purposes of this subdivision, "construction and rehabilitation" shall include acquisition of land, improvements to land; the acquisition, rehabilitation, or construction of structures; or the provision of subsidies necessary to provide housing for persons and families of low or moderate income, as defined in Section 50093, and very low income households, as defined in Section 50105.

(b) The agency may use the funds set aside by subdivision (a) inside or outside the project area. However, the agency may only use these funds outside the project area upon a resolution of the agency and the legislative body that such use will be of benefit to the project. Such 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 of benefit to a project.

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

(c) If moneys deposited in the Low and Moderate Income Housing Fund pursuant to this section have not been committed for the purposes specified in subdivisions (a) and (b) for a period of six years following deposit in that fund, the agency shall offer such moneys to the housing authority which operates within the jurisdiction of the agency, if activated pursuant to Section 34240, for the purpose of constructing or rehabilitating housing as provided in subdivisions (a) and (b).

(d) Notwithstanding subdivision (d) of Section 33413, any agency which merges its redevelopment project areas pursuant to this article shall be subject to the provisions of subdivisions (a) and (c) of Section 33413.

### 33478.2. Notice to Department of Housing and Community Development of intention to merge

Prior to merging project areas pursuant to Section 33478, the redevelopment agency shall notify the department of its intention to merge its project areas, which shall occur no later than 30 days prior to adoption of the ordinance which provides for merger.

### 33478.3. Applicable only to cities of Richmond and Pittsburg; legislative findings and declarations

This article shall be applicable to only those redevelopment projects of the City of Richmond for which a final redevelopment plan was adopted by ordinance on or before July 1, 1975, and amendments thereto adopted on or before June 1, 1980. This article shall be applicable to only those redevelopment projects of the City of Pittsburg for which a final redevelopment plan was adopted by ordinance on or before June 1, 1980, and amendments thereto adopted on or before June 1, 1980. The Legislature finds and declares that conditions unique to the financing of redevelopment in the City of Richmond and the City of Pittsburg require the granting of authority to merge project areas.

## Article 15. Merger of Redevelopment Project Areas in the Cities of Chula Vista, San Jose, and Santa Fe Springs

### 33480. Amendment of redevelopment plans; continuation of each project under its own plan

For the purpose of allocating taxes pursuant to Section 33670 and subject to the provisions of this article, redevelopment project areas under the jurisdiction of the redevelopment agency of the Cities of Chula Vista, San Jose, and Santa Fe Springs, for which redevelopment plans have been adopted pursuant to Article 5 (commencing with Section 33360) of this chapter, may be merged, irrespective of contiguity, by the amendment of each affected redevelopment plan as provided in Article 12 (commencing with Section 33450) of this chapter. Each constituent project area so merged shall continue under its own redevelopment plan, but, except as otherwise provided in this article, taxes attributable to each project area merged pursuant to this section which are allocated to the redevelopment agency pursuant to Section 33670 may be allocated, as provided in subdivision (b) of such section, to the entire merged project area for the purpose of paying the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the redevelopment agency to finance or refinance, in whole or in part, such merged redevelopment project.

**33481. Prior indebtedness of constituent project areas**

If the redevelopment agency has, prior to merger of redevelopment project areas pursuant to Section 33480, incurred any indebtedness on account of a constituent project area so merged, taxes attributable to that area which are allocated to the agency pursuant to Section 33670 shall be first used to comply with the terms of any bond resolution or other agreement pledging such taxes from the constituent project area.

**33482. Notice of public hearing by agency and legislative body**

The redevelopment plan for a project area which is merged pursuant to Section 33480 shall be amended in the same manner as other redevelopment plans are amended. Notice of the public hearing shall be mailed to the last known assessee of each parcel of land not owned by the agency within the boundaries of the project area described in the redevelopment plan being amended. Notice of the public hearing need not be mailed to assessees of parcels of land within the boundaries of other project areas combined into a merged project area pursuant to Section 33480, except that notice of the public hearing shall be given to the project area committee for each project area which is part of the merged project area.

**33483. Low and moderate income housing**

Not less than 20 percent of all taxes which are allocated to the redevelopment agency pursuant to Section 33670 for redevelopment projects merged pursuant to this article, irrespective of the date of adoption of the final redevelopment plans, shall be used for the purposes set forth in Section 33334.2.

**33484. Applicable only to cities of Chula Vista, San Jose and Santa Fe Springs; legislative findings and declarations**

This article shall be applicable only to redevelopment projects of the redevelopment agency of the Cities of Chula Vista, San Jose, and Santa Fe Springs for which a final redevelopment plan was adopted by ordinance on or before January 1, 1979.

The Legislature finds and declares that conditions unique to the financing of redevelopment in the Cities of Chula Vista, San Jose, and Santa Fe Springs require the granting of authority to merge project areas.

## Article 16. Merger of Project Areas

**33485. Legislative findings and declarations**

The Legislature finds and declares that the provisions of this part, which require that taxes allocated pursuant to Section 16 of Article XVI of the California Constitution and Section 33670 be applied to the project area in which those taxes are generated, are designed to assure (1) that project areas are terminated when the redevelopment of those areas has been completed and (2) that the increased revenues that result from redevelopment accrue to the benefit of affected taxing jurisdictions at the completion of redevelopment activities in a project area. Mergers of project areas are desirable as a matter of public policy if they result in substantial benefit to the public and if they contribute to the revitalization of blighted areas through the increased economic vitality of those areas and through increased and improved housing opportunities in or near such areas. The Legislature further finds and declares that it is necessary to enact a statute that sets out uniform statewide standards for merger of project areas to assure that those mergers serve a vital public purpose.

**33486. Amendment of redevelopment plans; prior indebtedness of constituent project areas**

(a) For the purpose of allocating taxes pursuant to Section 33670 and subject to the provisions of this article, redevelopment project areas under the jurisdiction of a redevelopment agency for which redevelopment plans have been adopted pursuant to Article 5 (commencing with Section 33360), may be merged, without regard to contiguity of the areas, by the amendment of each affected redevelopment plan as provided in Article 12 (commencing with Section 33450). Before adopting the ordinance amending each affected redevelopment plan, the legislative body shall find, based on substantial evidence, that both of the following conditions exist:

(1) Significant blight remains within one of the project areas.

(2) This blight cannot be eliminated without merging the project areas and the receipt of property taxes.

(b) (1) Except as provided in paragraph (2), taxes attributable to each project area merged pursuant to this section that are allocated to the redevelopment agency pursuant to Section 33670 may be allocated to the entire merged project area for the purpose of paying the principal of, and interest on, indebtedness incurred by the redevelopment agency to finance or refinance, in whole or in part, the merged redevelopment project.

(2) If the redevelopment agency has, prior to merger of redevelopment project areas, incurred any indebtedness on account of a constituent project area so merged, taxes attributable to that area that are allocated to the agency pursuant to Section 33670 shall be first used to comply with the terms of any bond resolution or other agreement pledging the taxes from the constituent project area.

(c) After the merger of redevelopment projects pursuant to subdivision (a), the clerk of the legislative body shall transmit a copy of the ordinance amending the plans for projects to be merged to the governing body of each of the taxing agencies that receives property taxes from or levies property taxes upon any property in the project.

**33487. Low and moderate income housing**

(a) Subject to subdivisions (a) and (b) of Section 33486, not less than 20 percent of all taxes that are allocated to the redevelopment agency pursuant to Section 33670 for redevelopment projects merged pursuant to this article, irrespective of the date of adoption of the final redevelopment plans, shall be deposited by the agency in the Low and Moderate Income Housing Fund established pursuant to Section 33334.3, or which shall be established for purposes of this section. The agency shall use the moneys in this fund to assist in the construction or rehabilitation of housing units that will be available to, or occupied by, persons and families of low or moderate income, as defined in Section 50093, and very low income households, as defined in Section 50105, for the longest feasible time period but not less than 55 years for rental units and 45 years for owner-occupied units. For the purposes of this subdivision, "construction and rehabilitation" shall include acquisition of land, improvements to land; the acquisition, rehabilitation, or construction of structures; or the provision of subsidies necessary to provide housing for persons and families of low or moderate income, as defined in Section 50093, and very low income households, as defined in Section 50105.

(b) The agency may use the funds set aside by subdivision (a) inside or outside the project area. However, 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. This 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 of benefit to a project.

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

(c) If moneys deposited in the Low and Moderate Income Housing Fund pursuant to this section have not been committed for the purposes specified in subdivisions (a) and (b) for a period of six years following deposit in that fund, the agency shall offer these moneys to the housing authority that operates within the jurisdiction of the agency, if activated pursuant to Section 34240, for the purpose of constructing or rehabilitating housing as provided in subdivisions (a) and (b). However, if no housing authority operates within the jurisdiction of the agency, the agency may retain these moneys for use pursuant to this section.

(d) If the agency deposits less than 20 percent of taxes allocated pursuant to Section 33670, due to the provisions of subdivisions (a) and (b) of Section 33486, in any fiscal year, a deficit shall be created in the Low- and Moderate Income Housing Fund in an amount equal to the difference between 20 percent of the taxes allocated pursuant to Section 33670 and the amount deposited in that year. The deficit, if any, created pursuant to this section constitutes an indebtedness of the project. The agency shall eliminate the deficit by expending taxes allocated in years subsequent to creation of the deficit, and until the time when that deficit has been eliminated, an agency shall not incur new obligations for purposes other than those set forth in Section 33487, except to comply with the terms of any resolution or other agreement pledging taxes allocated pursuant to Section 33670 that existed on the date of merger pursuant to this article.

(e) Notwithstanding subdivision (d) of Section 33413, any agency that merges its redevelopment project areas pursuant to this article shall be subject to subdivisions (a) and (c) of Section 33413.

### 33488. Notice to Department of Housing and Community Development of intention to merge

Prior to merging project areas pursuant to Section 33486, a redevelopment agency shall notify the department of its intention to merge its project areas, which shall occur no later than 30 days prior to adoption of the ordinance which provides for merger.

### 33489. Application of article

(a) Except as provided in subdivision (b), this article shall be exclusive authority for merger of redevelopment project areas on and after January 1, 1981. However, project areas merged prior to January 1, 1981, pursuant to other provisions of this chapter shall continue to be governed by such provisions.

(b) If Assembly Bill No. 3300 of the 1979-80 Regular Session is chaptered and becomes effective and adds Article 14.5 (commencing with Section 33478) to this chapter relating to the merger of project areas within the City of Richmond, any such project merger within the City of Richmond may be conducted either under this article or alternatively pursuant to the provisions of Article 14.5 (commencing with Section 33478).

## Article 16.5. Adoption of Implementation Plans

**33490. Adoption of implementation plans every 5 years**

(a) (1) (A) On or before December 31, 1994, and each five years thereafter, each agency that has adopted a redevelopment plan prior to December 31, 1993, shall adopt, after a public hearing, an implementation plan that shall contain the specific goals and objectives of the agency for the project area, the specific programs, including potential projects, and estimated expenditures proposed to be made during the next five years, and an explanation of how the goals and objectives, programs, and expenditures will eliminate blight within the project area and implement the requirements of Section 33333.10, if applicable and Sections 33334.2, 33334.4, 33334.6, and 33413. After adoption of the first implementation plan, the parts of the implementation plan that address Section 33333.10, if applicable, and Sections 33334.2, 33334.4, 33334.6, and 33413 shall be adopted every five years either in conjunction with the housing element cycle or the implementation plan cycle. The agency may amend the implementation plan after conducting a public hearing on the proposed amendment. If an action attacking the adoption, approval, or validity of a redevelopment plan adopted prior to January 1, 1994, has been brought pursuant to Chapter 5 (commencing with Section 33500), the first implementation plan required pursuant to this section shall be adopted within six months after a final judgment or order has been entered. Subsequent implementation plans required pursuant to this section shall be adopted pursuant to the terms of this section, and as if the first implementation plan had been adopted on or before December 31, 1994.

(B) Adoption of an implementation plan shall not constitute an approval of any specific program, project, or expenditure and shall not change the need to obtain any required approval of a specific program, project, or expenditure from the agency or community. The adoption of an implementation plan shall not constitute a project within the meaning of Section 21000 of the Public Resources Code. However, the inclusion of a specific program, potential project, or expenditure in an implementation plan prepared pursuant to subdivision (c) of Section 33352 in conjunction with a redevelopment plan adoption shall not eliminate analysis of those programs, potential projects, and expenditures in the environmental impact report prepared pursuant to subdivision (k) of Section 33352 to the extent that it would be otherwise required. In addition, the inclusion of programs, potential projects, and expenditures in an implementation plan shall not eliminate review pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), at the time of the approval of the program, project, or expenditure, to the extent that it would be otherwise required.

(2) (A) A portion of the implementation plan shall address the agency housing responsibilities and shall contain a section addressing Section 33333.10, if applicable, and Sections 33334.2, 33334.4, and 33334.6, the Low and Moderate Income Housing Fund, and, if subdivision (b) of Section 33413 applies, a section addressing agency developed and project area housing. The section addressing the Low and Moderate Income Housing Fund shall contain:

(i) The amount available in the Low and Moderate Income Housing Fund and the estimated amounts which will be deposited in the Low and Moderate Income Housing Fund during each of the next five years.

(ii) A housing program with estimates of the number of new, rehabilitated, or price restricted units to be assisted during each of the five years and estimates of the expenditures of moneys from the Low and Moderate Income Housing Fund during each of the five years.

(iii) A description of how the housing program will implement the requirement for expenditures of moneys in the Low and Moderate Income Housing Fund over a 10-year period for various groups as required by Section 33334.4. For project areas to which subdivision (b) of Section 33413 applies, the 10-year period within which Section 33334.4 is required to be implemented shall be the same 10-year period within which subdivision (b) of Section 33413 is required to be implemented. Notwithstanding the first sentence of Section 33334.4 and the first sentence of this clause, in order to allow these two 10-year time periods to coincide for the first time period, the time to implement the requirements of Section 33334.4 shall be extended two years, and project areas in existence on December 31, 1993, shall implement the requirements of Section 33334.4 on or before December 31, 2014, and each 10 years thereafter rather than December 31, 2012. For project areas to which subdivision (b) of Section 33413 does not apply, the requirements of Section 33334.4 shall be implemented on or before December 31, 2014, and each 10 years thereafter.

(iv) This requirement to include a description of how the housing program will implement Section 33334.4 in the implementation plan shall apply to implementation plans adopted pursuant to subdivision (a) on or after December 31, 2002.

(B) For each project area to which subdivision (b) of Section 33413 applies, the section addressing the agency developed and project area housing shall contain:

(i) Estimates of the number of new, substantially rehabilitated or price restricted residential units to be developed or purchased within one or more project areas, both over the life of the plan and during the next 10 years.

(ii) Estimates of the number of units of very low, low-, and moderate-income households required to be developed within one or more project areas in order to meet the requirements of paragraph (2) of subdivision (b) of Section 33413, both over the life of the plan and during the next 10 years.

(iii) The number of units of very low, low-, and moderate-income households which have been developed within one or more project areas which meet the requirements of paragraph (2) of subdivision (b) of Section 33413.

(iv) Estimates of the number of agency developed residential units which will be developed during the next five years, if any, which will be governed by paragraph (1) of subdivision (b) of Section 33413.

(v) Estimates of the number of agency developed units for very low, low-, and moderate-income households which will be developed by the agency during the next five years to meet the requirements of paragraph (1) of subdivision (b) of Section 33413.

(C) The section addressing Section 33333.10, if applicable, and Section 33334.4 shall contain all of the following:

(i) The number of housing units needed for very low income persons, low-income persons, and moderate-income persons as each of those needs have been identified in the most recent determination pursuant to Section 65584 of the Government Code, and the proposed amount of expenditures from the Low and Moderate Income Housing Fund for each income group during each year of the implementation plan period.

(ii) The total population of the community and the population under 65 years of age as reported in the most recent census of the United States Census Bureau.

(iii) A housing program that provides a detailed schedule of actions the agency is undertaking or intends to undertake to ensure expenditure of the Low and Moderate Income Housing Fund in the proportions required by Section 33333.10, if applicable, and Section 33334.4.

(iv) For the previous implementation plan period, the amounts of Low and Moderate Income Housing Fund moneys utilized to assist units affordable to, and occupied by, extremely low income households, very low income households, and low-income households; the number, the location, and level of affordability of units newly constructed with other locally controlled government assistance and without agency assistance and that are required to be affordable to, and occupied by, persons of low, very low, or extremely low income for at least 55 years for rental housing or 45 years for homeownership housing, and the amount of Low and Moderate Income Housing Fund moneys utilized to assist housing units available to families with children, and the number, location, and level of affordability of those units.

(3) If the implementation plan contains a project that will result in the destruction or removal of dwelling units that will have to be replaced pursuant to subdivision (a) of Section 33413, the implementation plan shall identify proposed locations suitable for those replacement dwelling units.

(4) For a project area that is within six years of the time limit on the effectiveness of the redevelopment plan established pursuant to Section 33333.2, 33333.6, 33333.7, or 33333.10, the portion of the implementation plan addressing the housing responsibilities shall specifically address the ability of the agency to comply, prior to the time limit on the effectiveness of the redevelopment plan,

with subdivision (a) of Section 33333.8, subdivision (a) of Section 33413 with respect to replacement dwelling units, subdivision (b) of Section 33413 with respect to project area housing, and the disposition of the remaining moneys in the Low and Moderate Income Housing Fund.

(5) The implementation plan shall identify the fiscal year that the agency expects each of the following time limits to expire:

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

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

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

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

(b) For a project area for which a redevelopment plan is adopted on or after January 1, 1994, the implementation plan prepared pursuant to subdivision (c) of Section 33352 shall constitute the initial implementation plan and thereafter the agency after a public hearing shall adopt an implementation plan every five years commencing with the fifth year after the plan has been adopted. Agencies may adopt implementation plans that include more than one project area.

(c) Every agency, at least once within the five-year term of the plan, shall conduct a public hearing and hear testimony of all interested parties for the purpose of reviewing the redevelopment plan and the corresponding implementation plan for each redevelopment project within the jurisdiction and evaluating the progress of the redevelopment project. The hearing required by this subdivision shall take place no earlier than two years and no later than three years after the adoption of the implementation plan. For a project area that is within three years of the time limit on the effectiveness of the redevelopment plan established pursuant to Section 33333.2, 33333.6, 33333.7, or 33333.10, the review shall specifically address those items in paragraph (4) of subdivision (a). An agency may hold one hearing for two or more project areas if those project areas are included within the same implementation plan.

(d) Notice of public hearings conducted pursuant to this section shall be published pursuant to Section 6063 of the Government Code, mailed at least three weeks in advance to all persons and agencies that have requested notice, and posted in at least four permanent places within the project area for a period of three weeks. Publication, mailing, and posting shall be completed not less than 10 days prior to the date set for hearing.

# CHAPTER 4.5. MILITARY BASE CONVERSION REDEVELOPMENT AGENCIES

## Article 1. General Provisions

### 33492. Legislative intent

With enactment of this chapter, it is the intent of the Legislature to do both of the following:

(a) Provide a means of mitigating the economic and social degradation that is faced by communities the jurisdictions of which include military bases that have been ordered to be closed or realigned by the federal Base Closure Commission.

(b) Enable redevelopment agencies to place in a project area portions of a military base that were previously developed, but that cannot be utilized in their present condition because of, in whole or in part, substandard infrastructure and buildings that do not meet state building standards. It is not the intent of the Legislature to encourage redevelopment agencies to include large areas of undeveloped land within project areas.

### 33492.1. Legislative intent

The Legislature finds and declares that extraordinary measures must be taken to mitigate the effects of the federal government's efforts to reduce the number of military bases throughout the country.

### 33492.3. Territory of project area

For any project area formed pursuant to this chapter, the project area may include all, or any portion of, property within a military base that the federal Base Closure Commission has voted to close or realign when that action has been sustained by the President and Congress of the United States, regardless of the percentage of urbanized land, as defined in Section 33320.1, within the military base. The project area may include territory outside the military base; however, all territory outside the military base included therein shall be characterized as predominantly urbanized, as that term is defined in subdivision (b) of Section 33320.1. The procedures authorized by this chapter may be used for the redevelopment of any closed or realigned military base, but shall not constitute the exclusive method by which redevelopment may occur on these bases.

### 33492.4. Applicability of other provisions

Chapter 4 (commencing with Section 33300) shall be applicable to any project area formed pursuant to this chapter, except to the extent that Chapter 4 is inconsistent with this chapter.

### 33492.5. Adoption of project area by city, county, city and county, or joint powers redevelopment agency

(a) In any community in which a military base is located, the Base Closure Commission has voted to close that military base, and the action of the Base Closure Commission has been sustained by the President and Congress of the United States, a project area may be adopted pursuant to the following requirements:

(1) If the project area is located entirely within the boundaries of a city, or city and county, then the redevelopment agency of the city, or city and county, may adopt the redevelopment project area pursuant to this part as modified by this chapter.

(2) If the project area is located entirely within the unincorporated area of a single county, then the county redevelopment agency may adopt the redevelopment project area pursuant to this part as modified by this chapter.

(3) If the project area includes property within the jurisdictions of two or more cities, or two or more counties, or a city and a county, or any combination of the foregoing, then all of the cities and counties the jurisdictions of which include property within the boundaries of the military base and any other territory to be included within the redevelopment project area may enter into a joint powers agreement, an agreement entered into pursuant to Section 33210, or other appropriate agreement for the purpose of creating a redevelopment agency and adopting a project area pursuant to this part as modified by this chapter.

(b) A redevelopment agency to which this chapter is applicable may adopt a project area either pursuant to this chapter or pursuant to other relevant provisions of this part.

***Notes***

*The Legislature made certain findings and declarations in connection with the amendment of Section 33492.5 enacted by Chapter 898 of the Statutes of 1997. The Legislative Counsel's digest of those findings and declarations as follows; please see Chapter 898 for specifics.*

*"This bill [establishes] the Treasure Island Conversion Act of 1997, which [authorizes] the City and County of San Francisco by resolution, to designate the Treasure Island Development Authority and any successor entity thereof as the redevelopment agency with all of the rights, powers, privileges, immunities, authorities, and duties granted to a redevelopment agency pursuant to the Community Redevelopment Law for the purpose of acquiring, using, operating, maintaining, converting, and redeveloping Naval Station Treasure Island, as described, and to be considered a redevelopment agency for all purposes under state law.*

*"The bill [grants] the Treasure Island Development Authority the complete power, among other things, to administer and control the trust property, as defined, in conformance with the public trust for commerce, navigation, and fisheries over all affected former and existing tide and submerged lands, subject to specified restrictions and subject to specified duties and responsibilities of the State Lands Commission in connection therewith. The bill additionally [states] the intent of the Legislature that, among other things, its provisions provide a means for mitigating the serious economic effects of the closure of the Naval Station Treasure Island on the City and County of San Francisco, its surrounding communities, and the State of California by vesting a single entity with redevelopment authority over that property and, with respect to that portion of the affected property subject to the public trust for commerce, navigation, and fisheries, the power to administer the trust as specified in its provisions."*

*AB 1496, enacted by Chapter 318 of the Statutes of 2008, added the following:*

*"This bill would authorize the authority to follow a different procedure for the redevelopment of the Naval Station Treasure Island if the authority follows specified procedures, including the addition of residents to the current citizens advisory board, holding at least one noticed public meeting, and offering current low- and moderate-income residents new permanent housing adequate to accommodate the household to be constructed within the redevelopment project area, at a cost or rent not exceeding the affordable housing costs or affordable rent, as specified."*

### 33492.7. Blight finding

(a) Paragraph (11) of subdivision (d) of Section 33367 shall not apply to the territory within the military base for any redevelopment project area adopted pursuant to this chapter.

(b) For any project area adopted pursuant to this chapter, Section 33492.11 may be used in lieu of Section 33031.

### 33492.9. County auditor to notify Director of Finance when $100,000 tax increments received

Notwithstanding any other provision of law, in each county in which a redevelopment agency is formed, or a redevelopment plan is adopted, pursuant to this chapter, the county auditor shall certify to the Director of Finance the date of the final day of the first fiscal year in which one hundred thousand dollars ($100,000) or more of tax increment funds from the redevelopment project area adopted pursuant to this chapter are paid to the redevelopment agency pursuant to subdivision (d) of Section 33675.

### 33492.10. *Blighted areas* defined

(a) For purposes of this chapter, a blighted area within the boundaries of a military base is an area in which the combination of two or more conditions set forth in Section 33492.11 is so prevalent and so substantial that it causes a reduction of, or lack of, proper utilization of the area to an extent that constitutes a serious physical and economic burden on the community which cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

(b) A project area adopted pursuant to this chapter may include territory outside the boundaries of the military base, as those boundaries exist on January 1, 1996; however, all territory outside the boundaries of the military base included in the project area shall be characterized by blight, as that term is defined in Sections 33030 and 33031. An area outside the boundaries of a military base may be included in the project area only upon a finding by the agency that the area is blighted and that its inclusion in the project area is necessary for effective redevelopment of the base property. The agency shall include evidence supporting this finding in the report submitted to the legislative body pursuant to Section 33352. An area outside the boundaries of a military base shall be deemed not necessary for effective redevelopment if the area is included only for the purpose of obtaining the allocation of taxes from the area pursuant to Section 33670 without other substantial justification for its inclusion.

(c) This section, as amended by the act that adds this subdivision, shall only be applicable to a redevelopment plan adopted or amended on or after the effective date of the act that adds this subdivision. A redevelopment plan adopted pursuant to this chapter prior to the effective date of the act that adds this subdivision shall be subject to this section as it was added by Chapter 944 of the Statutes of 1993.

### 33492.11. Physical and economic blight

(a) For purposes of this chapter, this section describes conditions that cause blight:

(1) Buildings in which it is unsafe or unhealthy for persons to live or work. These conditions can be caused by serious building code violations, dilapidation and deterioration, defective design or physical construction, faulty or inadequate infrastructure, or other similar factors.

(2) Factors that prevent or substantially hinder the economically viable reuse or capacity of buildings or areas. This condition can be caused by conditions including, but not limited to, all of the following: a substandard design;

buildings that are too large or too small, given present standards and market conditions; age, obsolescence, deterioration, dilapidation, or other physical conditions, that could prevent the highest and best uses of the property. This condition can also be caused by buildings that will have to be demolished, or buildings or areas that have a lack of adequate parking.

(3) Adjacent or nearby uses that are incompatible with each other and that prevent the economic development of those parcels or other portions of the project area.

(4) Buildings on land that, when subdivided, or when infrastructure is installed, will not comply with community subdivision, zoning, or planning regulations.

(5) Properties currently served by infrastructure that does not meet existing adopted utility or community infrastructure standards.

(6) Buildings that, when built, did not conform to the then effective building, plumbing, mechanical, or electrical codes adopted by the community where the project area is located.

(7) Land that contains materials or facilities, including, but not limited to, materials for aircraft landing pads and runways, that will have to be removed to allow development.

(b) Pursuant to Section 33321, a project area need not be restricted to buildings, improvements, or lands which are detrimental or inimical to the public health, safety, or welfare, but may consist of an area where these conditions predominate and injuriously affect the entire area. A project area may include lands, buildings, or improvements which are not detrimental to the public health, safety, or welfare, but the inclusion of which is found necessary for the effective redevelopment of the area of which they are a part. Each area included under this section shall be necessary for effective redevelopment, and shall not be included for the purpose of obtaining the allocation of tax-increment revenue from the area pursuant to Section 33670 without other substantial justification for its inclusion.

(c) This section, as amended by the act that adds this subdivision, shall only be applicable to a redevelopment plan adopted or amended on or after the effective date of the act that adds this subdivision. A redevelopment plan adopted pursuant to this chapter prior to the effective date of the act that adds this subdivision shall be subject to this section as it was added by Chapter 944 of the Statutes of 1993.

### 33492.13. Limitations on tax increments, incurring and repaying indebtedness, duration of plan and use of eminent domain

(a) A redevelopment plan, adopted pursuant to this chapter and containing the provisions set forth in Section 33670, shall contain all of the following limitations:

(1) A limitation on the number of dollars of taxes which may be divided and allocated to the redevelopment agency pursuant thereto. Taxes shall not be divided and shall not be allocated to the redevelopment agency beyond this limitation, except by amendment of the redevelopment plan pursuant to Section 33354.6, or as necessary to comply with subdivision (a) of Section 33333.8.

(2) (A) 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 to finance in whole or in part the redevelopment project, which may not exceed 20 years from the date the county auditor certifies pursuant to Section 33492.9, except by amendment of the redevelopment plan as authorized by subparagraph (B). The loans, advances, or indebtedness may be repaid over a period of time longer

than the 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, except as necessary to comply with subdivision (a) of Section 33333.8.

(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) substantial blight remains within the project area; (ii) this blight cannot be eliminated without the establishment of additional debt; and (iii) the elimination of blight cannot reasonably be accomplished by private enterprise acting alone or by the legislative body's use of financing alternatives other than tax increment financing. However, this amended time limitation may not exceed 30 years from the date the county auditor certifies pursuant to Section 33492.9, except as necessary to comply with subdivision (a) of Section 33333.8.

(3) A time limit, not to exceed 30 years from the date the county auditor certifies pursuant to Section 33492.9, 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, comply with subdivision (a) of Section 33333.8, and enforce existing covenants or contracts.

(4) A time limit, not to exceed 45 years from the date the county auditor certifies pursuant to Section 33492.9, 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.

(5) The limitations contained in a redevelopment plan 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.

(b) (1) A redevelopment plan, adopted pursuant to this chapter, that does not contain the provisions set forth in Section 33670 shall contain the limitations in paragraph (2).

(2) A time limit, not to exceed 12 years from the date the county auditor certifies pursuant to Section 33492.9, 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.

**33492.15. Allocations to school and community college districts**

Notwithstanding any other provision of law, all of the following shall occur:

(a) The agency shall make the payments required by Section 33607.5, except that each of the time periods governing the payments shall be calculated from the date the county auditor makes the certification to the Director of Finance pursuant to Section 33492.9, instead of from the first year that the agency receives tax-increment revenue.

(b) Prior to incurring any bonded indebtedness, any agency administering a project area pursuant to this chapter may subordinate to the bonded debt the amount required to be paid to an affected school district or community college district pursuant to this section upon a finding, based upon substantial evidence, that the agency will have sufficient funds available to pay both the bonded debt payments and the payments required by this section.

**33492.16. Deferral of housing set-aside requirement**

(a) Notwithstanding Section 33334.2 or any other provision of law, an agency established or governed pursuant to this chapter may annually defer the requirement to allocate 20 percent of tax increment revenue to the Low and Moderate Income Housing Fund for a period of up to five years after the date of adoption of the redevelopment plan, based upon an annual finding of the legislative body that the funds are necessary for the effective redevelopment of base property and long-term tax generation, and that the vacancy rate for housing affordable to lower income households within the jurisdiction of the members of the agency is greater than 4 percent. The vacancy rate for housing affordable to lower income households shall be established by using the vacancy rates most recently published in the annual California Department of Finance Population and Housing Estimates (Report E-5, or a successor report).

The authority and procedures for deferral of allocation of tax increment revenue which is governed by this section shall not apply to the tax increment revenues attributable to the property that is located outside the military base which is allocated to the Low- and Moderate-Income Housing Fund.

(b) The amount of the deferral, if any, shall be considered an indebtedness of the agency, and shall be paid into the Low and Moderate Income Housing Fund no later than the end of the 20th fiscal year after the date on which the agency adopts its project. If the indebtedness is not eliminated by the end of the 20th fiscal year, the county auditor or controller, no later than March 15 of the 21st year, shall withhold from the portion of tax increment to which the redevelopment agency is otherwise entitled an amount equal to the indebtedness and deposit those funds into a separate Low and Moderate Income Housing Fund for use by the agency to meet its affordable housing requirements pursuant to this part. Under no circumstances shall this section be interpreted or applied in a manner that has the effect of reducing the tax increment payable or received by affected taxing entities pursuant to Section 33492.15.

**33492.18. Exemption from CEQA**

(a) Notwithstanding subdivision (k) of Section 33352, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) shall not apply to the adoption of a redevelopment plan prepared pursuant to this article if the redevelopment agency determines at a public hearing, noticed in accordance with this section, that the need to adopt a redevelopment plan at the soonest possible time in order to use the authority in this article requires the redevelopment agency to delay application of the provisions of the California Environmental Quality Act to the redevelopment plan in accordance with this section.

(b) If the redevelopment agency finds, pursuant to subdivision (a), that the application of the California Environmental Quality Act to the redevelopment plan is required to be delayed, the redevelopment agency or the community shall certify an environmental impact report for the redevelopment plan within 18 months after the effective date of the ordinance adopting the redevelopment plan. If, as a result of the preparation of the environmental document prepared pursuant to this subdivision, it is necessary to amend the redevelopment plan to mitigate any impacts, the agency shall amend the redevelopment plan according to the procedures of this part. If the environmental document is determined to be inadequate by a court of competent jurisdiction, the redevelopment agency shall not undertake additional projects that implement the redevelopment plan until an adequate environmental document has been certified. However, this determination shall not affect the validity of the redevelopment plan.

(c) Until the redevelopment agency or the community certifies an environmental impact report for the redevelopment plan, all projects, as defined in the California Environmental Quality Act, that

implement the redevelopment plan shall be subject to the California Environmental Quality Act, including, but not limited to, specific plans and rezonings. The environmental document for any implementing project shall include an analysis and mitigation of potential cumulative impacts, if any, that otherwise would not be known until an environmental document for the redevelopment plan is certified or approved and shall also include a reporting or monitoring program required pursuant to Section 21081 of the Public Resources Code.

(d) The notice for the public hearing required by subdivision (a) shall comply with, and may be combined with, the notices in Section 33349 or 33361. The notice shall state that the agency intends to consider and act upon a determination that the need to adopt a redevelopment plan at the soonest possible time in order to use the authority in this article requires the redevelopment agency to delay application of the provisions of the California Environmental Quality Act to the redevelopment plan in accordance with this section.

**33492.20. Inapplicable requirements**

(a) (1) The redevelopment plan for the base need not include either of the following:

(A) The information required pursuant to subdivision (d) of Section 33324, relative to the contents of the preliminary plan.

(B) The finding required pursuant to paragraph (4) of subdivision (d) of Section 33367, relative to the consistency of the redevelopment plan to the community's general plan.

(2) The agency shall not expend any tax increment funds allocated to it from the project area for expenses related to carrying out the project, unless and until the legislative bodies of all the communities included in the project area have adopted findings that the redevelopment plan is consistent with the general plan of the community, including the housing element, which 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.

(b) Notwithstanding Section 33328, the report required by that section need only be as complete as the information then available permits.

(c) Notwithstanding Section 33344.5, the preliminary report required by that section need only be as complete as the information then available permits, and need not contain the information required by subdivision (c) of Section 33344.5.

(d) The report submitted by the agency to the legislative body pursuant to Section 33352, need not contain the items listed in subdivisions (h), (j), and (k) of Section 33352, as modified by subdivision (b) of this section.

(e) The ordinance adopted by the legislative body pursuant to Section 33367 need not contain the items listed in paragraphs (4) and (12) of subdivision (d) of Section 33367.

**33492.21. Environmental impact report: San Diego Naval Training Center Redevelopment Plan**

(a) Notwithstanding the time limit in subdivision (b) of Section 33492.18, the City Council of the City of San Diego shall certify an environmental impact report for the Naval Training Center Redevelopment Plan within 30 months after the effective date of the ordinance adopting that redevelopment plan.

(b) The following provisions shall apply to the approval of projects that implement a redevelopment plan authorized by this article:

(1) For 18 months after the effective date of the ordinance adopting the redevelopment plan, or until the certification of an environmental impact report for the redevelopment plan if the report is certified during that 18-month period, subdivision (c) of Section 33492.18 shall apply.

(2) If an environmental impact report for the redevelopment plan is not certified within 18 months after the effective date of the ordinance adopting the plan, then during the succeeding 12 months or until the certification of an environmental impact report if the report is certified during that 12-month period, no project, as defined in Section 21065 of the Public Resources Code, that implements the redevelopment plan shall be approved by the agency or the community unless any of the following occurs:

(A) The agency or the community has approved a negative declaration or certified an environmental impact report, or has certified a subsequent or supplemental environmental impact report, for the project before the expiration of the 18-month period provided in Section 33492.18.

(B) The agency or the community has certified a subsequent or supplemental environmental impact report for the project where the environmental impact report for the project was certified before the expiration of the 18-month period provided in Section 33492.18.

(C) The agency or the community complies with Chapter 4.5 (commencing with Section 21156) of Division 13 of the Public Resources Code for the subsequent projects described in a master environmental impact report as being within the scope of the report, and that master environmental impact report was certified before the expiration of the 18-month period provided in Section 33492.18.

(D) The project is categorically exempt pursuant to Article 19 (commencing with Section 15300) of Chapter 3 of Division 6 of Title 14 of the California Code of Regulations.

**33492.22. Environmental impact report: Hunter's Point Shipyard Redevelopment Plan**

(a) Notwithstanding the time limit in subdivision (b) of Section 33492.18, the Planning Commission and the Redevelopment Commission of the City and County of San Francisco shall certify an environmental impact report for the Hunter's Point Shipyard Redevelopment Plan within 30 months after the effective date of the ordinance adopting the redevelopment plan.

(b) The following provisions shall apply to the approval of projects that implement a redevelopment plan authorized by this article:

(1) For 18 months after the effective date of the ordinance adopting the redevelopment plan, or until the certification of an environmental impact report for the redevelopment plan if the report is certified during that 18-month period, subdivision (c) of Section 33492.18 shall apply.

(2) If an environmental impact report for the redevelopment plan is not certified within 18 months after the effective date of the ordinance adopting the plan, then during the succeeding 12 months or until the certification of an environmental impact report if the report is certified during that 12-month period, no project, as

defined in Section 21065 of the Public Resources Code, that implements the redevelopment plan shall be approved by the agency or the community unless any of the following occurs:

(A) The agency or the community has approved a negative declaration or certified an environmental impact report, or has certified a subsequent or supplemental environmental impact report, for the project before the expiration of the 18-month period provided in Section 33492.18.

(B) The agency or the community has certified a subsequent or supplemental environmental impact report for the project where the environmental impact report for the project was certified before the expiration of the 18-month period provided in Section 33492.18.

(C) The agency or the community complies with Chapter 4.5 (commencing with Section 21156) of Division 13 of the Public Resources Code for subsequent projects described in a master environmental impact report as being within the scope of the report, and that master environmental impact report was certified before the expiration of the 18-month period provided in Section 33492.18.

(D) The project is categorically exempt pursuant to Article 19 (commencing with Section 15300) of Chapter 3 of Division 6 of Title 14 of the California Code of Regulations.

**33492.28. *Fiscal year* defined**

As used in this chapter, "fiscal year" means a year commencing on July 1 and ending on the next June 30.

**33492.29. Required finding in ordinance that no significant financial burden or detriment to taxing agencies**

An ordinance adopting a redevelopment plan under this chapter shall include a finding that the effect of tax increment financing will not cause a significant financial burden or detriment on any taxing agency deriving revenues from a project area. This finding shall only be required when the project is financed in part or in whole from revenues derived from the allocation of taxes pursuant to Section 33670.

## Article 1.5 Norton Air Force Base and George Air Force Base Redevelopment Project Areas

**33492.40. Creation of joint powers agency by communities with land in proximity to military facilities or installations in County of San Bernardino**

(a) Notwithstanding Section 33320.1, the requirement that privately owned land within a project area be "predominantly urbanized," as that term is defined in subdivision (b) of Section 33320.1, shall not apply to privately owned land within a project area, if the privately owned land is adjacent or in proximity to a military facility or installation that is proposed to be closed pursuant to Public Law 100-526 and the inclusion of the privately owned land is found by an entity formed pursuant to subdivision (b) to be necessary for the effective redevelopment of the military facility or installation and the adjacent area.

(b) The legislative bodies for communities having territory within, adjacent to, or in proximity to a military facility or installation described in subdivision (a) may create a separate joint

powers agency pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, which shall have and exclusively exercise powers of an agency in furtherance of the redevelopment of a project area approved by the joint powers agency. The joint powers agency so formed shall include as one of its members the county in which the project area is located. In addition to the powers of an agency, the joint powers agency so formed shall also act as the legislative body and planning commission for all approvals and actions required by this part of legislative bodies and planning commissions for the adoption and implementation of a redevelopment plan. However, all land use, planning, and development decisions with regard to the land within the project area shall continue to be under the control and jurisdiction of each of the respective local legislative bodies or planning commissions, as applicable.

(c) The territory included within the project and project area may be contiguous or noncontiguous, and any project area may be located in whole or in part within one or more of the communities impacted by the closure of the military facility or installation, and the land to be included within the project area within the community or communities in proximity to the military facility or installation shall be found necessary for the effective redevelopment of the military facility or installation and the adjacent area. A project area shall not include territory outside the jurisdiction of the communities that are parties to the joint powers agency without the consent of the legislative body having jurisdiction over the territory proposed to be included within the project area.

(d) A redevelopment plan for the project area shall contain all of the provisions required by this part. However, if the agency finds, based on substantial evidence on the record, that compliance with the requirements of Sections 33333.2 and 33334.1 would make it impracticable to achieve the policies of this section, the agency may eliminate or modify the requirements of Sections 33333.2 and 33334.1.

(e) The redevelopment plan shall provide for either of the following:

(1) A Low- and Moderate-Income Housing Fund, as required by Section 33334.2.

(2) A deferral for depositing all or part of the 20 percent of taxes allocated to the agency pursuant to Section 33670 in the Low- and Moderate-Income Housing Fund if the agency, after conducting a noticed public hearing, makes, and the executive committee of the Southern California Association of Governments reviews and approves, findings supported by substantial evidence that all of the following apply:

(A) The military facility or installation cannot be acquired or developed by private enterprise without the assistance of the agency.

(B) There are no feasible alternative means of financing the acquisition or development of the military facility or installation other than by utilizing the low- and moderate-income housing portion of the taxes that are allocated to the agency pursuant to subdivision (b) of Section 33670.

(C) Failure of the agency to finance the acquisition or development of the military facility or installation would lead to serious economic hardship and job loss.

(D) The redevelopment plan shall specify the period during which less than 20 percent of the taxes that are allocated to the agency pursuant to subdivision (b) of Section 33670, is to be deposited in the Low- and Moderate-Income Housing Fund. The redevelopment plan shall also contain a repayment plan which specifies a date at which time the agency will have made up the deficit created by the deferral, including repayment of the interest at the highest rate received by the agency on funds it deposits during the period of deferral. The repayment plan

shall reduce the deficit in the shortest feasible time consistent with the needs of the agency, as specified in the agency's findings.

(f) The joint powers agency acting as the agency, the legislative body or the planning commission, shall follow all procedures under this part applicable to the adoption and amendment of redevelopment plans, except with respect to Section 33347.5, Sections 33353 to 33353.6, inclusive, Sections 33354.4 to 33354.6, inclusive, and Section 33385.

(g) The agency shall create a fiscal advisory group to consult with each affected taxing agency and to advise and report to the agency in the manner required of a fiscal review committee by Section 33353.5 on any potential fiscal impact upon affected taxing agencies within the project area. The fiscal advisory group shall consist of the financial officer or treasurer of each city and each county that created the joint powers authority.

(h) The agency shall prepare and distribute to each affected taxing agency a report that includes the information required by Section 33328. The agency shall also prepare an analysis of the report required of a fiscal review committee pursuant to subdivision (m) of Section 33352 and an analysis of the report required of the fiscal advisory group pursuant to subdivision (g).

(i) As used in this section, "in proximity to" means within three miles of the boundary of Norton Air Force Base and within eight miles of George Air Force Base.

(j) The Legislature finds and declares that the closure of two or more military facilities or installations within the County of San Bernardino will cause serious economic hardship in that county, including loss of jobs, increased unemployment, deterioration of properties and land utilization and undue disruption of the lives and activities of the people. Therefore, the Legislature finds and declares that to avoid serious economic hardship and accompanying blight, it is necessary to enact this act which shall apply only within the County of San Bernardino. In enacting this act, it is the policy of the Legislature to assist communities within the County of San Bernardino in their attempt to preserve the military facilities and installations for their continued use as airports and aviation-related purposes.

It is the intent of the Legislature and the commitment of the local authorities to ensure that the existing airfields at both Norton Air Force Base and George Air Force Base are protected, developed, and enhanced as civil aviation public use airports. Therefore, the joint powers authorities authorized by this section should make every reasonable effort to guarantee that these vital airport facilities are retained for general aviation use now and into the future.

(k) Any joint powers agreement entered into pursuant to this section shall provide that the financial needs of each of the parties shall be considered prior to adoption of a redevelopment plan, and may provide that the number of years shall be limited during which bonded indebtedness may be paid using taxes that are allocated to the agency pursuant to subdivision (b) of Section 33670.

(1) A joint powers agency operating within the area of Norton Air Force Base shall appoint a project area citizens committee for the purpose of consultation and advice regarding policy matters that relate to planning and programs affecting the residents, businesses, and educational institutions within the project area, implementation of the redevelopment plan, and the development and implementation of amendments to the redevelopment plan.

(2) The committee shall be comprised of residential owners, residential tenants, business owners, small business owners, business tenants, educational institution representatives, and community groups currently operating, living, or working within the project area. The membership of the Project Area Citizens Committee shall be appointed by the legislative body of the agency and shall be representative, both racially and ethnically, of the people who live and work within the project area.

(3) For the purposes described above, the committee shall meet at least once quarterly or more often to review policy matters and implementation issues as determined necessary by the legislative body.

(l) Amendments to any redevelopment plans adopted pursuant to this section shall not be required to comply with the provisions of Section 33452, provided that notice of the public hearing for any amendment adopted pursuant to Article 12 (commencing with Section 33450 of Chapter 4), is published pursuant to Section 6063 of the Government Code and mailed by regular mail to the governing body of each of the taxing agencies that levies taxes upon any property in the project area designated in the redevelopment plan as proposed to be amended.

**33492.41. Norton Air Force Base Redevelopment Plan Amendment: exemption from CEQA**

(a) Notwithstanding Section 21090 of the Public Resources Code, the Inland Valley Development Agency may determine at a noticed public hearing that the amendment of a redevelopment plan for the Norton Air Force Base Redevelopment Project Area pursuant to this chapter is not subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), except that projects implementing the redevelopment plan, including specific plans, rezonings, and ministerial projects that may have a significant effect on the environment, shall be subject to the California Environmental Quality Act. The environmental document for any implementing project shall include an analysis and mitigation of potential cumulative impacts that otherwise will not be known until an environmental impact report for the redevelopment plan is certified.

(b) The notice of the public hearing required pursuant to subdivision (a) shall include the date, time, and place of the hearing, a brief description of the proposed project and its location, the date when notice will be provided pursuant to Section 21092 of the Public Resources Code, and the address where copies of the notice of exemption are available for review.

(c) The notice required by this section shall be given to all organizations and individuals who have previously requested notice pursuant to the California Environmental Quality Act, and shall be given by publication, no fewer times than required by Section 6061 of the Government Code, by the public agency in a newspaper of general circulation in the area affected by the proposed project.

(d) If the Inland Valley Development Agency determines, pursuant to subdivision (a), that the amendment of a redevelopment plan is not subject to the California Environmental Quality Act, the redevelopment agency shall prepare and certify an environmental impact report for the redevelopment plan amendment within 12 months after the effective date of the ordinance amending the redevelopment plan.

(e) An environmental impact report prepared and certified for a specific plan or other comprehensive land use plan for the applicable portion of the Inland Valley Redevelopment Project Area shall satisfy the requirement of subdivision (d) if the plan covers the same area and project as the amendment to the redevelopment plan and is certified within 12 months after the effective date of the ordinance amending the redevelopment plan.

(f) The redevelopment agency shall revise the redevelopment plan if necessary to mitigate any impacts and comply with the California Environmental Quality Act and adopt mitigation measures as conditions of project approval.

(g) This section shall only apply to a redevelopment plan amendment approved on or before September 1, 1995.

**33492.42. Norton Air Force Base Redevelopment Plan Amendment: sewer and water pipelines**

(a) The redevelopment agency referenced in Section 33492.41 may locate, construct, and maintain facilities and infrastructure for sewer and water pipelines or other facilities for sewer transmission and water supply or distribution systems along and across any street or public highway and on any lands that are now or hereafter owned by the state, for the purpose of providing facilities or services related to development, to, or in that portion of, the redevelopment project area referenced in subdivision (e) of Section 33492.41 that, as of January 1, 2000, meets all of the following requirements:

(1) Is unincorporated territory.

(2) Contains at least 100 acres.

(3) Is surrounded or substantially surrounded by incorporated territory.

(4) Contains at least 100 acres zoned for commercial or industrial uses or is designated on the applicable county general plan for commercial or industrial uses.

(b) Facilities or services related to development may be provided by the redevelopment agency referenced in Section 33492.41 to all or any portion of the area defined in paragraphs (1) to (4), inclusive, of subdivision (a). Notwithstanding any other provision of the Government Code, building ordinances, zoning ordinances, and any other local ordinances, rules, and regulations of a city or other political subdivision of the state shall not apply to the location, construction, or maintenance of facilities or services related to development pursuant to this section.

## Article 4. Redevelopment Agency of Fort Ord

**33492.70. Legislative intent; establishment and authority of Redevelopment Agency of Fort Ord**

(a) (1) This article shall govern the establishment and operation of all redevelopment project areas created within the area previously known as Fort Ord.

(2) It is the intent of the Legislature that the redevelopment of the territory of Fort Ord be conducted jointly, in part by redevelopment project areas established by cities and the county with jurisdiction over parts of the territory of what was previously known as Fort Ord, and in part by the Fort Ord Reuse Authority. It is further the intent of the Legislature that this joint redevelopment include the sharing of tax increment revenues pursuant to this article. The joint division of tax increment will enable the local redevelopment agencies to finance redevelopment activities which primarily affect their own jurisdictions, and the authority will have a revenue source to assist in financing redevelopment of facilities of basewide significance.

(b) The board of the Fort Ord Reuse Authority, as established by Title 7.85 (commencing with Section 67650) of the Government Code, may, by ordinance, establish in the area of Fort Ord a public body, corporate and politic, known as the Redevelopment Agency of Fort Ord. This agency may transact business and exercise its powers as a redevelopment agency upon the effective date of the establishing ordinance. The provisions of the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24), as modified by Chapter 4.5 (commencing with Section 33492) thereof, shall apply to the Redevelopment Agency of Fort Ord, and this agency shall have all powers of a redevelopment agency as provided in this part.

(c) In addition to the powers of an agency, the Redevelopment Agency of Fort Ord shall also act as the legislative body and the planning commission for all approvals and actions required and authorized by this part for the adoption and implementation of a redevelopment plan. However, subject to the consistency and appeal provision of Title 7.85 (commencing with Section 67650) of the Government Code and other applicable provisions of state law, all planning, zoning, and permitting decisions with regard to the land within the project area shall continue to be under the control and jurisdiction of each of the respective local legislative bodies, as applicable.

(d) For purposes of this article, "board" means the governing board of the Fort Ord Reuse Authority, as defined in Title 7.85 (commencing with Section 67650) of the Government Code. "Legislative body," as used elsewhere in this part, shall, for the purposes of this article when relating to the Redevelopment Agency of Fort Ord, also refer to the governing board of the Fort Ord Reuse Authority.

(e) The board may create a project area to include all or a portion or portions of the area of Fort Ord, except that the board shall not create a project area which overlays any territory included within a project area established by the redevelopment agency of a city or the county.

(f) A city or county redevelopment agency may establish a project area which includes any or all of the territory within the jurisdiction of the city or county which is also within the territory of Fort Ord, but only pursuant to the provisions of this section.

**33492.71. Payments to affected taxing entities**

(a) This section shall apply to each redevelopment project area created pursuant to this article with a redevelopment plan that contains the provisions required by Section 33670. All amounts calculated pursuant to this section shall be calculated after the amount required to be deposited in the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, 33334.6, and 33492.76, and the amounts required to be paid by school and community college districts pursuant to Section 33492.78 have been deducted from the local tax increment funds received by the agency in the applicable fiscal year.

(b) The payments made pursuant to this section shall be in addition to any amounts the affected taxing entities receive pursuant to subdivision (a) of Section 33670. The agency shall reduce its payments pursuant to this section to the authority or an affected taxing entity by any amount the agency has paid, directly or indirectly, pursuant to Section 33445 and with the agreement of the authority or the affected taxing entity, or pursuant to any other provision of law other than this section for, or in connection with a public facility owned or leased by the authority or that affected taxing entity and with the agreement of the authority or that affected taxing entity.

(c) Commencing in the first fiscal year in which a redevelopment agency receives tax-increment revenue from a project area created pursuant to this article, the agency shall pay the following amounts to the following entities, and the agency shall not be obligated to pay any additional sums to any taxing entities pursuant to Section 33607.5 and subdivision (b) of Section 33676:

(1) (A) Thirty-five percent of the tax-increment revenue received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6, as modified by Section 33492.76, has been deducted each fiscal year shall be paid to the authority to finance in whole or in part, its responsibilities in providing for the reuse of Fort Ord.

(B) Thirty-five percent of the tax-increment revenue received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6 of, as modified by Section 33492.76, has been deducted each fiscal year shall be paid to or retained by the redevelopment agency of the city or county in which the project area is located, to finance, in

whole or in part, its responsibilities in providing for the reuse of Fort Ord.

(C) Of the amount referenced in subparagraph (B), each city may elect to receive from its agency, and the agency shall pay, an amount not to exceed 25 percent of the tax-increment revenue generated from a project area established pursuant to this article, to alleviate the financial burden and detriment incurred as a result of the adoption of the redevelopment plan in each year until the sixth fiscal year after the year in which the agency is first allocated one hundred thousand dollars ($100,000) or more in tax-increment revenues.

(D) Upon dissolution of the authority, the amount allocated pursuant to this section shall continue to be paid to the accounts of the authority insofar as needed to pay principal and interest or other amounts on debt that was incurred by the authority. Funds that would be allocated pursuant to this section that exceed the amounts necessary to pay debt service on authority debt shall be divided as follows: 54 percent shall be allocated to the city or county redevelopment agency that establishes the project area; 38 percent shall be allocated to the county; and 8 percent shall be allocated to other affected taxing entities.

(2) Twenty-five percent of the tax-increment revenue received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6, as modified by Section 33492.76, has been deducted each fiscal year shall be paid to the county to alleviate the financial burden and detriment to the county incurred because of the establishment of the project area.

(3) Not to exceed 5 percent of the tax-increment revenue received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6, as modified by Section 33492.76, has been deducted each fiscal year shall be paid to other affected taxing entities as defined in Section 33492.27, but excluding the entities specified in paragraphs (1) and (2), and excluding school and community college districts, in order to alleviate the financial burden and detriment incurred by those affected taxing entities because of the establishment of the project area. If the total payments made pursuant to this paragraph are less than 5 percent of the tax increment revenue received by the agency pursuant to this article, the remaining portion of the revenue available as a result of this paragraph shall be allocated as follows: 37 percent to the agency, 37 percent to the authority, and 26 percent to the county.

(d) Notwithstanding subdivision (c), through and including the second fiscal year after the certification date established pursuant to Section 33492.9, the amount of tax increment revenue the redevelopment agencies of the Cities of Marina and Seaside or the County of Monterey are required to pay to other entities as prescribed in paragraph (1) shall be modified as follows:

(1) For each of those fiscal years, the board shall determine an amount equal to 100 percent of the revenue payable to the city or county establishing the project area from all ad valorem property taxes, including allocations of property tax increment revenues pursuant to subdivision (c), sales taxes, utility users taxes, business license taxes, real property transfer taxes, franchise taxes, transient occupancy taxes, and payments received as a result of vehicle and trailer coach registration, and cigarette and gasoline taxes except for payments received as a result of vehicle registrations because of military personnel occupying Fort Ord, attributable to the property, population, and economic activity that is within the

jurisdiction of each local entity that has established a redevelopment project area pursuant to this subdivision and is also within the area of Fort Ord.

(2) If the amount determined pursuant to paragraph (1) for a fiscal year is less than four hundred thousand dollars ($400,000), the redevelopment agency of the local entity that established the project area shall retain tax-increment revenue received because of the project area so that the sum of the retained tax-increment revenue, exclusive of required deposits to the Low and Moderate Income Housing Fund and the amount of revenue determined pursuant to paragraph (1), equals four hundred thousand dollars ($400,000), but in no event exceeding 100 percent of the tax-increment revenue received for the project area for that fiscal year. Any tax-increment revenue received by the redevelopment agency that established the project area which exceeds the amount necessary to bring the total of the amount calculated pursuant to paragraph (1), plus the tax increment retained by the agency pursuant to this subdivision to four hundred thousand dollars ($400,000) shall be distributed pursuant to subdivision (c).

(e) The board may increase or decrease the qualified minimum level of increment funding set in paragraph (2) of subdivision (d) above four hundred thousand dollars ($400,000), if the board determines, based on substantial evidence, that the costs of providing police and fire protection services to the area of Fort Ord within the local agency's redevelopment agency's project area exceed or are less than this amount. In the event that any city which does not now have jurisdiction over territory within the area of Fort Ord subsequently annexes territory within the area of Fort Ord, the board may provide for a qualified minimum level of increment funding at a level that it determines, based on substantial evidence as to the cost of providing police and fire protection services to the area of Fort Ord within the local agency's redevelopment agency's project area is appropriate for a period not to exceed three years, but is under no obligation to do so.

(f) Because this article provides for an allocation of tax-increment revenue arising from the redevelopment of the area of Fort Ord among the affected taxing entities for the purpose of alleviating any financial burden or detriment that is caused by the redevelopment plan, the consultations with the affected taxing entities shall not include the payment of supplemental moneys, but may only include the discussion of possible modifications in the redevelopment plan, including, but not limited to, the timing of projects, selection of projects, scope of projects, and the type of financing that is being considered for the projects.

(g) (1) All moneys received by the authority from a redevelopment agency shall be deposited in a separate fund from all other moneys of the authority.

(2) The authority shall annually report on the total amount of moneys deposited into the fund during the year; the specific project and programs which were financed with the moneys, including amounts expended per project and program; and the beginning and ending balance of the fund.

(3) The moneys in the fund shall be exclusively expended for the purpose of financing the development and redevelopment of basewide facilities as identified in the basewide public capital facilities plan adopted pursuant to Section 67675 of the Government Code.

(4) The authority shall have an independent financial audit annually prepared on the fund in accordance with generally accepted auditing standards and rules of governing auditing reports promulgated by the California Board of Accountancy.

(h) Notwithstanding any other provision of law, no tax increment moneys, including moneys paid from a redevelopment agency to Fort Ord Reuse Authority or any affected taxing entity, shall finance the development or redevelopment of buildings owned or operated by the California State University or the University of California.

**33492.72. Subordination of payments to affected taxing entities**

(a) Prior to incurring any loans, or other indebtedness, except loans or advances from the local agency or the authority, the agency which established the redevelopment project area, or the board, may subordinate to the loans or other indebtedness the amounts required to be paid to all other local agencies pursuant to this section, provided that the agency or the board has approved these subordinations pursuant to this subdivision.

(b) At the time the agency or the board requests any other entity receiving tax-increment revenues pursuant to this section to subordinate the amount to be paid to it, the agency or the board seeking permission for subordination, shall provide the affected taxing entity with substantial evidence that sufficient funds will be available to pay both the debt service and the payments required by this section, when due.

(c) Within 45 days after receipt of the agency's or the board's request, the entities receiving tax-increment revenues pursuant to this section shall approve or disapprove the request for subordination. An entity other than the redevelopment agency or the board may disapprove a request for subordination only if it finds, based upon substantial evidence, that after the agency or the board pays the debt payments, the agency will not have sufficient funds to pay the amounts required to be paid to other entities pursuant to this section. The agency or the board may also disapprove a request for subordination if it finds that subordination would interfere with its ability to issue debt as needed to carry out its responsibilities. If an entity, the agency, or the board does not act within 45 days after receipt of the agency's request, the request to subordinate shall be deemed approved and shall be final and conclusive.

**33492.73. Consistency with Fort Ord Reuse Plan**

Any redevelopment or implementation plan prepared in conjunction with establishment or operation of a project area, and any subsequent amendment, update, or other modification of that plan or those plans, shall take effect only upon certification by the board of the consistency of that plan or those plans with the Fort Ord Reuse Plan in the same manner as for the local agency's general plan pursuant to Chapter 4 (commencing with Section 67675) of Title 7.85 of the Government Code.

**33492.74. *Blighted area* and *blight* defined**

(a) For purposes of this article, a blighted area may be a military base in which the combination of two or more of the conditions set forth in subdivision (b) or (c) of this section are so prevalent and so substantial that it causes a reduction of, or a lack of, proper utilization of the area to an extent that constitutes a serious physical and economic burden on the community that cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

(b) This subdivision, for purposes of this article, describes physical conditions that cause blight.

(1) Buildings in which it is unsafe or unhealthy for persons to live or work. These conditions can be caused by serious building code violations, dilapidation and deterioration, defective design or physical construction, faulty or inadequate infrastructure, or other similar factors.

(2) Factors that prevent or substantially hinder the economically viable reuse or capacity of buildings or areas. This condition can be caused by a substandard design; buildings that are too large or too small given present standards and market conditions; and age, obsolescence, deterioration, dilapidation, or other physical conditions that could prevent the highest and best uses of the property.

This condition can also be caused by buildings that will have to be demolished or buildings or areas that have a lack of parking.

(3) Adjacent or nearby uses that are incompatible with each other and that prevent the economic development of those parcels or other portions of the project area.

(4) Buildings on land that, when subdivided or when infrastructure is installed, will not comply with normal subdivision, zoning, or planning regulations.

(c) This subdivision, for purposes of this article, describes economic conditions that cause blight:

(1) Land that contains materials, including, but not necessarily limited to, materials for airport runways that will have to be removed to allow development.

(2) Properties that contain hazardous wastes that may benefit from the use of agency authority as specified in Article 12.5 (commencing with Section 33459) of Chapter 4 in order to be developed by either the private or public sector or in order to comply with applicable federal or state standards. Notwithstanding any other provision of law, all redevelopment agencies with authority under this act are specifically prohibited from accepting responsibility for, or using agency authority on behalf of, hazardous waste sites that are the responsibility of the federal government.

(d) For purposes of this article, a blighted area also may be one that contains one or more of the conditions described in subdivision (c) and is, in addition, characterized by the existence of inadequate public improvements, public facilities, and utilities, where these conditions are so prevalent and so substantial that it causes a reduction of, or a lack of, proper utilization of the area to an extent that it constitutes a serious physical and economic burden on the community that cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

**33492.75. Adoption of redevelopment plan: modified requirements**

(a) For purposes of adoption of a project area, the preliminary report prepared pursuant to Section 33344.5 is not required to contain the material identified in paragraphs (2), (3), and (4) of subdivision (c) of Section 33344.5.

(b) For purposes of adoption of a project area, the report prepared pursuant to Section 33352 shall be modified to require that the blight conditions specified in Section 33492.74 exist.

(c) A redevelopment plan adopted for a project area shall contain the limitations set forth in Section 33492.13, and shall not be subject to the limitations set forth in Section 33333.2.

(d) For purposes of redevelopment project areas within the area of Fort Ord, calculation of the amount determined pursuant to subdivision (a) of Section 33670 shall be based on the assessment roll used in connection with property within the project area last equalized prior to the date on which the board of the Fort Ord Reuse Authority adopts a Fort Ord Reuse Plan pursuant to Section 67675 of the Government Code, which shall be deemed to be a redevelopment plan for the area of the base, or the effective date of the ordinance approving a redevelopment plan for a specific project area within the area of Fort Ord, whichever occurs first for any project area.

**33492.76. Low and moderate income housing obligations**

(a) (1) Notwithstanding Section 33334.2 or any other provision of law, a redevelopment agency established or governed pursuant to this article may:

(A) Annually waive the requirement to allocate 20 percent of the total annual tax increment revenue from any project area established pursuant to this article to the Low- and Moderate-Income Housing Fund for a period of up to five years after the date on which the county auditor makes the certification pursuant to Section 33492.9.

(B) Annually waive the requirement to allocate half of the 20 percent of the total annual tax increment revenue to the Low- and Moderate-Income Housing Fund for a period of five years after the fifth year after the date on which the county auditor makes the certification pursuant to Section 33492.9.

(2) The agency may not waive its allocation in any year unless it first adopts a finding, based on substantial evidence, that the vacancy rate for rental housing affordable to lower income households is greater than 6 percent.

(b) Notwithstanding Section 33413, the redevelopment agency shall not be required to replace removed or demolished military barracks, which are located, as of January 1, 1995, within the boundaries of Fort Ord.

**33492.78. Payments to affected school and community college districts**

(a) Section 33607.5 shall not apply to an agency created pursuant to this article. For purposes of Sections 42238, 84750, and 84751 of the Education Code, funds allocated pursuant to this section shall be treated as if they were allocated pursuant to Section 33607.5.

(1) This section shall apply to each redevelopment project area created pursuant to a redevelopment plan that contains the provisions required by Section 33670 and is created pursuant to this article. All the amounts calculated pursuant to this section shall be calculated after the amount required to be deposited in the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6, as modified by Section 33492.76, has been deducted from the total amount of tax-increment funds received by the agency in the applicable fiscal year.

(2) The payments made pursuant to this section shall be in addition to any amounts the school district or districts and community college district or districts receive pursuant to subdivision (a) of Section 33670. The agency shall reduce its payments pursuant to this section to an affected school or community college district by any amount the agency has paid, directly or indirectly, pursuant to Section 33445, 33445.5, or 33446, or any provision of law other than this section for, or in connection with, a public facility owned or leased by that affected school or community college district.

(3) (A) Of the total amount paid each year pursuant to this section to school districts, 43.9 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (h) of Section 42238 of the Education Code, and 56.1 percent shall not be considered to be property taxes for the purposes of that section, and shall be available to be used for educational facilities.

(B) Of the total amount paid each year pursuant to this section to community college districts, 47.5 percent shall be considered to be property taxes for the purposes of Section 84750 of the Education Code, and 52.5 percent shall not be considered to be property taxes for

the purposes of that section, and shall be available to be used for educational facilities.

(C) Of the total amount paid each year pursuant to this section to county offices of education, 19 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (h) of Section 42238 of the Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section, and shall be available to be used for educational facilities.

(D) Of the total amount paid each year pursuant to this section to special education, 19 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (h) of Section 42238 of the Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section, and shall be available to be used for educational facilities.

(4) Local education agencies that use funds received pursuant to this section for educational facilities shall spend these funds at schools that are any one of the following:

(A) Within the project area.

(B) Attended by students from the project area.

(C) Attended by students generated by projects that are assisted directly by the redevelopment agency.

(D) Determined by a local education agency to be of benefit to the project area.

(b) Commencing with the first fiscal year in which the agency receives tax increments, and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency created pursuant to this article shall pay to each affected school and community college district an amount equal to the product of 25 percent times the percentage share of total property taxes collected that are allocated to each affected school or community college district, including any amount allocated to each district pursuant to Sections 97.03 and 97.035 of the Revenue and Taxation Code times the total of the tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted.

(c) Commencing with the 11th fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency created pursuant to this article shall pay to each affected school and community college district, in addition to the amounts paid pursuant to subdivision (b), an amount equal to the product of 21 percent times the percentage share of total property taxes collected that are allocated to each affected school or community college district, including any amount allocated to each district pursuant to Sections 97.03 and 97.035 of the Revenue and Taxation Code times the total of the first adjusted tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted. The first adjusted tax increments received by the agency shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the first adjusted base year assessed value. The first adjusted base year assessed value is the assessed value of the project area in the 10th fiscal year in which the agency receives tax increment.

(d) Commencing with the 31st fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected school and community college districts, in addition to the amounts paid pursuant to subdivisions (b) and (c), an amount equal to 14 percent times the percentage share of total

property taxes collected that are allocated to each affected school or community college district, including any amount allocated to each district pursuant to Sections 97.03 and 97.035 of the Revenue and Taxation Code times the total of the second adjusted tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted. The second adjusted tax increments received by the agency shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the second adjusted base year assessed value. The second adjusted base year assessed value is the assessed value of the project area in the 30th fiscal year in which the agency receives tax increments.

(e) (1) The Legislature finds and declares both of the following:

(A) The payments made pursuant to this section are necessary in order to alleviate the financial burden and detriment that affected school and community college districts may incur as a result of the adoption of a redevelopment plan, and payments made pursuant to this section will benefit redevelopment project areas.

(B) The payments made pursuant to this section are the exclusive payments that are required to be made by a redevelopment agency to affected school and community college districts during the term of a redevelopment plan.

(2) Notwithstanding any other provision of law, a redevelopment agency shall not be required, either directly or indirectly, as a measure to mitigate a significant environmental effect or as part of any settlement agreement or judgment brought in any action to contest the validity of a redevelopment plan pursuant to Section 33501, to make any other payments to affected school or community college districts, or to pay for public facilities that will be owned or leased to an affected school or community college district.

(f) As used in this section, a "local education agency" includes a school district, a community college district, or a county office of education.

## Article 5. March Joint Powers Redevelopment Agency

### 33492.80. Legislative intent

For purposes of this article, it is the intent of the Legislature to provide a means of mitigating the economic and social degradation facing communities impacted by the realignment of March Air Force Base.

### 33492.81. Establishment and authority of March Joint Powers Redevelopment Agency

(a) The March Joint Powers Authority, a public entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, and composed of the Cities of Moreno Valley, Perris, and Riverside and the County of Riverside, is hereby authorized to establish the March Joint Powers Redevelopment Agency, with all of the powers, authority, and duties granted to it under this part, as a public body, corporate and politic, for the exclusive purpose of establishing the March Air Force Base Redevelopment Project Area pursuant to this article.

(b) The March Joint Powers Redevelopment Agency shall act as the legislative body and planning commission for all approvals and actions required or authorized for the adoption and implementation of a redevelopment plan. However, all land use planning and development decisions with regard to the land within the project area shall continue to be under the control and jurisdiction of each of the respective local legislative bodies or planning commissions, as applicable.

**33492.82. *Blighted area* defined**

(a) For purposes of this article, a blighted area within the boundaries of March Air Force Base, as those boundaries exist on January 1, 1995, is either one of the following:

(1) An area in which the combination of two or more of the conditions set forth in subdivision (a) or (b) of Section 33492.83 is so prevalent and so substantial that it causes a reduction of, or a lack of, proper utilization of the area to an extent that constitutes a serious physical and economic burden on the community that cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

(2) An area that contains one or more of the conditions described in subdivision (b) of Section 33492.83, the effect of which is so prevalent and so substantial that it causes a reduction of, or a lack of, proper utilization of the area to an extent that constitutes a serious physical and economic burden on the community that cannot reasonably be expected to be reversed or alleviated by private enterprise, or governmental action, or both, without redevelopment, and is, in addition, characterized by the existence of inadequate public improvements, public facilities, and utilities that cannot be remedied by private or governmental action without redevelopment.

(b) For the purposes of this article, a blighted area outside the boundaries of March Air Force Base, as those boundaries exist on January 1, 1995, shall be an area that meets the requirements of Section 33030.

**33492.83. *Blight* defined**

(a) This subdivision, for purposes of this article, describes physical conditions that cause blight.

(1) Buildings in which it is unsafe or unhealthy for persons to live or work. These conditions can be caused by serious building code violations, dilapidation and deterioration, defective design or physical construction, faulty or inadequate infrastructure, or other similar factors.

(2) Factors that prevent or substantially hinder the economically viable reuse or capacity of buildings or areas. This condition can be caused by a substandard design; buildings that are too large or too small given present standards and market conditions; and age, obsolescence, deterioration, dilapidation, or other physical conditions that could prevent the highest and best uses of the property. This condition can also be caused by buildings that will have to be demolished or buildings or areas that have a lack of parking.

(3) Adjacent or nearby uses that are incompatible with each other and that prevent the economic development of those parcels or other portions of the project area.

(4) Buildings on land that, when subdivided or when infrastructure is installed, will not comply with normal subdivision, zoning, or planning regulations.

(b) This subdivision, for purposes of this article, describes economic conditions that cause blight:

(1) Land that contains materials or facilities, including, but not necessarily limited to, materials for airport runways that will have to be removed to allow development.

(2) Properties that contain hazardous wastes that may benefit from the use of agency authority as specified in Article 12.5 (commencing with Section 33459) of Chapter 4 in order to be developed by either the private or public sector or in order to comply with applicable federal or state standards. Notwithstanding any other provision of law, the March Joint Powers Redevelopment Agency is specifically prohibited from accepting responsibility for, or using agency authority on behalf of, hazardous waste sites that are the responsibility of the federal government.

(c) Pursuant to Section 33321, a project area need not be restricted to buildings, improvements, or lands which are not detrimental or inimical to the public health, safety, or welfare, but may consist of an area in which these conditions predominate and injuriously affect the entire area. A project area may include lands, buildings, or improvements which are not detrimental to the public health, safety, or welfare, but whose inclusion is found necessary for the effective redevelopment of the area of which they are a part. Each area included under this section shall be necessary for effective redevelopment and shall not be included for the purpose of obtaining the allocation of tax-increment revenue from the area pursuant to Section 33670 without other substantial justification for its inclusion.

### 33492.84. *Redevelopment agency* and *agency* defined

For purposes of this article, the terms "redevelopment agency" and "agency" refer to the March Joint Powers Redevelopment Agency, which is hereby authorized to engage in the redevelopment activities included in and referenced by this article.

### 33492.85. Limitations on incurring and repaying indebtedness, duration of plan and use of eminent domain

(a) A redevelopment plan for March Air Force Base, adopted pursuant to this chapter and containing the provisions set forth in Section 33670, shall contain all of the following limitations:

(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 date the county auditor certifies pursuant to Section 33492.9, except by amendment of the redevelopment plan as authorized by subparagraph (B). The loans, advances, or indebtedness may be repaid over a period of time longer than the 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.

(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) substantial blight remains within the project area; (ii) this blight cannot be eliminated without the establishment of additional debt; and (iii) the elimination of blight cannot reasonably be accomplished by private enterprise acting alone or by the legislative body's use of financing alternatives other than tax increment financing. However, this amended time limitation may not exceed 30 years from the date the county auditor certifies pursuant to Section 33492.9.

(2) A time limit, not to exceed 30 years from the date the county auditor certifies pursuant to Section 33492.9, 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 enforce existing covenants or contracts.

(3) A time limit, not to exceed 45 years from the date the county auditor certifies pursuant to Section 33492.9, 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.

(b) (1) A redevelopment plan, adopted pursuant to this chapter, that does not contain the provisions set forth in Section 33670 shall contain the limitations in paragraph (2).

(2) A time limit, not to exceed 12 years from the date the county auditor certifies pursuant to Section 33492.9, 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.

**33492.86. Payments to affected school and community college districts; territory of March Air Force Base Project Area**

(a) This section shall apply to a redevelopment project area the territory of which includes March Air Force Base, that is adopted pursuant to a redevelopment plan that contains the provisions required by Section 33670, and that is adopted pursuant to this chapter. The redevelopment agency shall make the payments to affected school districts and community college districts required by subdivision (a) of Section 33607.5, except that each of the time periods governing the payments shall be calculated from the date the county auditor makes the certification to the Director of Finance pursuant to Section 33492.9 instead of from the first fiscal year in which the agency receives tax-increment revenue.

(b) (1) Pursuant to Section 33492.3, the March Air Force Base Project Area adopted pursuant to this article may include all, or any portion of, property within the military base that the federal Base Closure and Realignment Commission has voted to realign when that action has been sustained by the President and the Congress of the United States, regardless of the percentage of urbanized land, as defined in Section 33320.1, within the military base.

(2) (A) Pursuant to Section 33492.3, the March Air Force Base Project Area may include territory outside the military base. The project area shall be entirely contained within a one-mile perimeter of the boundaries of March Air Force Base, as those boundaries exist on January 1, 1995. At no time shall the aggregate acreage of the project area outside the boundaries of March Air Force Base, as those boundaries exist on January 1, 1995, exceed 2 percent of the total acreage contained within that one-mile perimeter, and these areas may only be included in the project area upon a finding of benefit to the March Air Force Base Project Area and with the concurrence of the legislative bodies of the County of Riverside, the City of Moreno Valley, the City of Perris, and the City of Riverside.

(B) The agency for the March Air Force Base Project Area may, with the concurrence of the relevant legislative body pursuant to subparagraph (B), pay for all or a part of the value of land and the cost of the installation and construction of any structure or facility or other improvement that is publicly owned outside the jurisdiction of the agency, if the legislative body of the agency determines all of the following:

(i) That the structure, facility, or other improvement is of benefit to the project area.

(ii) That no other reasonable means of financing the facilities, structures, or improvements are available to the community.

(iii) That the payment of funds for the acquisition of land or the cost of facilities, structures, or other improvements will assist in the elimination of one or more blight conditions, as identified pursuant to Section 33492.83, inside the project area, or provide housing for low- or moderate-income persons.

(C) Concurrence of the relevant legislative body shall be demonstrated by the adoption of an ordinance by the community where the structure, facility, or other improvement is to be located that authorizes the redevelopment of the area within its territorial limits by the redevelopment agency for the March Air Force Base Project Area.

(D) All projects authorized by this subdivision shall be within communities that are contiguous to the March Air Force Base Project Area.

(c) Notwithstanding subdivision (a) of Section 33492.15 or any other provision of law, the March Joint Powers Redevelopment Agency shall not be obligated to make any payments required by subdivision (a) of Section 33492.15 to the County of Riverside, the County Free Library Fund, and the County Fire Fund. Instead, the March Joint Powers Redevelopment Agency shall be required to make those payments required under the Cooperative Agreement entered into among the County of Riverside, the March Joint Powers Authority, and the March Joint Powers Redevelopment Agency dated August 20, 1996, as that agreement may be amended from time to time.

**33492.87. Low and moderate income housing obligations**

(a) (1) Notwithstanding Section 33334.2 or any other provision of law, the agency established or governed pursuant to this article may annually defer the requirement to allocate 20 percent of tax-increment revenue to the Low and Moderate Income Housing Fund for a period of up to 5 years after the date on which the county auditor makes the certification pursuant to Section 33492.9.

(2) The agency shall not defer its allocation in any year unless it first adopts a finding based on substantial evidence that the vacancy rate for rental housing affordable to lower income households within the jurisdiction of the members of the agency is greater than 4 percent.

(3) The amount of the deferral, if any, shall be considered an indebtedness of the agency and shall be paid into the Low and Moderate Income Housing Fund no later than the end of the 10th fiscal year after the date on which the county auditor makes the certification pursuant to Section 33492.9. If the indebtedness is not eliminated by the end of the 10th fiscal year, the county auditor or controller shall, no later than March 15 of the 11th year, withhold an amount equal to the indebtedness and deposit those funds into a separate Low and Moderate Income Housing Fund for use by the redevelopment agency to meet its affordable housing requirements pursuant to this part.

(b) The agency shall not be required to replace barracks or dormitory-style housing or Arnold Heights housing that is adaptively reused, demolished, or removed within the boundaries of March Air Force Base.

### 33492.88. Use of funds to provide credit enhancements

Notwithstanding any other provision of law, as part of an agreement that provides for the development, rehabilitation, or improvement of buildings, structures, or facilities within the project area, the redevelopment agency may use any available funds, including moneys received pursuant to Section 33670, to provide credit enhancements, including, but not limited to, the ability to buy down interest rates, that are necessary for the project. Prior to entering into an agreement for a development that would be assisted pursuant to this section, the agency shall find, after a public hearing, that the assistance is necessary for the economic feasibility of the development and that the assistance cannot be obtained on economically feasible terms in the private sector.

### 33492.89. Prerequisite adoption of housing element by City of Perris

Notwithstanding any other provision of law, the March Joint Powers Redevelopment Agency shall not expend any tax-increment funds allocated to it for expenses related to carrying out the project until and unless the City of Perris adopts a housing element, pursuant to Section 65585 of the Government Code, 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.

## Article 6. Mare Island Redevelopment Project Area

### 33492.90. Legislative intent

With the enactment of this article, it is the intent of the Legislature to provide for precise and specific means to mitigate the very serious economic effects of the closure of the Mare Island Naval Shipyard on the City of Vallejo and surrounding communities by enabling the City of Vallejo to facilitate the planning and implementation of the reuse and redevelopment of the lands comprising Mare Island Naval Shipyard and surrounding areas, in accordance with the city's land use plans and facilities financing plans, through the redevelopment process and prior to the disposition of lands by the federal government to public entities and private parties.

### 33492.91. Adoption of redevelopment plan: modified requirements

(a) (1) The redevelopment plan for the Mare Island Redevelopment Project Area need not include either of the following:

(A) The information required pursuant to subdivision (d) of Section 33324 relative to the contents of the preliminary plan.

(B) The finding required pursuant to paragraph (4) of subdivision (d) of Section 33367 relative to the conformity of the redevelopment plan to the community's general plan.

(2) The redevelopment agency shall not expend any tax increment funds allocated to it from the project area for expenses related to carrying out the project unless and until the City of Vallejo finds that the redevelopment plan conforms to the general plan of the city, including the housing element thereof.

(b) Notwithstanding Section 33328, the report required by that section need only be as complete as the information then available will permit.

(c) Notwithstanding Section 33344.5, the preliminary report required by that section need only be as complete as the information then available will permit and need not contain the information required by subdivision (c) of Section 33344.5.

(d) The report submitted by the redevelopment agency to the legislative body pursuant to Section 33352, need not contain the items listed in subdivisions (b), (c), (d), (h), (j), (k), (l), and (m) of Section 33352, as modified by subdivision (b) of this section, and the ordinance adopted by the legislative body pursuant to Section 33367 need not contain the items listed in paragraphs (4) and (12) of subdivision (d) of Section 33367.

**33492.92. Payments to affected taxing entities**

(a) This section shall apply to a redevelopment project area that is adopted pursuant to this article and the territory of which includes the Mare Island Naval Shipyard.

(b) Notwithstanding any other provision of law, the redevelopment agency shall make payments to affected taxing entities required by subdivision (a) of Section 33607.5, except that each of the time periods governing the payments shall be calculated from the date the county auditor makes the certification to the Director of Finance pursuant to Section 33492.9 instead of from the first fiscal year in which the agency receives tax-increment revenue.

**33492.93. Territory of Mare Island Redevelopment Project Area**

(a) The territory of the Mare Island Redevelopment Project Area shall include all of Mare Island except for the following areas:

(1) All wetlands and dredge ponds, active or inactive.

(2) Subarea 12.

(3) The expanded golf course (Subarea 11).

(4) The recreation/open-space area (Subarea 13).

(5) The residential areas of Farragut and Coral Sea Villages (Subareas 6 and 8).

(b) As used in this section:

(1) "Subarea 6" means an area bounded on the east by Cedar Avenue and Oak Avenue; on the south by the Rifle Range (Area 7), and the Building 866 parking area; on the north by Third Street; and on the west by the wetlands.

(2) "Subarea 8" means an area bounded on the south by Club Drive; on the east by Suisun Avenue; and on the north and west by Mesa Road.

(3) "Subarea 11" means an area bounded on the west, east, and south by Regional Park; and on the north by Coral Sea Village, Young Drive, and Recreation Wall.

(4) "Subarea 12" means an area bounded on the south by Carquinez Strait; on the west by the wetlands and the dredge ponds; on the east by Mare Island Strait and Railroad Avenue; and on the north by the golf course, Young Drive, and Recreation Wall.

(5) "Subarea 13" means an area surrounded by other excluded areas (wetlands and dredge ponds).

**33492.94. Exemption from CEQA**

(a) Notwithstanding Section 21090 of the Public Resources Code, the redevelopment agency for the City of Vallejo or the legislative body of the City of Vallejo may determine at a noticed public hearing that the adoption of a redevelopment plan for the Mare Island Redevelopment Project Area pursuant to this article is not subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), except that projects implementing the redevelopment plan, including specific plans, rezonings, and ministerial projects that may have a significant effect on the environment, shall be subject to the California Environmental Quality Act. The environmental document for any implementing project shall include an analysis and mitigation of potential cumulative impacts that otherwise will not be known until an environmental impact report for the redevelopment plan is certified.

(b) The notice of the public hearing required pursuant to subdivision (a) shall include the date, time, and place of the hearing, a brief description of the proposed project and its location, the date when notice will be provided pursuant to Section 21092 of the Public Resources Code, and the address where copies of the notice of exemption are available for review.

(c) The notice required by this section shall be given to all organizations that, and individuals who, have previously requested notice pursuant to the California Environmental Quality Act, and shall be given by publication, no fewer times than required by Section 6061 of the Government Code, by the public agency in a newspaper of general circulation in the area affected by the proposed project.

(d) If the redevelopment agency for the City of Vallejo or the legislative body of the City of Vallejo determines, pursuant to subdivision (a), that the adoption of a redevelopment plan is not subject to the California Environmental Quality Act, the redevelopment agency shall prepare and certify an environmental impact report for the redevelopment plan within 18 months after the effective date of the ordinance adopting the redevelopment plan. An environmental impact report prepared and certified jointly with the preparation of the environmental impact statement by the federal lead agency pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321, et seq.) shall satisfy the requirement of this subdivision.

**33492.95. *Blighted area* defined**

For purposes of this article, a blighted area within the boundaries of the Mare Island Redevelopment Project Area is either of the following:

(a) An area in which the combination of two or more of the conditions set forth in subdivision (a) or (b) of Section 33492.11 are so prevalent and so substantial that it causes a reduction of, or a lack of, proper utilization of the area to an extent that constitutes a serious physical and economic burden on the community that cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.

(b) An area that contains one or more of the conditions described in subdivision (b) of Section 33492.11, the effect of which are so prevalent and so substantial that it causes a reduction of, or a lack of, proper utilization of the area to an extent that constitutes a serious physical and economic burden on the community that cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment, and is in addition characterized by the existence of inadequate public improvements, public facilities, and utilities, that cannot be remedied by private or governmental action, without redevelopment.

## Article 7. Tustin Marine Corps Air Station

### 33492.100. Legislative intent

With the enactment of this article, it is the intent of the Legislature to provide for precise and specific means to mitigate the very serious economic effects of the closure of the Tustin Marine Corps Air Station on the City of Tustin, surrounding cities and the County of Orange by facilitating the planning and implementation of the reuse and redevelopment of the lands comprising Tustin Marine Corps Air Station and surrounding areas in accordance with land use plans and a redevelopment plan that is in effect prior to the disposition of lands by the federal government.

### 33492.102. Project area for Tustin Marine Corps Air Station Redevelopment Project

Notwithstanding the requirements of Section 33320.1, a redevelopment plan for the Tustin Marine Corps Air Station Redevelopment Project may be adopted pursuant to the provisions of this article for a redevelopment project area which may include the following areas:

(a) An area comprising the Tustin Marine Corps Air Station that is generally bounded by Edinger Avenue, Redhill Avenue, Barranca Road, and Harvard Road.

(b) An area that includes land contiguous with the Tustin Marine Corps Air Station, if necessary for the effective redevelopment of the project area, provided that this area does not exceed 52 acres and meets the requirements of Section 33320.1 without taking into account any of the lands described in subdivision (a). Notwithstanding any other provision of this part, a redevelopment plan adopted pursuant to this part shall not authorize the redevelopment agency to acquire by condemnation any lands authorized to be included in a project area pursuant to this subdivision.

### 33492.104. *Blighted area* defined

For the purposes of this article, a blighted area within the boundaries of the Tustin Marine Corps Air Station Redevelopment Project is an area described in subdivision (a) of Section 33492.102 in which the combination of two or more of the following conditions are so prevalent and so substantial that it causes a reduction of, or a lack of, proper utilization of the area to an extent that constitutes a serious physical and economic burden on the community that cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment:

(a) Buildings in which it is unsafe or unhealthy for persons to live or work. These conditions can be caused by serious building code violations, dilapidation and deterioration, defective design or physical construction, faulty or inadequate infrastructure, or other similar factors.

(b) Factors that prevent or substantially hinder the economically viable reuse or capacity of buildings or areas. This condition may be caused by conditions including, but not necessarily limited to, all of the following: a substandard design; buildings that are too large or too small given present standards and market conditions; and age, obsolescence, deterioration, dilapidation, or other physical conditions that could prevent the highest and best uses of the property. This condition also may be caused by buildings that must be demolished or buildings or areas that have a lack of parking.

(c) Adjacent or nearby uses that are incompatible with each other and that prevent the economic development of those parcels or other portions of the project area.

(d) Buildings on land that, when subdivided or when infrastructure is installed, would not comply with community subdivision, zoning, or planning regulations.

(e) Properties currently served by infrastructure that does not meet existing adopted utility or community infrastructure standards or the existence of inadequate public improvements, public facilities, and utilities that cannot be remedied by private or governmental action, without redevelopment.

(f) Buildings that, when built, did not conform to the then-effective building, plumbing, mechanical, or electrical codes adopted by the jurisdiction in which the project area is located.

(g) Land that contains materials or facilities, including, but not necessarily limited to, materials for aircraft landing pads and runways that would have to be removed to allow development.

(h) Properties that contain hazardous wastes that may benefit from the use of agency authority as specified in Article 12.5 (commencing with Section 33459) of Chapter 4 in order to be developed by either the private or public sector or in order to comply with applicable federal or state standards.

**33492.106. Deferral of housing set-aside requirement**

(a) Notwithstanding Section 33334.2, or any other provision of law, the redevelopment agency for the Tustin Marine Corps Air Station Redevelopment Project, may, for up to 10 years, defer depositing into the Low- and Moderate-Income Housing Fund up to 50 percent of the amount required by Section 33334.2. The amount of the deferral shall be considered an indebtedness and shall be repaid to the Low- and Moderate-Income Housing Fund during the period from the beginning of the 11th year to the end of the 20th year after the establishment of the Tustin Marine Corps Air Station Redevelopment Project area. If the indebtedness is not eliminated by the end of the 20th year, the county auditor or controller shall withhold an amount equal to the indebtedness and deposit those funds into a separate Low- and Moderate-Income Housing Fund for use by the redevelopment agency.

(b) This section shall not apply to the requirement that tax increment revenues attributable to the property that is located outside the military base be allocated to the Low- and Moderate-Income Housing Fund.

**33492.108. Payments to affected taxing entities**

Notwithstanding any other provision of law, the redevelopment agency shall make payments to affected taxing entities required by subdivision (a) of Section 33607.5, except that each of the time periods governing the payments shall be calculated from the date the county auditor makes the certification to the Director of Finance pursuant to Section 33492.9 instead of from the first fiscal year in which the agency receives tax increment revenue.

**33492.110. Limited exemption from CEQA**

(a) Notwithstanding subdivision (k) of Section 33352, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) shall not apply to the adoption of a redevelopment plan prepared pursuant to this article if the redevelopment agency determines at a public hearing, noticed in accord with this section, that the need to adopt a redevelopment plan at the soonest possible time in order to use the authority in this article requires the redevelopment agency to delay application of the provisions of the California Environmental Quality Act to the redevelopment plan in accordance with this section.

(b) If the redevelopment agency finds, pursuant to subdivision (a), that the application of the California Environmental Quality Act to the redevelopment plan is required to be delayed, the redevelopment agency or the community shall certify an environmental impact report for the redevelopment plan within 18 months after the effective date of the ordinance adopting the redevelopment plan. If, as a result of the preparation of the environmental document prepared pursuant to this subdivision,

it is necessary to amend the redevelopment plan to mitigate any impacts, the agency shall amend the redevelopment plan according to the procedures of this part. If the environmental document is determined to be inadequate, the redevelopment agency shall not continue with projects that implement the redevelopment plan until an adequate environmental document has been certified; however, this determination shall not affect the validity of the redevelopment plan.

(c) Until the redevelopment agency or the community certifies an environmental impact report for the redevelopment plan, all projects, as defined in the California Environmental Quality Act, that implement the redevelopment plan shall be subject to the California Environmental Quality Act, including, but not limited to, specific plans and rezonings. The environmental document for any implementing project shall include an analysis and mitigation of potential cumulative impacts, if any, that otherwise would not be known until an environmental document for the redevelopment plan is certified or approved and shall also include a reporting or monitoring program required pursuant to Section 21081 of the Public Resources Code.

(d) The notice for the public hearing required by subdivision (a) shall comply with, and may be combined with, the notices in Section 33349 or 33361. The notice shall state that the agency intends to consider and act upon a determination that the need to adopt a redevelopment plan at the soonest possible time in order to use the authority in this article requires the redevelopment agency to delay application of the provisions of the California Environmental Quality Act to the redevelopment plan in accordance with this section.

**33492.112. Consistency with general plan**

The ordinance adopting the redevelopment plan for the Tustin Marine Corps Air Station Project Area shall not be required to include the finding required pursuant to paragraph (4) of subdivision (d) of Section 33367. However, the redevelopment agency shall not expend any tax increment funds allocated to it from the project area for expenses related to carrying out the project unless and until the City of Tustin finds that the redevelopment plan conforms to the general plan of the city, including the housing element.

**33492.114. Land use or other approvals; conditions**

If the City of Tustin, the Tustin Community Redevelopment Agency, or any agency or political subdivision of either, intends to or does acquire title to any real property that lies within the boundaries of the former Marine Corps Air Station-Tustin, then notwithstanding any other provision of law, including Section 33607.5, neither the City of Tustin, nor the Tustin Community Redevelopment Agency, and none of their respective agencies and political subdivisions may grant or issue any land use or other approvals, in the form of any general plan amendments, specific plans, zoning ordinances, redevelopment plans, development agreements, subdivision maps, or other development permits or entitlements, to allow any persons or entities to develop any commercial, residential, or other land uses on all or any portion of any real property at the Marine Corps Air Station-Tustin that the City of Tustin, the Tustin Community Redevelopment Agency, or any agency or political subdivision of either, intends to or does acquire from any source, unless those approvals require, as conditions of approval and mitigation measures for allowing the development of those land uses, the conveyance, or the irrevocable offer to dedicate, without charge, to the Santa Ana Unified School District and the Rancho Santiago Community College District, for purposes of constructing and operating a K-14 facility, (a) fee title to a 100-acre parcel of contiguous land situated within that portion of the Marine Corps Air Station-Tustin that falls within the existing boundaries of the Santa Ana Unified School District and the Rancho Santiago Community College District and includes all or some of the real property referred to as Parcels 4, 5, 6, 7, 8, and 14 as shown on Figure 2-3 of the approved Reuse Plan for the Marine Corps Air Station-Tustin, or (b) fee title to a portion of the Marine Corps Air Station-Tustin that consists of a portion of land that is approved in writing by the Santa Ana Unified School District and the Rancho Santiago Community College District and that does not include any property designated in the Marine Corps Air Station-Tustin Base Reuse Plan for any other public entity or nonprofit organization, including, without limitation, the County of Orange, the Orange County Sheriff-Coroner, and the Orange County Rescue Mission, but excluding the South Orange County Community College District.

Those conditions of approval and mitigation measures shall require that the conveyance or offer to dedicate that 100-acre parcel to those districts shall be made within 12 months of the date on which the City of Tustin, the Tustin Community Redevelopment Agency, or any agency or political subdivision of either, first acquires that property from any source. The requirements of this section shall be deemed satisfied upon the conveyance of the property, described in (a) or (b), to the Santa Ana Unified School District and the Rancho Santiago Community College District. Prior to conveyance of this property, the Santa Ana Unified School District and the Rancho Santiago Community College District shall agree upon a legal description of the property. Notwithstanding any other provision of law, for purposes of Article 7 (commencing with Section 1240.610) of Chapter 3 of Title 7 of Part 3 of the Code of Civil Procedure, use of land for classroom facilities, including, but not limited to, educational and training programs, by the Santa Ana Unified School District or the Rancho Santiago Community College District shall be irrebuttably presumed to be a more necessary public use than any other use at the Marine Corps Air Station-Tustin. This section shall apply retroactively to all land use or other approvals relating to the Marine Corps Air Station-Tustin that are granted or issued by the City of Tustin, the Tustin Community Redevelopment Agency, or any agency or political subdivision of either, on or after January 1, 2001. Any such land use or other approvals granted or issued by any of these entities that do not comply with this section shall be invalid and of no force or effect.

### 33492.116. Historic preservation program

(a) For purposes of the application of Section 106 of the National Historic Preservation Act (16 U.S.C. Sec. 470 et seq.) as it applies only to an area comprising the survey area created for redevelopment of the Tustin Marine Corps Air Station pursuant to Section 33310, if the City of Tustin's historic preservation program is certified pursuant to Section 101(c)(1) of that act (16 U.S.C. Sec. 470a(c)(1)), the City of Tustin may elect to assume any of the duties that are given to the state historic preservation officer by Part 800 of Title 36 of the Code of Federal Regulations or that originate from agreements concluded under those regulations. The state historic preservation officer shall agree to this assumption of duties by the City of Tustin.

(b) In assuming the duties of the state historic preservation officer pursuant to this section, the city shall ensure that a marketing and solicitation process is conducted to determine the feasibility of permanent reuse of Buildings 29 and 29A. The city shall be responsible for determining in good faith if there are qualified respondents to the marketing and solicitation process and determining if the permanent use of these properties in their historic condition is feasible. If it is determined that permanent use of these historic properties is not feasible, the city shall require mitigation for the adverse effect on these historic properties prior to approving any undertaking.

## Article 8. The Alameda Naval Air Station and the Fleet Industrial Supply Center

### 33492.125. Legislative intent

With the enactment of this article, it is the intent of the Legislature to provide for precise and specific means to mitigate the very serious economic effects of the closure of the Alameda Naval Air Station and the Fleet Industrial Supply Center on the City of Alameda, surrounding cities, and the County of Alameda by facilitating the planning and implementation of the reuse and redevelopment of the lands comprising the Naval Air Station and the Fleet Industrial Supply Center located in the City of Alameda and the surrounding areas in accordance with land use plans and a redevelopment plan that are in effect prior to the disposition of lands by the federal government.

**33492.127. Project area boundaries**

(a) A redevelopment plan covering all or part of the lands of the Alameda Naval Air Station and the Fleet Industrial Supply Center Redevelopment Project may be adopted pursuant to Article 1 (commencing with Section 33492), provided that the project area shall not include territory outside the boundaries of the Alameda Naval Air Station and the Fleet Industrial Supply Center.

(b) Notwithstanding the time limit in subdivision (b) of Section 33492.18, the agency or the community shall certify an environmental impact report for the redevelopment plan adopted pursuant to this section within 30 months after the effective date of the ordinance adopting the redevelopment plan.

(c) The following provisions shall apply to the approval of projects that implement a redevelopment plan authorized by this article:

(1) For 18 months after the effective date of the ordinance adopting the redevelopment plan, or until the certification of an environmental impact report for the redevelopment plan if the report is certified during that 18-month period, subdivision (c) of Section 33492.18 shall apply.

(2) If an environmental impact report for the redevelopment plan is not certified within 18 months after the effective date of the ordinance adopting the plan, then during the succeeding 12 months or until the certification of an environmental impact report if the report is certified during that 12-month period, no project, as defined in Section 21065 of the Public Resources Code, that implements the redevelopment plan shall be approved by the agency or the community unless any of the following occurs:

(A) The agency or the community has approved a negative declaration or certified an environmental impact report, or has certified a subsequent or supplemental environmental impact report, for the project before the expiration of the 18-month period provided in Section 33492.18.

(B) The agency or the community has certified a subsequent or supplemental environmental impact report for the project where the environmental impact report for the project was certified before the expiration of the 18-month period provided in Section 33492.18.

(C) The agency or the community complies with Chapter 4.5 (commencing with Section 21156) of Division 13 of the Public Resources Code for subsequent projects described in a master environmental impact report as being within the scope of the report, and that master environmental impact report was certified before the expiration of the 18-month period provided in Section 33492.18.

(D) The project is categorically exempt pursuant to Article 19 (commencing with Section 15300) of Chapter 3 of Division 6 of Title 14 of the California Code of Regulations.

**33492.129. Payments to affected taxing entities**

Notwithstanding Section 33492.9 or any other provision of law, the redevelopment agency shall make payments to affected taxing entities required by Section 33607.5.

### 33492.131. Substantially rehabilitated dwelling units

(a) Dwelling units, as defined, in the Alameda Naval Air Station and the Fleet Industrial Supply Center Project Area made available to a member of the Homeless Collaborative pursuant to the Base Closure Community Redevelopment and Homeless Assistance Act of 1994 (Part A of Title XXIX of Public Law 101-510; 10 U.S.C. Sec. 2687 note), and in particular Section (7) (C) through (O) thereof, and thereafter substantially rehabilitated, shall be deemed substantially rehabilitated units for purposes of determining the compliance of the Alameda Naval Air Station and the Fleet Industrial Supply Center redevelopment agency with the provisions of subdivision (b) of Section 33413.

(b) For the purposes of this section, "dwelling units" means permanent or transitional residential units, and does not mean student dormitory rooms or overnight emergency shelter beds.

(c) For the purposes of this section, "substantially rehabilitated" means rehabilitation, the value of which constitutes 25 percent of the after rehabilitation value of the dwelling, inclusive of land value.

## Article 9. Hamilton Army Airfield

### 33492.140. Payments to specified taxing agencies

Notwithstanding paragraph (1) of subdivision (f) of Section 33607.5, the redevelopment agency of the City of Novato may pay to the County of Marin, the Novato Fire Protection District, and the Marin Community College District any amounts of money that in the agency's determination are appropriate to alleviate any financial burden or detriment caused to the County of Marin, the Novato Fire Protection District, or the Marin Community College District by the Hamilton Field Redevelopment Project.

# CHAPTER 4.6. CALIFORNIA STATE UNIVERSITY, CHANNEL ISLANDS SITE AUTHORITY

**33498. Legislative intent**

(a) For purposes of this chapter, the terms "authority" and "site" have the meaning given in Section 67472 of the Government Code.

(b) With enactment of this chapter, it is the intent of the Legislature to do both of the following:

(1) Provide a means of mitigating the harmful effects and potentially blighted conditions caused by the closure of the former Camarillo State Hospital.

(2) Enhance the economic, cultural, and social development of the region by facilitating the development of a state university campus and other compatible uses on the site.

(c) The Legislature finds that the closure and conversion of major state facilities can require use of the powers provided under this part and under Section 16 of Article XVI of the California Constitution, and that the closure of the Camarillo State Hospital and the development of a California State University campus on the site as well as the development of compatible uses on the site requires development of a reuse plan by the California State University, Channel Islands Site Authority.

**33498.1. Reuse plan**

(a) The reuse plan adopted by the authority shall provide for use of the site and allocation of tax revenues to the authority for reuse and development on the site with priority to development of California State University facilities on the site as set forth in Title 7.75 (commencing with Section 67470) of the Government Code. Except as provided in that title and this chapter, the authority shall be exempt from all other requirements of this part.

(b) The reuse plan shall include an implementation plan adopted and periodically revised pursuant to Section 33490.

(c) The authority shall comply with Article 6 (commencing with Section 33030) of Chapter 1.

**33498.2. Housing**

(a) The Legislature finds and declares that the provision of housing is itself a fundamental purpose of this part and of the authority. There is a generally inadequate supply of decent, safe, and sanitary housing on the site available to the faculty and staff of the California State University, Channel Islands, and to persons and families of low or moderate income, as defined by Section 50093. The inadequate supply of this housing threatens the accomplishment of the primary purposes of this part and of the authority. Therefore, the Legislature finds and declares that the provision of housing pursuant to this section and the use of taxes allocated to the authority pursuant to subdivision (b) of Section 33670 is of statewide benefit and of particular benefit and assistance to the redevelopment of the former Camarillo State Hospital as the site of a California State University campus.

(b) Not less than 20 percent of all taxes that are allocated to the authority pursuant to Section 33670 shall be deposited into a separate Low and Moderate Income Housing Fund, which is hereby created

in the State Treasury, to be administered and used by the authority for the purposes of increasing, improving, and preserving both of the following:

(1) Housing on the site for the faculty and staff of the California State University, Channel Islands.

(2) Low- and moderate-income housing on the site 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, and very low income households, as defined in Section 50105.

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

(d) In carrying out the purposes of this section, the authority may, solely within the boundaries of the site, exercise any or all of the following powers:

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

(2) Improve real property or building sites for the housing listed in subdivision (b) with onsite or offsite improvements, but only if the authority finds either of the following:

(A) The improvements are made as part of a program that results in the new construction or rehabilitation of housing.

(B) The improvements are necessary to eliminate one or more specific conditions that jeopardize the health or safety of residents.

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

(4) Finance insurance premiums pursuant to Section 33136.

(5) Construct residential buildings or related structures.

(6) Acquire buildings or structures for residential and related uses.

(7) Rehabilitate buildings or structures for residential and related uses.

(8) Provide subsidies to, or for the benefit of, very low income persons or households, as defined by Section 50105, lower income persons or households, as defined by Section 50079.5, or persons and families of low or moderate income, as defined by Section 50093, to the extent that those persons or households cannot obtain housing at affordable costs on the open market in the vicinity of the site. These subsidies or benefits may include rental subsidies to low-income students at California State University, Channel Islands, who live in housing, including dormitories, on the site. 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 supply of mobilehomes on the site.

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

(12) Pay for planning and general administration costs pursuant to subdivision (e).

(e) The Legislature intends that the authority use the Low and Moderate Income Housing Fund to the maximum extent possible to defray the costs of production, improvement, and preservation of housing solely within the site, 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, and preservation of that housing. The authority shall annually determine that the planning and administrative expenses are necessary for the production, improvement, or preservation of housing on the site. Legal, architectural, and engineering costs and other salaries, wages, and costs directly related to the planning and execution of a specific housing project and which are incurred by a nonprofit housing sponsor are not "planning and administrative costs" for the purposes of this subdivision, but are instead project costs. Planning and general administrative costs which may be paid with moneys from the Low and Moderate Income Housing Fund are those expenses that the authority incurs that are directly related to the powers listed in subdivision (d), and are limited to the following:

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

(2) Costs incurred by a nonprofit corporation that are not directly attributable to a specific housing project.

(f) Housing that is produced, improved, or preserved with moneys from the Low and Moderate Income Housing Fund shall remain available for the longest period of time, as follows:

(1) The authority shall require that housing that is produced, improved, or preserved for the faculty and staff of the California State University, Channel Islands, be subject to covenants or restrictions filed in the office of the county recorder perpetually limiting the residency to those persons.

(2) The authority shall require that housing that is produced, improved, or preserved for persons and households of low or moderate income and persons and households of very low income be subject to covenants or restrictions filed in the office of the county recorder limiting the residency to those persons as follows:

(A) For owner-occupied housing units, for a period of 10 years. However, the authority may permit sales of owner-occupied units prior to the expiration of the 10-year period for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program that protects the authority'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. The remainder of the excess proceeds of the sale shall be allocated to the authority and deposited in the Low and Moderate Income Housing Fund.

(B) For rental units, for a period of 15 years.

(g) The authority shall spend or encumber all property tax revenues deposited into the Low and Moderate Income Housing Fund within five years from the end of the fiscal year in which the funds

were deposited into the fund. If the authority fails to spend or encumber those revenues in a timely manner, and thereafter until the authority has expended or encumbered those revenues, the agency shall not receive any property tax revenue from any source except as necessary to pay the following obligations, if any:

(1) Bonds, notes, interim certificates, debentures, or other obligations issued by the authority whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33640) of Chapter 6.

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

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

(4) Obligations incurred pursuant to Section 33445.

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

(6) Obligations incurred pursuant to Section 33401.

# CHAPTER 5. LEGAL ACTIONS

## Article 1. Actions Involving Redevelopment Plans or Bonds

### 33500. Limitation on actions

(a) Notwithstanding any other provision of law, including Section 33501, an action may be brought to review the validity of the adoption or amendment of a redevelopment plan at any time within 90 days after the date of the adoption of the ordinance adopting or amending the plan.

(b) Notwithstanding any other provision of law, including Section 33501, an action may be brought to review the validity of any findings or determinations by the agency or the legislative body at any time within 90 days after the date on which the agency or the legislative body made those findings or determinations.

### 33501. Validation actions

(a) An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of bonds and the redevelopment plan to be financed or refinanced, in whole or in part, by the bonds, or to determine the validity of a redevelopment plan not financed by bonds, including without limiting the generality of the foregoing, the legality and validity of all proceedings theretofore taken for or in any way connected with the establishment of the agency, its authority to transact business and exercise its powers, the designation of the survey area, the selection of the project area, the formulation of the preliminary plan, the validity of the finding and determination that the project area is predominantly urbanized, and the validity of the adoption of the redevelopment plan, and also including the legality and validity of all proceedings theretofore taken and (as provided in the bond resolution) proposed to be taken for the authorization, issuance, sale and delivery of the bonds and for the payment of the principal thereof and interest thereon.

(b) Notwithstanding subdivision (a), an action to determine the validity of a redevelopment plan, or amendment to a redevelopment plan, may be brought within 90 days after the date of the adoption of the ordinance adopting or amending the plan.

(c) For the purposes of protecting the interests of the state, the Attorney General and the Department of Finance are interested persons pursuant to Section 863 of the Code of Civil Procedure in any action brought with respect to the validity of an ordinance adopting or amending a redevelopment plan pursuant to this section.

(d) For purposes of contesting the inclusion in a project area of lands that are enforceably restricted, as that term is defined in Sections 422 and 422.5 of the Revenue and Taxation Code, or lands that are in agricultural use, as defined in subdivision (b) of Section 51201 of the Government Code, 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, are interested persons pursuant to Section 863 of the Code of Civil Procedure, in any action brought with respect to the validity of an ordinance adopting or amending a redevelopment plan pursuant to this section.

### 33501.1. Intervention by Attorney General

Notwithstanding Chapter 9 (commencing with Section 860) of Title 10 of the Code of Civil Procedure, the Attorney General may, pursuant to subdivision (b) of Section 387 of the Code of Civil Procedure, intervene as of right in an action specified in Section 33501 challenging the validity of any finding and determination that a project area is blighted. The Attorney General may seek permissive

intervention pursuant to subdivision (a) of Section 387 of the Code of Civil Procedure in any other action brought pursuant to Section 33501.

### 33501.2. Required objections prior to close of public hearing before bringing action

(a) An action shall not be brought pursuant to Section 33501 unless the alleged grounds for noncompliance with this division were presented to the agency or the legislative body orally or in writing by any person before the close of the public hearing required by this division.

(b) A person shall not bring an action pursuant to Section 33501 unless a person objected to the decision of the agency or the legislative body before the close of the public hearing required by this division.

(c) This section does not preclude any organization formed after the approval of a project from bringing an action pursuant to Section 33501 if a member of that organization has complied with subdivision (b).

(d) This section does not apply to the Attorney General.

(e) This section does not apply to any alleged grounds for noncompliance with this division for which there was no public hearing or other opportunity for members of the public to raise those objections orally or in writing before the decision by the agency or the legislative body, or if the agency or the legislative body failed to give the notice required by law.

### 33501.3. Service on Attorney General

If an action specified in Section 33501 challenging the validity of any finding and determination that the project area is blighted is filed in any court, each party filing any pleading or brief with the court in that proceeding shall serve, within three days of the filing with the court, a copy of that pleading or brief on the Attorney General. Relief, temporary or permanent, shall not be granted to a party unless that party files proof with the court showing that it has complied with this section. A court may, by court order, allow a party to serve the Attorney General after the three-day period, but only upon showing of good cause for not complying with the three-day notice requirement, and that late service will not prejudice the Attorney General's ability to review, and possibly participate in, the action.

### 33501.5. Service on Director of Housing and Community Development

In any judicial action specified in Section 33501 in which the validity of actions of the agency under Section 33334.2, 33334.3, or 33334.6 are in issue, the party initiating the judicial action or otherwise challenging the validity of those actions of the agency shall serve a copy of the complaint or answer alleging that invalidity upon the Director of Housing and Community Development within 10 days after filing that complaint or answer with the court. The court may render no judgment in the matter or provide other permanent or provisional relief to any party until proof of service of the Director of Housing and Community Development pursuant to this section has been submitted to the court. Nothing in this section shall be deemed to expand the scope of Section 33501.

### 33501.7. Agency precluded from requiring indemnification of agency as a condition of adopting or amending a redevelopment plan

Notwithstanding any other provision of law, an agency or legislative body shall not permit or require a property owner or a real party in interest to indemnify the agency or the legislative body against actions brought pursuant to Section 33501 to challenge the adoption or amendment of a redevelopment plan, as a condition of adopting or amending a redevelopment plan.

**33502. Judgment**

The judgment shall determine the validity or invalidity, respectively, of the matters specified in Section 33501. The judgment shall be subject to being reopened under Section 473 or Section 473.5 of the Code of Civil Procedure or otherwise only within 90 days after the entry of the judgment and petitioner and any person who has appeared in the special proceeding shall have the right to move for a new trial under proper circumstances and upon appropriate grounds and to appeal from the judgment.

**33503. Effect of judgment**

The judgment, if no appeal is taken, or if taken and the judgment is affirmed shall be forever binding and conclusive, as to all matters therein adjudicated or which at that time could have been adjudicated, against the agency and against all other parties and if the judgment determines that the agency is lawfully established, that the redevelopment plan is valid and effective, that the agency is authorized to issue such bonds and that such bonds when issued will be valid, the judgment shall permanently enjoin the institution by any person of any action or proceeding raising any issue as to which the judgment is binding and conclusive.

**33504. Other actions by obligees**

Other actions by obligees are authorized by Sections 33660 and 33661.

**33505. Authorization of settlements – public hearing**

(a) The agency and legislative body shall not authorize or approve the settlement of any judicial action specified in Section 33501 that contests the validity of the adoption or amendment of a redevelopment plan if the settlement requires the expenditure of funds outside the project area unless the agency and the legislative body have first held a public hearing on the proposed settlement pursuant to this section.

(b) Notice of the public hearing shall be published once a week for two successive weeks in a newspaper of general circulation in the community. Notice of the public hearing shall be posted in at least five prominent locations inside the project area for at least two weeks before the hearing. Notice of the hearing shall be mailed by first-class mail to the project area committee, if any, and to any other persons or organizations who have filed a written request for public notice.

(c) Copies of the proposed settlement shall be available for public inspection and copying not later than the first date of publication of the public notice.

## Article 2. Actions for Money or Damages

**33510. Actions against agency for money or damages**

All claims for money or damages against the agency are governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code except as provided therein, or by other statutes or regulations expressly applicable thereto.

## Article 3. Actions Involving Public Agencies

**33515. Actions against certain public agencies prohibited**

(a) A redevelopment agency shall not, either directly or indirectly, use its funds to file or maintain an action or proceeding in either of the following circumstances:

(1) Against a public agency that does not have jurisdiction to conduct its governmental activities within the jurisdiction of the redevelopment agency.

(2) The subject matter of the action involves real property outside the jurisdictional boundaries of the redevelopment agency.

(b) The prohibition in subdivision (a) shall not preclude a redevelopment agency from using its funds to:

(1) Defend itself against any action.

(2) File or maintain an action against a public agency or private entity regarding the interpretation or enforcement of a written agreement between the redevelopment agency and that public agency or private entity.

(c) No funds of a redevelopment agency shall be loaned or granted to any person, corporation, or public agency to finance, in whole or in part, an action the financing of which by a redevelopment agency is prohibited by subdivision (a). In addition, a redevelopment agency shall not borrow funds from its community or any other source to file or maintain an action which is prohibited by subdivision (a).

(d) Nothing in this section shall prohibit a community from filing or maintaining an action on behalf of the community and its redevelopment agency as long as funds of the redevelopment agency are not used, either directly or indirectly, on behalf of the lawsuit.

(e) For purposes of this article:

(1) "Finance" includes, but is not necessarily limited to, the payment of filing fees, attorneys' fees, service fees, expert witness fees, consultants' fees, or any other expenses or costs incurred in connection with an action.

(2) "Public agency" includes a local agency as defined in Section 54951 of the Government Code and includes a joint powers agency or authority and a redevelopment agency.

# CHAPTER 6. FINANCIAL PROVISIONS

## Article 1. General

### 33600. Authority of agency

An agency may accept financial or other assistance from any public or private source, for the agency's activities, powers, and duties, and expend any funds so received for any of the purposes of this part.

### 33601. Financial assistance; loans

An agency may borrow money or accept financial or other assistance from the state or the federal government or any other public agency for any redevelopment project within its area of operation, and may comply with any conditions of such loan or grant.

An agency may borrow money (by the issuance of bonds or otherwise) or accept financial or other assistance from any private lending institution for any redevelopment project for any of the purposes of this part, and may execute trust deeds or mortgages on any real or personal property owned or acquired.

### 33602. Bonds

"Bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by an agency pursuant to Article 5 (commencing with Section 33640) of this chapter.

### 33603. Authorized investments

An agency may invest any money held in reserves or sinking funds, or any money not required for immediate disbursement, in property or securities in which savings banks may legally invest money subject to their control.

### 33604. Surplus funds

If an agency ceases to function, any surplus funds existing after payment of all its obligations and indebtedness shall vest in the community.

### 33605. Delegation of power for preliminary loan notes

In connection with the issuance and sale of preliminary loan notes, secured by a requisition agreement with the United States of America, the agency may delegate to one or more of its agents or employees the powers or duties it deems proper.

### 33606. Annual budget

An agency shall adopt an annual budget containing all of the following specific information, including all activities to be financed by the Low and Moderate Income Housing Fund established pursuant to Section 33334.3:

(a) The proposed expenditures of the agency.

(b) The proposed indebtedness to be incurred by the agency.

(c) The anticipated revenues of the agency.

(d) The work program for the coming year, including goals.

(e) An examination of the previous year's achievements and a comparison of the achievements with the goals of the previous year's work program.

The annual budget may be amended from time to time as determined by the agency. All expenditures and indebtedness of the agency shall be in conformity with the adopted or amended budget.

When the legislative body is not the redevelopment agency, the legislative body shall approve the annual budget and amendments of the annual budget of the agency.

**33607. Reimbursement of county expenses**

A county may require a community redevelopment agency to reimburse the county for any expenses incurred by the county in performing any of the services required to be performed by the county for the redevelopment agency pursuant to Sections 33670, 33675, and 33676 for a project area as to which no payments are made by the agency to the county in accordance with subdivision (b) of Section 33401 and no agreement has been entered into and either of the following situations exist:

(a) A final redevelopment plan for the project area is adopted on or after January 1, 1986.

(b) A final redevelopment plan for the project area was adopted prior to January 1, 1986, but its boundaries are changed on or after January 1, 1986, to add land to, or to exclude land from, the project area. However, in the case of a project area which changes its boundaries on or after January 1, 1986, to add land to the project area, the reimbursement shall relate only to expenses incurred by the county with respect to the added area.

**33607.5. Payments to affected taxing entities**

(a) (1) This section shall apply to each redevelopment project area that, pursuant to a redevelopment plan which contains the provisions required by Section 33670, is either: (A) adopted on or after January 1, 1994, including later amendments to these redevelopment plans; or (B) adopted prior to January 1, 1994, but amended, after January 1, 1994, to include new territory. For plans amended after January 1, 1994, only the tax increments from territory added by the amendment shall be subject to this section. All the amounts calculated pursuant to this section shall be calculated after the amount required to be deposited in the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6 has been deducted from the total amount of tax increment funds received by the agency in the applicable fiscal year.

(2) The payments made pursuant to this section shall be in addition to any amounts the affected taxing entities receive pursuant to subdivision (a) of Section 33670. The payments made pursuant to this section to the affected taxing entities, including the community, shall be allocated among the affected taxing entities, including the community if the community elects to receive payments, in proportion to the percentage share of property taxes each affected taxing entity, including the community, receives during the fiscal year the funds are allocated, which percentage share shall be determined without regard to any amounts

allocated to a city, a city and county, or a county pursuant to Sections 97.68 and 97.70 of the Revenue and Taxation Code, and without regard to any allocation reductions to a city, a city and county, a county, a special district, or a redevelopment agency pursuant to Sections 97.71, 97.72, and 97.73 of the Revenue and Taxation Code and Section 33681.12. The agency shall reduce its payments pursuant to this section to an affected taxing entity by any amount the agency has paid, directly or indirectly, pursuant to Section 33445, 33445.5, 33445.6, 33446, or any other provision of law other than this section for, or in connection with, a public facility owned or leased by that affected taxing agency, except: (A) any amounts the agency has paid directly or indirectly pursuant to an agreement with a taxing entity adopted prior to January 1, 1994; or (B) any amounts that are unrelated to the specific project area or amendment governed by this section. The reduction in a payment by an agency to a school district, community college district, or county office of education, or for special education, shall be subtracted only from the amount that otherwise would be available for use by those entities for educational facilities pursuant to paragraph (4). If the amount of the reduction exceeds the amount that otherwise would have been available for use for educational facilities in any one year, the agency shall reduce its payment in more than one year.

(3) If an agency reduces its payment to a school district, community college district, or county office of education, or for special education, the agency shall do all of the following:

(A) Determine the amount of the total payment that would have been made without the reduction.

(B) Determine the amount of the total payment without the reduction which: (i) would have been considered property taxes; and (ii) would have been available to be used for educational facilities pursuant to paragraph (4).

(C) Reduce the amount available to be used for educational facilities.

(D) Send the payment to the school district, community college district, or county office of education, or for special education, with a statement that the payment is being reduced and including the calculation required by this subdivision showing the amount to be considered property taxes and the amount, if any, available for educational facilities.

(4) (A) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to school districts, 43.3 percent shall be considered to be property taxes for the purposes of paragraph (1) of subdivision (h) of Section 42238 of the Education Code, and 56.7 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities.

(B) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to community college districts, 47.5 percent shall be considered to be property taxes for the purposes of Section 84751 of the Education Code, and 52.5 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities.

(C) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section to county offices of education, 19 percent

shall be considered to be property taxes for the purposes of Section 2558 of the Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for educational facilities.

(D) Except as specified in subparagraph (E), of the total amount paid each year pursuant to this section for special education, 19 percent shall be considered to be property taxes for the purposes of Section 56712 of the Education Code, and 81 percent shall not be considered to be property taxes for the purposes of that section and shall be available to be used for education facilities.

(E) If, pursuant to paragraphs (2) and (3), an agency reduces its payments to an educational entity, the calculation made by the agency pursuant to paragraph (3) shall determine the amount considered to be property taxes and the amount available to be used for educational facilities in the year the reduction was made.

(5) Local education agencies that use funds received pursuant to this section for school facilities shall spend these funds at schools that are: (A) within the project area, (B) attended by students from the project area, (C) attended by students generated by projects that are assisted directly by the redevelopment agency, or (D) determined by the governing board of a local education agency to be of benefit to the project area.

(b) Commencing with the first fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, including the community if the community elects to receive a payment, an amount equal to 25 percent of the tax increments received by the agency after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted. In any fiscal year in which the agency receives tax increments, the community that has adopted the redevelopment project area may elect to receive the amount authorized by this paragraph.

(c) Commencing with the 11th fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, other than the community which has adopted the project, in addition to the amounts paid pursuant to subdivision (b) and after deducting the amount allocated to the Low and Moderate Income Housing Fund, an amount equal to 21 percent of the portion of tax increments received by the agency, which shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the first adjusted base year assessed value. The first adjusted base year assessed value is the assessed value of the project area in the 10th fiscal year in which the agency receives tax increment revenues.

(d) Commencing with the 31st fiscal year in which the agency receives tax increments and continuing through the last fiscal year in which the agency receives tax increments, a redevelopment agency shall pay to the affected taxing entities, other than the community which has adopted the project, in addition to the amounts paid pursuant to subdivisions (b) and (c) and after deducting the amount allocated to the Low and Moderate Income Housing Fund, an amount equal to 14 percent of the portion of tax increments received by the agency, which shall be calculated by applying the tax rate against the amount of assessed value by which the current year assessed value exceeds the second adjusted base year assessed value. The second adjusted base year assessed value is the assessed value of the project area in the 30th fiscal year in which the agency receives tax increments.

(e) (1) Prior to incurring any loans, bonds, or other indebtedness, except loans or advances from the community, the agency may subordinate to the loans, bonds or other indebtedness the amount required to be paid to an affected taxing entity

by this section, provided that the affected taxing entity has approved these subordinations pursuant to this subdivision.

(2) At the time the agency requests an affected taxing entity to subordinate the amount to be paid to it, the agency shall provide the affected taxing entity with substantial evidence that sufficient funds will be available to pay both the debt service and the payments required by this section, when due.

(3) Within 45 days after receipt of the agency's request, the affected taxing entity shall approve or disapprove the request for subordination. An affected taxing entity may disapprove a request for subordination only if it finds, based upon substantial evidence, that the agency will not be able to pay the debt payments and the amount required to be paid to the affected taxing entity. If the affected taxing entity does not act within 45 days after receipt of the agency's request, the request to subordinate shall be deemed approved and shall be final and conclusive.

(f) (1) The Legislature finds and declares both of the following:

(A) The payments made pursuant to this section are necessary in order to alleviate the financial burden and detriment that affected taxing entities may incur as a result of the adoption of a redevelopment plan, and payments made pursuant to this section will benefit redevelopment project areas.

(B) The payments made pursuant to this section are the exclusive payments that are required to be made by a redevelopment agency to affected taxing entities during the term of a redevelopment plan.

(2) Notwithstanding any other provision of law, a redevelopment agency shall not be required, either directly or indirectly, as a measure to mitigate a significant environmental effect or as part of any settlement agreement or judgment brought in any action to contest the validity of a redevelopment plan pursuant to Section 33501, to make any other payments to affected taxing entities, or to pay for public facilities that will be owned or leased to an affected taxing entity.

(g) As used in this section, a "local education agency" is a school district, a community college district, or a county office of education.

**33607.7. Payments to certain affected taxing entities upon amendment of plan**

(a) This section shall apply to a redevelopment plan amendment for any redevelopment plans adopted prior to January 1, 1994, that increases the limitation on the number of dollars to be allocated to the redevelopment agency or that increases or eliminates pursuant to paragraph (1) of subdivision (e) of Section 33333.6, the time limit on the establishing of loans, advances, and indebtedness established pursuant to paragraphs (1) and (2) of subdivision (a) of Section 33333.6, as those paragraphs read on December 31, 2001, or that lengthens the period during which the redevelopment plan is effective if the redevelopment plan being amended contains the provisions required by subdivision (b) of Section 33670. However, this section shall not apply to those redevelopment plans that add new territory.

(b) If a redevelopment agency adopts an amendment that is governed by the provisions of this section, it shall pay to each affected taxing entity either of the following:

(1) If an agreement exists that requires payments to the taxing entity, the amount required to be paid by an agreement between the agency and an affected taxing entity entered into prior to January 1, 1994.

(2) If an agreement does not exist, the amounts required pursuant to subdivisions (b), (c), (d), and (e) of Section 33607.5, until termination of the redevelopment plan, calculated against the amount of assessed value by which the current year assessed value exceeds an adjusted base year assessed value. The amounts shall be allocated between property taxes and educational facilities according to the appropriate formula in paragraph (3) of subdivision (a) of Section 33607.5. In determining the applicable amount under Section 33607.5, the first fiscal year shall be the first fiscal year following the fiscal year in which the adjusted base year value is determined.

(c) The adjusted base year assessed value shall be the assessed value of the project area in the year in which the limitation being amended would have taken effect without the amendment or, if more than one limitation is being amended, the first year in which one or more of the limitations would have taken effect without the amendment. The agency shall commence making these payments pursuant to the terms of the agreement, if applicable, or, if an agreement does not exist, in the first fiscal year following the fiscal year in which the adjusted base year value is determined.

**33607.8. Payments to state water supply contractors**

(a) Notwithstanding any other provision of law, a redevelopment agency may make payments from tax increment funds to an affected taxing entity that is a state water supply contractor in accordance with both of the following requirements:

(1) The payment shall not exceed the amount that, but for the activities of the redevelopment agency, otherwise would have been received by the affected taxing entity pursuant to a tax that was originally approved by the state's voters prior to July 1, 1978.

(2) The payments shall be made for the purpose of funding the payments of the state water supply contractor pursuant to its water supply contract with the Department of Water Resources for the costs of building, operating, maintaining, and replacing the State Water Resources Development System.

(b) Allocations made by a redevelopment agency for payments made pursuant to subdivision (a) shall not cause any reduction in payments to an affected taxing entity pursuant to paragraph (2) of subdivision (a) of Section 33607.5.

(c) For purposes of this section:

(1) "State Water Resources Development System" has the same meaning as used in Section 12931 of the Water Code.

(2) "State water supply contractor" has the same meaning as used in Section 11975 of the Water Code.

**33608. Validation of reimbursement agreements: charter cities**

(a) All acts and proceedings heretofore or hereafter taken under color of law by a charter city meeting the criteria of subdivision (g) and its redevelopment agency in a county with a population over 4,000,000 with respect to a reimbursement agreement executed pursuant to Section 33445 of the Health and Safety Code dated July 7, 1986, and as amended as of July 13, 1987, are hereby confirmed, validated, and declared legally effective to the extent the agreement could have been authorized by the Legislature initially, except as to limitations imposed by the California and United States Constitutions. The validation provided by this section shall be the only determination necessary to satisfy the requirement of subdivision (e) of Section 33675 of the Health and Safety Code and those provisions shall not apply to the agreement

otherwise. The Legislature finds and declares that this section is consistent with existing law and does not conflict with either Article XIII B or Section 16 of Article XVI of the California Constitution.

(b) If the commencement of reimbursement of the principal amount of indebtedness of the agency under an agreement referred to in subdivision (a), or any predecessor agreement executed pursuant to Section 33445 of the Health and Safety Code, is delayed beyond 10 years after the date of execution of the agreement for any reason, the agency and the city may amend or enforce the reimbursement agreement, or any predecessor thereto, to provide for the payment of interest. The interest may accrue, as to reimbursement for any particular property or improvement, from the date of acquisition, construction, or installation thereof until the date of the reimbursement agreement and thereafter, until payment of the principal and interest by the agency. The interest shall be at the rate specified in the reimbursement agreement, not to exceed the rate of interest earned by the treasurer of the city on investments of the city's pooled funds. Subject to that limitation, interest on the indebtedness may be calculated pursuant to any generally accepted method of computation, including, without limitation, any method which allows the compounding of interest monthly or at other appropriate intervals.

(c) Reimbursements for any indebtedness under the reimbursement agreement referred to in subdivision (a) shall be (1) first allocated for the funding requirements of the fire and police retirement fund of the city and (2) then deposited into the Low and Moderate Income Housing Fund of the agency. However, this section shall not be construed to authorize any reimbursement of indebtedness which is not permissive under Section 16 of Article XVI of the California Constitution.

(d) The reimbursement agreement shall not be amended without the approval of the Legislature, by statute, and the obligation created by the reimbursement agreement shall terminate on December 31, 2014.

(e) In addition to any amounts provided to the city's fire and police retirement system under the reimbursement agreement, to the extent permitted by law, the city shall undertake, by ordinance, to contribute additional moneys from its general fund annually and transfer assets (including, without limitation, income producing assets such as parking garages) as necessary and actuarily appropriate to satisfy its fire and police retirement fund obligation. When this obligation has been actuarily funded, all assets contributed pursuant to this section shall revert to the city.

(f) The obligations created by the reimbursement agreement specified in subdivision (a) shall be deemed to be existing obligations for purposes of subdivision (d) of Section 33334.6 incurred by the agency to finance a redevelopment project existing on, and created prior to, January 1, 1986. The statement of existing obligations required by subdivision (f) of Section 33334.6 shall be deemed amended to include the obligations created by this reimbursement agreement. The agency shall make deposits into the Low and Moderate Income Housing Fund of the agency in accordance with the reimbursement agreement. These deposits shall be the only obligations that the agency shall have to deposit money in the Low and Moderate Income Housing Fund under subdivision (a) of Section 33334.2 or Section 33334.6, with respect to the project area subject to the reimbursement agreement, notwithstanding any other provision of law.

(g) This section applies to any charter city meeting all of the following criteria:

(1) The city's retirement system is part of the city's charter and was approved by the voters before July 1, 1978.

(2) The city did not levy a separate ad valorem property tax rate to support the retirement system in the 1983-84 fiscal year.

(3) The retirement system provides for a cost-of-living adjustment which is indexed to a consumer price index and does not limit the annual increases which may be paid to members after their retirement.

(4) The retirement system is not currently available to newly hired fire and police employees and will not be available in the future.

(5) Before January 1, 1985, the city unsuccessfully litigated a limit to the cost-of-living adjustment which may be paid to members of the retirement system after their retirement.

(6) The governing body of the city has, by resolution, elected to make this section applicable to it. This election shall be final and binding and may not be revoked for any reason.

(h) "Agency," as used in this section, includes a community development commission exercising the powers of a redevelopment agency pursuant to Section 34141.

## Article 2. Community Redevelopment Agency Administrative Fund

### 33610. Appropriations by legislative body for administrative expenses and overhead

At any time after the agency created for any community becomes authorized to transact business and exercise its powers, the legislative body of the community may appropriate to the agency such amounts as the legislative body deems necessary for the administrative expenses and overhead of the agency. The money appropriated may be paid to the agency as a grant to defray the expenses and overhead, or as a loan to be repaid upon such terms and conditions as the legislative body may provide.

In addition to the common understanding and usual interpretation of the term, "administrative expense" includes, but is not limited to, expenses of redevelopment planning and dissemination of redevelopment information.

### 33611. Submission of agency budget to legislative body

Each agency transacting business and exercising powers under this part shall annually submit to the legislative body of the community a proposed budget of its administrative expenses.

### 33612. Adoption of agency budget by legislative body

The legislative body may adopt an annual budget for the administrative expenses of the agency in such amounts as it deems necessary and may provide such conditions and restrictions upon the expenditure or encumbrance of the money appropriated pursuant to the budget as it deems advisable.

### 33613. Community redevelopment agency administrative fund

The money appropriated for administrative expenses shall be kept in the treasury of the community in a special fund to be known as the community redevelopment agency administrative fund, and money shall be drawn from the fund to meet the administrative expenses of the agency in substantially the same manner as money is drawn by other agencies and departments of the community subject to budgetary control.

### 33614. Money appropriated to administrative fund

The money appropriated by the legislative body to the community redevelopment agency administrative fund is money granted by the community to defray the administrative expenses of the agency which is performing a public function of the community.

### 33615. Report of transactions by agency

Each such agency shall file with the legislative body a detailed report of all its transactions, including a statement of all revenues and expenditures, at monthly, quarterly, or annual intervals as the legislative body may prescribe.

## Article 3. Redevelopment Revolving Fund

### 33620. Establishment of fund

At any time after it has adopted a resolution declaring that there is a need for an agency to function in the community, the legislative body may establish a redevelopment revolving fund to be kept in the treasury of the community.

### 33621. Appropriation of moneys for fund

For the purpose of raising money to be deposited in the redevelopment revolving fund, the legislative body may appropriate money or the community may issue and sell its general obligation bonds.

### 33622. Expenditures from fund

By resolution of the legislative body adopted by a majority vote, any money in the redevelopment revolving fund may be expended from time to time for:

(a) The acquisition of real property in any project area.

(b) The clearance, aiding in relocation of site occupants, and preparation of any project area for redevelopment.

### 33623. Payment of money from fund to agency

By resolution of the legislative body adopted by a two-thirds vote, any money in the redevelopment revolving fund may be paid to the agency, upon such terms and conditions as the legislative body may prescribe for any of the following purposes:

(a) Deposit in a trust fund to be expended for the acquisition of real property in any project area.

(b) The clearance of any project area for redevelopment.

(c) Any expenses necessary or incidental to the carrying out of a redevelopment plan which has been adopted by the legislative body.

### 33624. Redeposit of excess money into fund

All money received by the agency from the sale, lease, or encumbering of property acquired with money from the redevelopment revolving fund in excess of the money required to repay the loans and interest thereon authorized by this part shall be redeposited in the fund.

### 33625. Financing provisions subject to Sections 33433, 33434 and 33624

All other provisions of this part that relate to financing are subject to Sections 33433, 33434, and 33624.

### 33626. Abolition of revolving fund

The legislative body of any community may abolish the redevelopment revolving fund whenever it finds that the purposes for which it was established have been accomplished.

The legislative body of any community may, with the consent of the agency, withdraw money from the redevelopment revolving fund whenever and to the extent that it finds that the amount of money therein exceeds the amount necessary to finance existing or planned purposes for which its expenditure is authorized by the provisions of this article. All money withdrawn from the fund by reason of its being reduced in size, or its abolition, and all money which, after abolition, would have been required to be deposited or redeposited in the fund, shall be transferred to the general obligation bond redemption fund of the community or to the general fund of the community, as directed by the legislative body.

## Article 4. Community Appropriations and General Obligation Bonds

### 33630. Community general obligation bonds

The community may issue and sell its general obligation bonds for any or all of the following purposes: raising money to be deposited in the redevelopment revolving fund, or providing funds with which to redeem before maturity, retire at maturity, or purchase agency bonds issued under Article 5 (commencing with Section 33640) of this chapter. General obligation bonds issued pursuant to this article may be authorized and issued in a principal amount sufficient to provide funds for the payment of any or all of the following:

(a) The estimated amount of money to be raised to be deposited in the redevelopment revolving fund.

(b) The principal amount of agency bonds proposed to be so redeemed, retired or purchased.

(c) The estimated amount of any premiums required to be paid in connection with the redemption or purchase of such agency bonds.

(d) The estimated amount of any due and unpaid interest or accrued interest on such agency bonds which must be paid at the time the same are redeemed, retired or purchased.

(e) The amount of interest on such general obligation bonds estimated to accrue during the period from the date thereof until the portion of taxes allocated to and paid into the special fund of the redevelopment agency under the provisions of Section 33670 pledged or to be pledged to the repayment of an advance to the agency for any purpose authorized by this article or by Article 3 (commencing with Section 33620) of this chapter equals the annual amount of the interest upon such bonds due and payable thereon in the next succeeding year, such period not to exceed 10 years from the date of such general obligation bonds or the first series thereof; provided, that such amount shall not include any interest

estimated to accrue during any year for which interest on agency bonds proposed to be so redeemed, retired or purchased has been provided from the proceeds of sale of such agency bonds.

(f) The estimated amount of all expenses incidental to or connected with the redemption, retirement or purchase of such agency bonds and the authorization, issuance and sale of such general obligation bonds.

All agency bonds redeemed, retired or purchased with the proceeds of such general obligation bonds shall be canceled and shall not be reissued.

The legislative body may fix a date, not more than 10 years from the date of issuance of any such general obligation bonds, for the earliest maturity of each issue or series of such bonds.

### 33631. Loan of bond proceeds to agency

If the redevelopment plan contains the provision authorized by Section 33670, the agency and the legislative body of the community may, either before or after the authorization of general obligation bonds for the purposes permitted by Section 33630, enter into an agreement that the principal amount of any such general obligation bonds sold for such purposes, together with all interest which the community may pay thereon, shall constitute a loan by the community to the agency for the purpose of refinancing the redevelopment project, and that, subject to any prior pledge of or claim upon the moneys in the special fund provided for in said section 33670, the moneys accruing to such special fund are irrevocably pledged to the repayment of such loan until there has been repaid to the community from time to time from such special fund the principal amount of such general obligation bonds plus all interest which the community may pay thereon, less such part, if any, of the proceeds of such general obligation bonds which were not used for such purposes, and less any premiums and accrued interest received by the community upon the sale of such general obligation bonds.

### 33632. Bond redemption fund surplus

Any surplus existing in the general obligation bond redemption fund after payment of principal and interest shall be transferred to the general fund of the community.

### 33633. Authorization and issuance of bonds

Except as otherwise provided in this part, any general obligation bonds issued by any community pursuant to this article shall be authorized and issued in the manner and within the limitations prescribed by law or the charter of the community for the issuance and authorization of such bonds for public purposes generally. Irrespective of any limitation as to the amount of general obligation bonds which may be issued a community may issue such bonds for the purposes prescribed in this article, in excess of the limitation, in such amount as may be authorized by the voters of the community at any general or special election.

## Article 5. Agency Bonds

### 33640. Authority to issue bonds

From time to time an agency may, subject to the approval of the legislative body, issue bonds for any of its corporate purposes. An agency may also, subject to the approval of the legislative body, issue refunding bonds for the purpose of paying or retiring bonds previously issued by it.

**33641. Types of bonds; sources of repayment**

An agency may issue any types of bonds which it may determine, including bonds on which the principal and interest are payable:

(a) Exclusively from the income and revenues of the redevelopment projects financed with the proceeds of the bonds, or with the proceeds together with financial assistance from the state or federal government in aid of the projects.

(b) Exclusively from the income and revenues of certain designated redevelopment projects whether or not they were financed in whole or in part with the proceeds of the bonds.

(c) In whole or in part from taxes allocated to, and paid into a special fund of, the agency pursuant to the provisions of Article 6 (commencing with Section 33670).

(d) In whole or in part from taxes imposed pursuant to Section 7280.5 of the Revenue and Taxation Code which are pledged therefor.

(e) From its revenues generally.

(f) From any contributions or other financial assistance from the state or federal government.

(g) By any combination of these methods.

**33641.5. Pledge of collateral by agency**

(a) As used in this section:

(1) "Collateral" means any revenues, moneys, accounts receivable, contracts rights, and other rights to payment of whatever kind or other property subject to the pledge provided for or created in a pledge document.

(2) "Pledge document" means the resolution, indenture, trust agreement, loan agreement, lease, installment sale agreement, reimbursement agreement, pledge agreement, or similar agreement in which the pledge is provided for or created.

(3) "Pledge" means a commitment of, by the grant of a lien on and a security interest in, the collateral referred to in a pledge document.

(b) A pledge of collateral by a redevelopment agency to secure, directly or indirectly, the payment of the principal or redemption price of, or interest on, any bonds, or any reimbursement agreement with any provider of credit to bonds, which is issued by or entered into by an agency shall be valid and binding in accordance with the terms of the pledge document from the time the pledge is made for the benefit of pledgees and successors thereto.

The collateral shall immediately be subject to the pledge, and the pledge shall constitute a lien and security interest which immediately shall attach to the collateral and be effective, binding, and enforceable against the pledgor, its successors, purchasers of the collateral, creditors, and all others asserting the rights therein, to the extent set forth, and in accordance with, the pledge document irrespective of whether those parties have notice of the pledge and without the need for any physical delivery, recordation, filing, or further act.

**33642. Additional security**

Any of such bonds may be additionally secured by a pledge of any revenues or by an encumbrance by mortgage, deed of trust, or otherwise of any redevelopment project or other property of the agency or by a pledge of the taxes referred to in subdivision (c) of Section 33641, or by any combination thereof.

**33643. Exemption from personal liability**

Neither the members of an agency nor any persons executing the bonds are liable personally on the bonds by reason of their issuance.

**33644. Limitation on indebtedness**

The bonds and other obligations of any agency are not a debt of the community, the State, or any of its political subdivisions and neither the community, the State, nor any of its political subdivisions is liable on them, nor in any event shall the bonds or obligations be payable out of any funds or properties other than those of the agency; and such bonds and other obligations shall so state on their face. The bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

**33645. Authorization by resolution**

The agency may authorize bonds by resolution. The resolution, trust indenture, or mortgage may provide for:

(a) The issuance of the bonds in one or more series.

(b) The date the bonds shall bear.

(c) The maturity dates of the bonds.

(d) The rate or maximum rate of interest on the indebtedness, which shall not exceed the maximum rate permitted by Section 53531 of the Government Code, and need not be recited if the rate does not exceed 4 1/2 percent. The interest may be fixed or variable and may be simple or compound. The interest shall be payable at the time or times determined by the agency.

(e) The denomination of the bonds.

(f) Their form, either coupon or registered.

(g) The conversion or registration privileges carried by the bonds.

(h) The rank or priority of the bonds.

(i) The manner of their execution.

(j) The medium of payment.

(k) The place of payment.

(l) The terms of redemption with or without premium to which the bonds are subject.

(m) The maximum amount of bonded indebtedness in compliance with, and not to exceed, the limit specified in the redevelopment plan as required in Section 33334.1.

The resolution, trust indenture, or mortgage shall provide that tax-increment funds allocated to an agency pursuant to Section 33670 shall not be payable to a trustee on account of any issued bonds when sufficient funds have been placed with the trustee to redeem all outstanding bonds of the issue.

**33645.5. Exception to maximum interest rate limitation**

Notwithstanding Section 33645 or any other provision of law, the rate of interest on any indebtedness or obligation of an agency which is payable to the federal government or any agency or instrumentality thereof or on any such indebtedness or obligation guaranteed by the federal government or any instrumentality thereof may be at a rate higher than the limitation established in Section 33645, or any other law, if such rate is the rate established by the federal government or any instrumentality thereof. Any such indebtedness or obligation shall be in such form and denomination, have such maturity, and be subject to such conditions as may be prescribed by the federal government or agency or instrumentality thereof.

**33646. Sale of bonds**

The bonds may be sold at no less than par less a discount of not to exceed 5 percent, at public sale held after notice published once at least five days prior to the sale in a newspaper of general circulation published in the community, or, if there is none, in a newspaper of general circulation published in the county. The bonds may be sold at not less than par to the federal government at private sale without any advertisement.

The amendment to this section made at the 1969 Regular Session of the Legislature shall be applicable to bonds of a redevelopment agency which have been authorized by the agency prior to the effective date of the amendment but which have not been issued prior to such date.

**33647. Effectiveness of signature of ex-member or officer**

If any agency member or officer whose signature appears on bonds or coupons ceases to be such member or officer before delivery of the bonds, his signature is as effective as if he had remained in office.

**33648. Negotiability**

Bonds issued pursuant to this part are fully negotiable.

**33649. Validity of bonds**

In any action or proceedings involving the validity or enforceability of any bonds or their security, any such bond reciting in substance that it has been issued by the agency to aid in financing a redevelopment project is conclusively deemed to have been issued for a redevelopment project and the project is conclusively deemed to have been planned, located, and constructed pursuant to this part.

**33650. Additional powers of agency**

In connection with the issuance of bonds, and in addition to its other powers, an agency has the powers prescribed in Sections 33651 to 33659, inclusive.

**33651. Pledge of revenues; encumbrance of property**

An agency may:

(a) Pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may thereafter come into existence.

(b) Encumber by mortgage, deed of trust, or otherwise all or any part of its real or personal property, then owned or thereafter acquired.

**33652. Covenants as to debts and obligations**

An agency may covenant:

(a) Against pledging all or any part of its rents, fees, and revenues.

(b) Against encumbering all or any part of its real or personal property, to which its right or title then exists or may thereafter come into existence.

(c) Against permitting any lien on such revenues or property.

(d) With respect to limitations on its right to sell, lease, or otherwise dispose of all or part of any redevelopment project.

(e) As to what other, or additional debts or obligations it may incur.

**33653. Covenants as to use of proceeds, replacement, repayment and redemption**

An agency may:

(a) Covenant as to the bonds to be issued, as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the bond proceeds.

(b) Provide for the replacement of lost, destroyed, or mutilated bonds.

(c) Covenant against extending the time for the payment of its bonds or interest.

(d) Redeem the bonds, covenant for their redemption, and provide the redemption terms and conditions.

**33654. Covenants as to revenues**

An agency may:

(a) Covenant as to the consideration or rents and fees to be charged in the sale or lease of a redevelopment project, the amount to be raised each year or other period of time by rents, fees, and other revenues, and as to their use and disposition.

(b) Create or authorize the creation of special funds for money held for redevelopment or other costs, debt service, reserves, or other purposes, and covenant as to the use and disposition of such money.

**33655. Contracts with bondholders**

An agency may prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds whose holders are required to consent thereto, and the manner in which such consent may be given.

**33656. Covenants as to use and maintenance of property**

An agency may covenant:

(a) As to the use of any or all of its real or personal property.

(b) As to the maintenance of its real and personal property, its replacement, the insurance to be carried on it, and the use and disposition of insurance money.

**33657. Covenants as to defaults**

An agency may:

(a) Covenant as to the rights, liabilities, powers and duties arising upon the breach by it of any covenant, condition, or obligation.

(b) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

**33658. Vesting of rights in trustee**

An agency may:

(a) Vest in a trustee or the holders of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds.

(b) Vest in a trustee the right, in the event of a default by the agency, to take possession of all or part of any redevelopment project, to collect the rents and revenues arising from it and to dispose of such money pursuant to the agreement of the agency with the trustee.

(c) Provide for the powers and duties of a trustee and limit his liabilities.

(d) Provide the terms and conditions upon which the trustee or the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

**33659. Additional covenants and powers of agency**

An agency may:

(a) Exercise all or any part or combination of the powers granted in Sections 33651 to 33658 inclusive.

(b) Make covenants other than and in addition to the covenants expressly authorized in such sections of like or different character.

(c) Make such covenants and to do any and all such acts and things as may be necessary, convenient, or desirable to secure its bonds, or, except as otherwise provided in this part, as will tend to make the bonds more marketable notwithstanding that such covenants, acts, or things may not be enumerated in this part.

**33660. Rights of obligees**

In addition to all other rights which may be conferred on him, and subject only to any contractual restrictions binding upon him, an obligee may:

(a) By mandamus, suit, action, or proceeding, compel the agency and its members, officers, agents, or employees to perform each and every term, provision, and covenant contained in any contract of the agency with or for the benefit of the obligee, and require the carrying out of any or all such covenants and agreements of the agency and the fulfillment of all duties imposed upon it by this part.

(b) By suit, action, or proceeding in equity, enjoin any acts or things which may be unlawful, or the violation of any of the rights of the obligee.

**33661. Grant of rights to obligees**

By its resolution, trust indenture, mortgage, lease, or other contract, an agency may confer upon any obligee holding or representing a specified amount in bonds, the following rights upon the happening of an event or default prescribed in such resolution or instrument, to be exercised by suit, action, or proceeding in any court of competent jurisdiction:

(a) To cause possession of all or part of any redevelopment project to be surrendered to any such obligee.

(b) To obtain the appointment of a receiver of all or part of any redevelopment project of the agency and of the rents and profits from it. If a receiver is appointed, he may enter and take possession of the redevelopment project or any part of it, operate and maintain it, collect and receive all fees, rents, revenues, or other charges thereafter arising from it, and shall keep such money in separate accounts and apply it pursuant to the obligations of the agency as the court shall direct.

(c) To require the agency and its members and employees to account as if it and they were the trustees of an express trust.

**33662. Tax-exempt status of bonds**

The bonds are issued for an essential public and governmental purpose, and together with interest on them and income from them are exempt from all taxes.

**33663. Status of bonds as legal investments**

Notwithstanding any restrictions on investments contained in any laws, the state and all public officers, municipal corporations, political subdivisions, and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations, and other persons carrying on an insurance business, and all executors, administrators, guardians, conservators, trustees, and other fiduciaries may legally invest any sinking funds, money, or other funds belonging to them or within their control in any bonds or other obligations issued by an agency. Such bonds and other obligations are authorized security for all public deposits. It is one of the purposes of this part to authorize any persons, firms, corporations, associations, political subdivisions,

bodies and officers, public and private, to use any funds owned or controlled by them, including, but not limited to, sinking, insurance, investment, retirement, compensation, pension, and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations. This part does not relieve any person, firm, or corporation from any duty of exercising reasonable care in selecting securities.

**33664. Agency may purchase its own bonds**

(a) An agency may purchase its bonds as follows:

(1) At a price not more than the sum of their principal amount and accrued interest plus (if the bonds purchased are callable at a premium) an amount not to exceed the premium that would be applicable if the bonds were purchased on the next following call date.

(2) At a higher price if a majority of the members of the agency determine, based upon substantial evidence, that under then prevailing conditions the purchase would be of financial advantage to the agency. Prior to purchasing bonds pursuant to this paragraph, the agency shall adopt a resolution designating paragraph (1), (2), or (3) of subdivision (b) as the financial advantage accruing to the agency from the bond purchase or specifying in detail any alternative basis for the agency's finding of financial advantage. Unless the legislative body has designated itself as the redevelopment agency, the agency shall additionally obtain the approval of the legislative body for repurchase of agency bonds under this subdivision and, if applicable, under Section 33640.

A resolution of the legislative body approving repurchase of agency bonds under this subdivision shall be operative only for the period specified in the resolution of the legislative body, not to exceed five years. However, the authorization may be renewed by an appropriate resolution of the legislative body and the expiration of the legislative body's resolution shall in no way impair the obligation of bonds previously issued by the agency to refund bonds purchased under this subdivision.

(b) "Financial advantage," as used in subdivision (a), includes, but is not limited to, each of the following:

(1) A reduction in the aggregate debt service on the agency's outstanding bonds.

(2) The creation of opportunities to more efficiently leverage revenues of the agency.

(3) Cancellation of agency bonds subject to adverse provisions of, or tax consequences under, the laws of the United States.

(c) Any bond purchases made pursuant to this section shall be (1) identified in the agency's annual fiscal year report required by Section 33080.1 for the fiscal year in which the purchase was made and (2) reflected in the agency's statement of indebtedness filed pursuant to Section 33675.

(d) Within two weeks following a purchase of bonds pursuant to paragraph (2) of subdivision (a), the redevelopment agency shall transmit to the California Debt Advisory Commission a copy of the agency's resolution specifying the financial advantage to the agency in making the purchase, together with a covering letter that includes all of the following information respecting the bonds purchased:

(1) The date of the agency's resolution authorizing the bonds, the date of issuance of the bonds, and any other information necessary to identify the particular issuance or series of bonds.

(2) The terms of redemption to which the bonds were originally subject.

(3) The denominations and interest rates of the bonds purchased.

(4) The purchase price.

(e) All bonds purchased pursuant to this section shall be canceled.

**33665. Applicability of revolving fund limitations**

All of the provisions of this article are subject to the limitations of Article 3 (commencing with Section 33620) of this chapter.

## Article 6. Taxation

**33670. Division and allocation of property taxes**

Any redevelopment plan may contain a provision that taxes, if any, levied upon taxable property in a redevelopment project each year by or for the benefit of the State of California, any city, county, city and county, district, or other public corporation (hereinafter sometimes called "taxing agencies") after the effective date of the ordinance approving the redevelopment plan, shall be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment project as shown upon the assessment roll used in connection with the taxation of that property by the taxing agency, last equalized prior to the effective date of the ordinance, shall be allocated to and when collected shall be paid to the respective taxing agencies as taxes by or for the taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment project on the effective date of the ordinance but to which that territory has been annexed or otherwise included after that effective date, the assessment roll of the county last equalized on the effective date of the ordinance shall be used in determining the assessed valuation of the taxable property in the project on the effective date); and

(b) Except as provided in subdivision (e) or in Section 33492.15, that portion of the levied taxes each year in excess of that amount shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in that project as shown by the last equalized assessment roll referred to in subdivision (a), all of the taxes levied and collected upon the taxable property in the redevelopment project shall be paid to the respective taxing agencies. When the loans, advances, and indebtedness, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in the redevelopment project shall be paid to the respective taxing agencies as taxes on all other property are paid.

(c) In any redevelopment project in which taxes have been divided pursuant to this section prior to 1968, located within any county with total assessed valuation subject to general property taxes for the 1967-68 fiscal year between two billion dollars ($2,000,000,000) and two billion one hundred million dollars ($2,100,000,000), if the total assessed valuation of taxable property within the redevelopment project for the 1967-68 fiscal year was reduced, the total sum of the assessed value of taxable property used as the basis for apportionment of taxes under subdivision (a) shall be reduced by 10 percent for the 1968-69 fiscal year and fiscal years thereafter.

(d) For the purposes of this section, taxes shall not include taxes from the supplemental assessment roll levied pursuant to Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1 of the Revenue and Taxation Code for the 1983-84 fiscal year.

(e) That portion of the taxes in excess of the amount identified in subdivision (a) which are attributable to a tax rate levied by a taxing agency for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness for the acquisition or improvement of real property shall be allocated to, and when collected shall be paid into, the fund of that taxing agency. This subdivision shall only apply to taxes levied to repay bonded indebtedness approved by the voters of the taxing agency on or after January 1, 1989.

### 33670.5. Fulfillment of intent of Constitution

Section 33670 fulfills the intent of Section 16 of Article XVI of the Constitution. To further carry out the intent of Section 16 of Article XVI of the Constitution, whenever that provision requires the allocation of money between agencies such allocation shall be consistent with the intent of the people when they approved Section 16 of Article XVI of the Constitution. Whenever money is allocated between agencies by means of a comparison of assessed values for different years, that comparison shall be based on the same assessment ratio. When there are different assessment ratios for the years compared, the assessed value shall be changed so that it is based on the same assessment ratio for the years so compared.

### 33670.8. Adjustments to assessment roll: cities of Santa Cruz and Watsonville

(a) With respect to the allocation of taxes pursuant to Section 33670 in redevelopment project areas within the incorporated City of Santa Cruz, which were already approved on October 17, 1989, the otherwise applicable provisions of this part shall be modified as specified in this subdivision.

For the purpose of determining the portion of taxes to be paid annually to the Redevelopment Agency of the City of Santa Cruz pursuant to Sections 33328, 33670, and 33675 for any redevelopment project which was approved on or before October 17, 1989, "assessment roll . . . last equalized" and "base-year assessment roll" mean the last equalized assessment roll determined pursuant to subdivision (a) of Section 33670 reduced by the same amount as the amount of reduction in the current assessment roll determined pursuant to Section 170 of the Revenue and Taxation Code.

(b) With respect to the allocation of taxes pursuant to Section 33670 in redevelopment project areas within the incorporated City of Watsonville, which were already approved on October 17, 1989, the otherwise applicable provisions of this part shall be modified as specified in this subdivision.

For the purpose of determining the portion of taxes to be paid annually to the Redevelopment Agency of the City of Watsonville pursuant to Sections 33328, 33670, and 33675 for any redevelopment project which was approved on or before October 17, 1989, "assessment roll…..last equalized" and "base-year assessment roll" mean the last equalized assessment roll determined pursuant to subdivision (a) of Section 33670 reduced by the same amount as the amount of reduction in the current assessment roll determined pursuant to Section 170 of the Revenue and Taxation Code.

(c) In claiming an allocation of taxes pursuant to Section 33675, as adjusted pursuant to subdivision (b), the redevelopment agency of the City of Watsonville shall consider the economic impact of the allocation on other agencies which have sustained substantial disaster damage and shall negotiate and enter into an agreement with the County of Santa Cruz to avoid further economic hardship.

(d) Within 30 days after receipt of a notice from the Assessor of the County of Santa Cruz establishing the adjustment in the assessment roll pursuant to subdivision (b), the Redevelopment Agency of the City of Watsonville may elect not to be subject to this section by giving written notice of its decision to the County of Santa Cruz. Notwithstanding an election by the Redevelopment Agency of the City of

Watsonville not to be subject to this section pursuant to this subdivision, it shall still reimburse the County of Santa Cruz for its cost of revising the property tax assessment rolls and allocations.

(e) Subdivisions (a) and (b) shall apply to allocation of taxes levied on the 1990 and subsequent equalized assessment rolls, upon the request of the redevelopment agencies of the Cities of Santa Cruz and Watsonville, and those agencies shall reimburse the County of Santa Cruz for its cost of revising the property tax assessment rolls and allocations.

(f) (1) The county auditor shall certify to the director of finance of each city which includes a redevelopment project subject to this section when the total sum of the assessed value of the taxable property in each redevelopment project subject to this section as shown upon each current year's equalized assessment roll becomes equal to the total sum of the assessed value of the taxable property in each redevelopment project as shown upon the assessment roll last equalized before October 17, 1989, adjusted by the change in the Consumer Price Index for the San Francisco/Oakland Metropolitan Area between 1989 and the date of the certification pursuant to this subdivision. On the July 1 following the date of certification and each July 1 thereafter, the county auditor shall increase the total sum of the assessed value of the taxable property in each redevelopment project as shown upon the assessment roll adjusted pursuant to subdivision (a) or (b) by 10 percent of the difference between the total sum of the assessed value of the taxable property in each redevelopment project determined pursuant to subdivision (a) of Section 33670 and the total sum of the assessed value of the taxable property in each redevelopment project as adjusted pursuant to subdivision (a) or (b), until the two total assessed values are equal, and shall report this adjusted value to the other county officials charged with the responsibility of allocating taxes pursuant to Sections 33670 and 33675, who shall use this assessed value in determining the portion of taxes to be paid annually to the redevelopment agency subject to this section.

(2) For purposes of this subdivision only, in the event that any redevelopment project area within the incorporated area of the City of Santa Cruz already approved on October 17, 1989, is amended to add territory to the project area, the assessed value of taxable property in the territory added shall be computed separately and the county assessor shall not take the assessed value into account in determining when the total sum of the assessed value of the taxable property in the redevelopment project becomes equal to the total sum of the assessed value of the taxable property as shown on the assessment roll last equalized prior to October 17, 1989, as adjusted pursuant to this subdivision.

(g) With respect to an area added to a redevelopment project by the City of Santa Cruz or the City of Watsonville pursuant to Sections 33458.5 and 33477, the terms "assessment roll" and "last equalized assessment roll" as used in Section 33670 shall mean and refer to the assessment roll as reduced in accordance with the provisions of subdivision (b) of Section 170 of the Revenue and Taxation Code.

**33670.9. Orange County bailout**

(a) For a period of 20 years commencing on July 1, 1996, the Orange County Development Agency shall transfer to the general fund of the County of Orange an amount equal to four million dollars ($4,000,000) a year in two equal installments on June 15 and February 15 of each year. The Orange County Development Agency shall not incur any obligation with respect to loans, advances of money, or indebtedness, whether funded, refunded, assumed, or otherwise, that would impair its ability to make the foregoing transfers or that would cause the foregoing transfers to violate Section 16 of Article XVI of the California Constitution or subdivision (b) of Section 33670. Funds allocated to low- and moderate-income housing pursuant to Section 33334.2 shall not be used for purposes of this section.

(b) This section shall not take effect unless and until (1) a plan of adjustment is confirmed in Case No. SA-94-22272-JR in the United States Bankruptcy Court for the Central District of California or (2) a trustee is appointed pursuant to Chapter 10 (commencing with Section 30400) of Division 3 of Title 3 of the Government Code.

### 33670.95. Orange County repayment

(a) The board of supervisors of a county of the second class may, upon adoption of a resolution or resolutions approved by a majority of all of its members, provide for the repayment by the county's redevelopment agency of its debt to the county for general and specific benefits previously provided by the county to redevelopment project areas within the county. Such resolution or resolutions may provide for the transfer of (1) amounts equal to four million dollars ($4,000,000) a year in two equal installments on June 15 and February 15 of each year and (2) such additional amounts, at such times as are specified in the resolution or resolutions, as may be necessary to assure full repayment of the debt, provided that those additional amounts shall not exceed, in the aggregate, the sum of any amounts required to be repaid by the county to the redevelopment agency pursuant to, or as a consequence of, the final determination described in subdivision (c).

(b) A redevelopment agency of a county of the second class shall not incur any obligation with respect to loans, advances of money, or indebtedness, whether funded, refunded, assumed, or otherwise, that would impair its ability to make the transfers described in subdivision (a) or that would cause those transfers to violate Section 16 of Article XVI of the California Constitution or subdivision (b) of Section 33670. Funds allocated to low- and moderate-income housing pursuant to Section 33334.2 shall not be used for purposes of this section.

(c) This section shall become operative on the earlier of the date that a court of appellate jurisdiction renders a final determination invalidating Chapter 745 of the Statutes of 1995 or the date of a court action suspending or preventing the operation of any provision of Chapter 745. This section shall become inoperative on July 1, 2016, and, as of January 1, 2017, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2017, deletes or extends the dates on which it becomes inoperative and is repealed.

### 33671. Pledge of tax revenues for payment of indebtedness

In any redevelopment plan or in the proceedings for the advance of moneys, or making of loans, or the incurring of any indebtedness (whether funded, refunded, assumed, or otherwise) by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project, the portion of taxes mentioned in subdivision (b) of Section 33670 may be irrevocably pledged for the payment of the principal of and interest on such loans, advances, or indebtedness.

### 33671.5. Pledge of tax revenues; priority over other claims

Whenever any redevelopment agency is authorized to, and does, expressly pledge taxes allocated to, and paid into a special fund of, the agency pursuant to Section 33670, to secure, directly or indirectly, the obligations of the agency including, but not limited to, bonded indebtedness and agreements pursuant to subdivision (b) of Section 33401, then that pledge heretofore or hereafter made shall have priority over any other claim to those taxes not secured by a prior express pledge of those taxes.

### 33672. *Taxes* defined

As used in this article the word "taxes" shall include, but without limitation, all levies on an ad valorem basis upon land or real property. As used in this article, "taxes" shall not include any amounts of money deposited in a Sales and Use Tax Compensation Fund pursuant to Section 97.68 of the Revenue and

Taxation Code or a Vehicle License Fee Property Tax Compensation Fund pursuant to Section 97.70 of the Revenue and Taxation Code.

**33672.5. Statements regarding determination and allocation of tax revenues**

(a) Upon the written request of a redevelopment agency for the purpose of assisting the agency, the county auditor or other officer responsible for allocation of tax revenues pursuant to Section 33670 shall prepare a statement each fiscal year, commencing with the 1992-93 fiscal year, for each redevelopment project area and each area added to a redevelopment project area by amendment, which provides for all the following:

(1) The total taxable assessed value of secured, unsecured, and state-assessed railroad and nonoperating, nonunitary property.

(2) The total taxable assessed value used by the county auditor to determine the division of taxes required by subdivision (a) of Section 33670.

(3) The total taxable assessed value used by the county auditor to determine the division of taxes required by subdivision (b) of Section 33670.

(4) The estimated amount of taxes calculated pursuant to subdivision (b) of Section 33670, as adjusted by subdivision (e) of Section 33670 and subdivision (a) of Section 33676. The statement shall specify the gross amount of tax-increment revenue allocated to the agency and any payments to other taxing entities that are deducted from the gross amount allocated.

(5) The estimated amount of taxes to be allocated pursuant to subdivisions (c) and (d) of Section 100 of the Revenue and Taxation Code.

(b) If requested to provide a statement pursuant to subdivision (a), the county auditor shall deliver each statement to the respective redevelopment agencies receiving property tax revenue on or before November 30 of each year.

(c) (1) Upon the request of a redevelopment agency pursuant to subdivision (a), and concurrently with the disbursement of those property tax revenues, the county auditor shall prepare a statement which provides the amount of disbursement made pursuant to all of the following:

(A) Section 33670.

(B) Section 100 of the Revenue and Taxation Code.

(C) Supplemental property tax revenues allocated pursuant to Sections 75 to 75.80 of the Revenue and Taxation Code, inclusive.

(2) The statement provided pursuant to this subdivision shall also include corrections, updates, or adjustments, if any, to the property tax revenue amounts and taxable assessed values reported pursuant to subdivision (a) of Section 33670.

(d) The county auditor shall also provide to a redevelopment agency, no later than 30 days after the receipt of a written request from that agency, information or clarification with respect to any statement issued pursuant to this section.

(e) If any redevelopment agency requests a statement or information pursuant to this section, the agency shall reimburse the county auditor for all actual and reasonable costs incurred.

**33673. Taxation of property leased from agency**

Whenever property in any redevelopment project has been redeveloped and thereafter is leased by the redevelopment agency to any person or persons or whenever the agency leases real property in any redevelopment project to any person or persons for redevelopment, the property shall be assessed and taxed in the same manner as privately owned property, and the lease or contract shall provide that the lessee shall pay taxes upon the assessed value of the entire property and not merely the assessed value of his or its leasehold interest.

**33673.1. Notice to local assessor of lease of property**

Every redevelopment agency shall provide notice to the local assessor within 30 days whenever the agency leases real property in a redevelopment project to any person or persons for redevelopment. The notice shall provide the date on which the lessee acquires the beneficial use of the leased property. The notice shall be accompanied by a memorandum of lease and a map of the leased property.

**33674. Time for first allocation of tax increments from project area**

The portion of taxes mentioned in subdivision (b) of Section 33670 shall not be allocable and payable for the first time until the tax year which begins after the December 1st next following the transmittal of the documents as required in Section 33375 or Section 33457.

**33675. Procedure for allocation and payment of taxes to agency**

(a) The portion of taxes required to be allocated pursuant to subdivision (b) of Section 33670 shall be allocated and paid to the agency by the county auditor or officer responsible for the payment of taxes into the funds of the respective taxing entities pursuant to the procedure contained in this section.

(b) Not later than October 1 of each year, for each redevelopment project for which the redevelopment plan provides for the division of taxes pursuant to Section 33670, the agency shall file, with the county auditor or officer described in subdivision (a), a statement of indebtedness and a reconciliation statement certified by the chief financial officer of the agency.

(c) (1) For each redevelopment project for which a statement of indebtedness is required to be filed, the statement of indebtedness shall contain all of the following:

(A) For each loan, advance, or indebtedness incurred or entered into, all of the following information:

(i) The date the loan, advance, or indebtedness was incurred or entered into.

(ii) The principal amount, term, purpose, interest rate, and total interest of each loan, advance, or indebtedness.

(iii) The principal amount and interest due in the fiscal year in which the statement of indebtedness is filed for each loan, advance, or indebtedness.

(iv) The total amount of principal and interest remaining to be paid for each loan, advance, or indebtedness.

(B) The sum of the amounts determined under clause (iii) of subparagraph (A).

(C) The sum of the amounts determined under clause (iv) of subparagraph (A).

(D) The available revenues as of the end of the previous year, as determined pursuant to paragraph (10) of subdivision (d).

(2) The agency may estimate the amount of principal or interest, the interest rate, or term of any loan, advance, or indebtedness if the nature of the loan, advance, or indebtedness is such that the amount of principal or interest, the interest rate or term cannot be precisely determined. The agency may list on a statement of indebtedness any loan, advance, or indebtedness incurred or entered into on or before the date the statement is filed.

(d) For each redevelopment project for which a reconciliation statement is required to be filed, the reconciliation statement shall contain all of the following:

(1) A list of all loans, advances, and indebtedness listed on the previous year's statement of indebtedness.

(2) (A) A list of all loans, advances, and indebtedness, not listed on the previous year's statement of indebtedness, but incurred or entered into in the previous year and paid in whole or in part from revenue received by the agency pursuant to Section 33670. This listing may aggregate loans, advances, and indebtedness incurred or entered into in the previous year for a particular purpose (such as relocation expenses, administrative expenses, consultant expenses, or property management expenses) into a single item in the listing.

(B) For purposes of this section, any payment made pursuant to Section 33684 shall be considered as payment against existing passthrough payment indebtedness as listed on the agency's statement of indebtedness. If the most recent statement of indebtedness documents failed to include all or a part of the agency's obligation to the passthrough payments, those obligations shall be added to the next statement of indebtedness to be filed and shall include both current payments plus all future passthrough obligations.

(3) For each loan, advance, or indebtedness described in paragraph (1) or (2), all of the following information:

(A) The total amount of principal and interest remaining to be paid as of the later of the beginning of the previous year or the date the loan, advance, or indebtedness was incurred or entered into.

(B) Any increases or additions to the loan, advance, or indebtedness occurring during the previous year.

(C) The amount paid on the loan, advance, or indebtedness in the previous year from revenue received by the agency pursuant to Section 33670.

(D) The amount paid on the loan, advance, or indebtedness in the previous year from revenue other than revenue received by the agency pursuant to Section 33670.

(E) The total amount of principal and interest remaining to be paid as of the end of the previous fiscal year.

(4) The available revenues of the agency as of the beginning of the previous fiscal year.

(5) The amount of revenue received by the agency in the previous fiscal year pursuant to Section 33670.

(6) The amount of available revenue received by the agency in the previous fiscal year other than pursuant to Section 33670.

(7) The sum of the amounts specified in subparagraph (D) of paragraph (3), to the extent that the amounts are not included as available revenues pursuant to paragraph (6).

(8) The sum of the amounts specified in paragraphs (4), (5), (6), and (7).

(9) The sum of the amounts specified in subparagraphs (C) and (D) of paragraph (3).

(10) The amount determined by subtracting the amount determined under paragraph (9) from the amount determined under paragraph (8). The amount determined pursuant to this paragraph shall be the available revenues as of the end of the previous fiscal year.

(e) For the purposes of this section, available revenues shall include all cash or cash equivalents held by the agency that were received by the agency pursuant to Section 33670 and all cash or cash equivalents held by the agency that are irrevocably pledged or restricted to payment of a loan, advance, or indebtedness that the agency has listed on a statement of indebtedness. In no event shall available revenues include funds in the agency's Low and Moderate Income Housing Fund established pursuant to Section 33334.3. For the purposes of determining available revenues as of the end of the 1992-93 fiscal year, an agency shall conduct an examination or audit of its books and records for the 1990-91, 1991-92, and 1992-93 fiscal years to determine the available revenues as of the end of the 1992-93 fiscal year.

(f) For the purposes of this section, the amount an agency will deposit in its Low and Moderate Income Housing Fund established pursuant to Section 33334.3 shall constitute an indebtedness of the agency. For the purposes of this section, no loan, advance, or indebtedness that an agency intends to pay from its Low and Moderate Income Housing Fund established pursuant to Section 33334.3 shall be listed on a statement of indebtedness or reconciliation statement as a loan, advance, or indebtedness of the agency. For the purposes of this section, any statutorily authorized deficit in or borrowing from an agency's Low and Moderate Income Housing Fund established pursuant to Section 33334.3 shall constitute an indebtedness of the agency.

(g) The county auditor or officer shall, at the same time or times as the payment of taxes into the funds of the respective taxing entities of the county, allocate and pay the portion of taxes provided by subdivision (b) of Section 33670 to each agency. The amount allocated and paid shall not exceed the amount determined pursuant to subparagraph (C) of paragraph (1) of subdivision (c) minus the amount determined pursuant to subparagraph (D) of paragraph (1) of subdivision (c).

(h) (1) The statement of indebtedness constitutes prima facie evidence of the loans, advances, or indebtedness of the agency.

(2) (A) If the county auditor or other officer disputes the amount of loans, advances, or indebtedness as shown on the statement of indebtedness,

the county auditor or other officer shall, within 30 days after receipt of the statement, give written notice to the agency thereof.

(B) The agency shall, within 30 days after receipt of notice pursuant to subparagraph (A), submit any further information it deems appropriate to substantiate the amount of any loans, advances, or indebtedness which has been disputed. If the county auditor or other officer still disputes the amount of loans, advances, or indebtedness, final written notice of that dispute shall be given to the agency, and the amount disputed may be withheld from allocation and payment to the agency as otherwise required by subdivision (g). In that event, the auditor or other officer shall bring an action in the superior court in declaratory relief to determine the matter not later than 90 days after the date of the final notice.

(3) In any court action brought pursuant to this section, the issue shall involve only the amount of loans, advances, or indebtedness, and not the validity of any contract or debt instrument or any expenditures pursuant thereto. Payments to a trustee under a bond resolution or indenture of any kind or payments to a public agency in connection with payments by that public agency pursuant to a lease or bond issue shall not be disputed in any action under this section. The matter shall be set for trial at the earliest possible date and shall take precedence over all other cases except older matters of the same character. Unless an action is brought within the time provided for herein, the auditor or other officer shall allocate and pay the amount shown on the statement of indebtedness as provided in subdivision (g).

(i) Nothing in this section shall be construed to permit a challenge to or attack on matters precluded from challenge or attack by reason of Sections 33500 and 33501. However, nothing in this section shall be construed to deny a remedy against the agency otherwise provided by law.

(j) The Controller shall prescribe a uniform form of statement of indebtedness and reconciliation statement. These forms shall be consistent with this section. In preparing these forms, the Controller shall obtain the input of county auditors, redevelopment agencies, and organizations of county auditors and redevelopment agencies.

(k) For the purposes of this section, a fiscal year shall be a year that begins on July 1 and ends the following June 30.

***Notes***

*Section 33675 was amended pursuant to an urgency statute chaptered on September 30, 2008 and took effect immediately.*

**33676. Election of specified tax allocation by affected taxing entity**

(a) Prior to the adoption by the legislative body of a redevelopment plan providing for tax increment financing pursuant to Section 33670, any affected taxing agency may elect to be allocated, and every school district and community college district shall be allocated, in addition to the portion of taxes allocated to the affected taxing agency pursuant to subdivision (a) of Section 33670, all or any portion of the tax revenues allocated to the agency pursuant to subdivision (b) of Section 33670 attributable to one or more of the following:

(1) Increases in the rate of tax imposed for the benefit of the taxing agency which levy occurs after the tax year in which the ordinance adopting the redevelopment plan becomes effective.

(2) If an agency pursuant to Section 33354.5 amends a redevelopment plan which does not utilize tax increment financing to add tax increment financing, and pursuant to subdivision (a) of Section 33670 uses the assessment roll last equalized prior to the effective date of the ordinance originally adopting the redevelopment plan, an affected taxing agency may elect to be allocated all or any portion of the tax revenues allocated to the agency pursuant to subdivision (b) of Section 33670 which the affected taxing agency would receive if the agency were to use the assessment roll last equalized prior to the effective date of the ordinance amending the redevelopment plan to add tax increment financing.

(b) (1) Any local education agency that is a basic aid district or office at the time the ordinance adopting a redevelopment plan is adopted and that receives no state funding, other than that provided pursuant to Section 6 of Article IX of the California Constitution, pursuant to Section 2558, 42238, or 84751, as appropriate, of the Education Code, shall receive annually its percentage share of the property taxes from the project area allocated among all of the affected taxing entities during the fiscal year the funds are allocated, increased by an amount equal to the lesser of the following:

(A) The percentage growth in assessed value that occurs throughout the district, excluding the portion of the district within the redevelopment project area.

(B) Eighty percent of the growth in assessed value that occurs within the portion of the district within the redevelopment project area.

(2) Subparagraphs (A) and (B) of paragraph (1) shall not apply to a redevelopment plan adopted by the legislative body of a community if both of the following occur:

(A) The median household income in the community in which the redevelopment project area is located is less than 80 percent of the median household income in the county in which the redevelopment project area is located.

(B) The preliminary plan for the redevelopment plan was adopted on or before September 1, 1993, and the redevelopment plan was adopted on or before August 1, 1994.

(3) Any local education agency that is a basic aid district or office at the time the ordinance amending a redevelopment plan is adopted pursuant to Section 33607.7 and that receives no state funding, other than that provided pursuant to Section 6 of Article IX of the California Constitution, pursuant to Section 2558, 42238, or 84751, as appropriate, of the Education Code, shall receive either of the following:

(A) If an agreement exists that requires payments to the basic aid district, the amount required to be paid by an agreement between the agency and the basic aid district entered into prior to January 1, 1994.

(B) If an agreement does not exist, the percentage share of the increase in property taxes from the project area allocated among all of the affected

taxing entities during the fiscal year the funds in the project area are allocated, derived from 80 percent of the growth in assessed value that occurs within the portion of the district within the redevelopment project area from the year in which the amendment takes effect pursuant to subdivision (c) of Section 33607.7.

(4) The redevelopment agency shall subtract from any payments made pursuant to this section the amount that a basic aid district receives pursuant to Sections 33607.5 and 33607.7 for the purposes of either paragraph (1) of subdivision (h) of Section 42238 of the Education Code or either Section 2558 or 84751 of the Education Code.

(c) The governing body of any affected taxing agency, other than a school district and a community college district, electing to receive allocation of taxes pursuant to this section in addition to taxes allocated to it pursuant to subdivision (a) of Section 33670 shall adopt a resolution to that effect and transmit the same, prior to the adoption of the redevelopment plan, to (1) the legislative body, (2) the agency, and (3) the official or officials performing the functions of levying and collecting taxes for the affected taxing agency. Upon receipt by the official or officials of the resolution, allocation of taxes pursuant to this section to the affected taxing agency which has elected to receive the allocation pursuant to this section by the adoption of the resolution and allocation of taxes pursuant to this section to every school district and community college district shall be made at the time or times allocations are made pursuant to subdivision (a) of Section 33670.

(d) An affected taxing agency, at any time after the adoption of the resolution, may elect not to receive all or any portion of the additional allocation of taxes pursuant to this section by rescinding the resolution or by amending the same, as the case may be, and giving notice thereof to the legislative body, the agency, and the official or officials performing the functions of levying and collecting taxes for the affected taxing agency. After receipt of a notice by the official or officials that an affected taxing agency has elected not to receive all or a portion of the additional allocation of taxes by rescission or amendment of the resolution, any allocation of taxes to the affected taxing agency required to be made pursuant to this section shall not thereafter be made but shall be allocated to the agency and the affected taxing agency shall thereafter be allocated only the portion of taxes provided for in subdivision (a) of Section 33670. After receipt of a notice by the official or officials that an affected taxing agency has elected to receive additional tax revenues attributable to only a portion of the increases in the rate of tax, only that portion of the tax revenues shall thereafter be allocated to the affected taxing agency in addition to the portion of taxes allocated pursuant to subdivision (a) of Section 33670, and the remaining portion thereof shall be allocated to the agency.

(e) As used in this section, "affected taxing agency" means and includes every public agency for the benefit of which a tax is levied upon property in the project area, whether levied by the public agency or on its behalf by another public agency.

(f) This section shall apply only to redevelopment projects for which a final redevelopment plan is adopted pursuant to Article 5 (commencing with Section 33360) of Chapter 4 on or after January 1, 1977.

**33677. Tax allocation computation for merged project areas**

The amount of taxes allocated to the redevelopment agency pursuant to Section 33670 shall be separately computed for each constituent project area merged into a single project area pursuant to Section 33460, and for the original project area and each separate addition of land to the project area made by amendment of the redevelopment plan pursuant to Section 33450. The section is declaratory of existing law with respect to amendments to redevelopment plans.

**33677.5. Offset of excess tax revenues**

A county auditor shall only offset excess amounts of property tax revenues allocated to a redevelopment project against property tax revenues of that redevelopment project, and not against the property tax revenues of another redevelopment project governed by the same redevelopment agency.

**33678. Redevelopment tax increment revenues not deemed proceeds of taxes under Article XIII B**

(a) This section implements and fulfills the intent of this article and of Article XIII B and Section 16 of Article XVI of the California Constitution. The allocation and payment to an agency of the portion of taxes specified in subdivision (b) of Section 33670 for the purpose of paying principal of, or interest on, loans, advances, or indebtedness incurred for redevelopment activity, as defined in subdivision (b) of this section, shall not be deemed the receipt by an agency of proceeds of taxes levied by or on behalf of the agency within the meaning or for the purposes of Article XIII B of the California Constitution, nor shall such portion of taxes be deemed receipt of proceeds of taxes by, or an appropriation subject to limitation of, any other public body within the meaning or for purposes of Article XIII B of the California Constitution or any statutory provision enacted in implementation of Article XIII B. The allocation and payment to an agency of this portion of taxes shall not be deemed the appropriation by a redevelopment agency of proceeds of taxes levied by or on behalf of a redevelopment agency within the meaning or for purposes of Article XIII B of the California Constitution.

(b) As used in this section, "redevelopment activity" means either of the following:

(1) Redevelopment meeting all of the following criteria:

(A) Is redevelopment as prescribed in Sections 33020 and 33021.

(B) Primarily benefits the project area.

(C) None of the funds are used for the purpose of paying for employee or contractual services of any local governmental agency unless these services are directly related to the purpose of Sections 33020 and 33021 and the powers established in this part.

(2) Payments authorized by Section 33607.5.

(c) Should any law hereafter enacted, without a vote of the electorate, confer taxing power upon an agency, the exercise of that power by the agency in any fiscal year shall be deemed a transfer of financial responsibility from the community to the agency for that fiscal year within the meaning of subdivision (a) of Section 3 of Article XIII B of the California Constitution.

**33679. Use of tax increments to pay for publicly-owned buildings; public hearing requirement**

Before an agency commits to use the portion of taxes to be allocated and paid to an agency pursuant to subdivision (b) of Section 33670 for the purpose of paying all or part of the value of the land for, and the cost of the installation and construction of, any publicly owned building, other than parking facilities, the legislative body shall hold a public hearing.

Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the community for at least two successive weeks prior to the public hearing. There shall be available for public inspection and copying, at a cost not to exceed the cost of duplication, a summary that includes all of the following:

(a) Estimates of the amount of the taxes proposed to be used to pay for the land and construction of any publicly owned building, including interest payments.

(b) Sets forth the facts supporting the determinations required to be made by the legislative body pursuant to Section 33445 or the findings required to be made by the legislative body pursuant to Section 33445.1.

(c) Sets forth the redevelopment purpose for which the taxes are being used to pay for the land and construction of the publicly owned building.

The summary shall be made available to the public for inspection and copying no later than the time of the first publication of the notice of the public hearing.

## Article 7. School Finance

**33680. Financial assistance to schools; legislative findings and declarations**

(a) The Legislature finds and declares that the effectuation of the primary purposes of the Community Redevelopment Law, including job creation, attracting new private commercial investments, the physical and social improvement of residential neighborhoods, and the provision and maintenance of low- and moderate-income housing, is dependent upon the existence of an adequate and financially solvent school system which is capable of providing for the safety and education of students who live within both redevelopment project areas and housing assisted by redevelopment agencies. The attraction of new businesses to redevelopment project areas depends upon the existence of an adequately trained work force, which can only be accomplished if education at the primary and secondary schools is adequate and general education and job training at community colleges is available. The ability of communities to build residential development and attract residents in redevelopment project areas depends upon the existence of adequately maintained and operating schools serving the redevelopment project area. The development and maintenance of low- and moderate-income housing both within redevelopment project areas and throughout the community can only be successful if adequate schools exist to serve the residents of this housing.

(b) Redevelopment agencies have financially assisted schools which benefit and serve the project area by paying part or all of land and the construction of school facilities and other improvements pursuant to the authority in Section 33445. Redevelopment agencies have financially assisted schools to alleviate the financial burden or detriment caused by the establishment of redevelopment project areas pursuant to the authority in Sections 33401 and 33445.5. Funds also have been allocated to schools and community colleges pursuant to the authority in Section 33676.

(c) The Legislature further finds and declares that, because of the reduced funds available to the state to assist schools and community colleges which benefit and serve redevelopment project areas during the 1992-93, 1993-94, and 1994-95 fiscal years, it is necessary for redevelopment agencies to make additional payments to assist the programs and operations of these schools and colleges in order to ensure that the objectives stated in this section can be met. The Legislature further finds and declares that the payments to schools and community college districts pursuant to Section 33681 are of benefit to redevelopment project areas.

(d) The Legislature further finds and declares all of the following:

(1) Because of the reduced funds available to the state to assist schools that benefit and serve redevelopment project areas during the 2008-09 fiscal year, it is necessary for redevelopment agencies to make additional payments to assist the programs and operations of these schools to ensure that the objectives stated in this section can be met.

(2) The payments to schools pursuant to Section 33684 are of benefit to redevelopment project areas.

***Notes***

*Section 33680 was amended pursuant to an urgency statute chaptered on September 30, 2008 and took effect immediately.*

**33681.6. Downtown project areas in charter cities**

Notwithstanding any other provision of this article to the contrary, the amount determined pursuant to subparagraphs (A) and (B) of paragraph (2) of subdivision (a) of Section 33681.5 shall not include any tax increment apportioned to the downtown project area of a charter city meeting all of the criteria specified in Section 33608.

**33681.7. Educational revenue augmentation fund; 2002-2003 fiscal years; additional allocations**

(a) (1) During the 2002-03 fiscal year, a redevelopment agency shall, prior to May 10, remit an amount equal to the amount determined for that agency pursuant to subparagraph (I) of paragraph (2) 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.

(2) For the 2002-03 fiscal year, on or before October 1, the Director of Finance shall do all of the following:

(A) Determine the net tax increment apportioned to each agency pursuant to Section 33670, excluding any amounts apportioned to affected taxing agencies pursuant to Section 33401 or 33676, in the 2000-01 fiscal year.

(B) Determine the net tax increment apportioned to all agencies pursuant to Section 33670, excluding any amounts apportioned to affected taxing agencies pursuant to Section 33401 or 33676, in the 2000-01 fiscal year.

(C) Determine a percentage factor by dividing thirty-seven million five hundred thousand dollars ($37,500,000) by the amount determined pursuant to subparagraph (B).

(D) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (A) by the percentage factor determined pursuant to subparagraph (C).

(E) Determine the total amount of property tax revenue apportioned to each agency pursuant to Section 33670, including any amounts apportioned to affected taxing agencies pursuant to Section 33401 or 33676, in the 2000-01 fiscal year.

(F) Determine the total amount of property tax revenue apportioned to all agencies pursuant to Section 33670, including any amounts apportioned

to affected taxing agencies pursuant to Section 33401 or 33676, in the 2000-01 fiscal year.

(G) Determine a percentage factor by dividing thirty-seven million five hundred thousand dollars ($37,500,000) by the amount determined pursuant to subparagraph (F).

(H) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (E) by the percentage factor determined pursuant to subparagraph (G).

(I) Add the amount determined pursuant to subparagraph (D) to the amount determined pursuant to subparagraph (H).

(J) Notify each agency and each legislative body of the amount determined pursuant to subparagraph (I).

(K) Notify each county auditor of the amounts determined pursuant to subparagraph (I) for each agency in his or her county.

(b) (1) Notwithstanding Sections 33334.2, 33334.3, and 33334.6, and any other provision of law, in order to make the full allocation required by this section, an agency may borrow up to 50 percent of the amount required to be allocated to the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6 during the 2002-03 fiscal year, unless executed contracts exist that would be impaired if the agency reduced the amount allocated to the Low and Moderate Income Housing Fund pursuant to the authority of this subdivision.

(2) As a condition of borrowing pursuant to this subdivision, an agency shall make a finding that there are insufficient other moneys to meet the requirements of subdivision (a). Funds borrowed pursuant to this subdivision shall be repaid in full within 10 years following the date on which moneys were borrowed.

(c) In order to make the allocation required by this section, an agency may use any funds that are legally available and not legally obligated for other uses, including, but not limited to, reserve funds, proceeds of land sales, proceeds of bonds or other indebtedness, lease revenues, interest, and other earned income. No moneys held in a low- and moderate-income fund as of July 1 of that fiscal year may be used for this purpose.

(d) The legislative body shall by March 1 report to the county auditor as to how the agency intends to fund the allocation required by this section.

(e) The allocation obligations imposed by this section, including amounts owed, 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.

(f) It is the intent of the Legislature, in enacting this section, that these allocations directly or indirectly assist in the financing or refinancing, in whole or in part, of the community's redevelopment projects pursuant to Section 16 of Article XVI of the California Constitution.

(g) In making the determinations required by subdivision (a), the Director of Finance shall use those amounts reported as the "Tax Increment Retained by Agency" for all agencies and for each agency in Table 7 of the 2000-01 fiscal year Controller's State of California Community Redevelopment Agencies Annual Report.

(h) If revised reports have been accepted by the Controller on or before January 1, 2003, the Director of Finance shall use appropriate data that has been certified by the Controller for the purpose of making the determinations required by subdivision (a).

**33681.8. Deferral of additional allocations; educational revenue augmentation fund; 2002-2003 fiscal years**

(a) (1) For the purposes of this section, "existing indebtedness" means one or more of the following obligations incurred by a redevelopment agency prior to the effective date of this section, the payment of which is to be made in whole or in part, directly or indirectly, out of taxes allocated to the agency pursuant to Section 33670, and that is required by law or provision of the existing indebtedness to be made during the fiscal year of the relevant allocation required by Section 33681.7:

(A) Bonds, notes, interim certificates, debentures, or other obligations issued by the 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) A contractual obligation that, if breached, could subject the agency to damages or other liabilities or remedies.

(D) An obligation incurred pursuant to Section 33445.

(E) Indebtedness incurred pursuant to Section 33334.2.

(F) An amount, to be expended for the operation and administration of the agency, that may not exceed 90 percent of the amount spent for those purposes in the 2000-01 fiscal year.

(G) Obligations imposed by law with respect to activities that occurred prior to the effective date of the act that adds this section.

(2) Existing indebtedness incurred prior to the effective date of this section may be refinanced, refunded, or restructured after that date, and shall remain existing indebtedness for the purposes of this section, if the annual debt service during that fiscal year does not increase over the prior fiscal year and the refinancing does not reduce the ability of the agency to make the payment required by subdivision (a) of Section 33681.7.

(3) For the purposes of this section, indebtedness shall be deemed to be incurred prior to the effective date of this section if the agency has entered into a binding contract subject to normal marketing conditions, to deliver the indebtedness, or if the redevelopment agency has received bids for the sale of the indebtedness prior to that date and the indebtedness is issued for value and evidence thereof is delivered to the initial purchaser no later than 30 days after the date of the contract or sale.

(b) During the 2002-03 fiscal year, an agency that has adopted a resolution pursuant to subdivision (c) may, pursuant to subdivision (a) of Section 33681.7, allocate to the auditor less than the amount required by subdivision (a) of Section 33681.7, if the agency finds that either of the following has occurred:

(1) That the difference between the amount allocated to the agency and the amount required by subdivision (a) of Section 33681.7 is necessary to make payments on existing indebtedness that are due or required to be committed, set aside, or reserved by the agency during the applicable fiscal year and that are used by the agency for that purpose, and the agency has no other funds that can be used to pay this existing indebtedness, and no other feasible method to reduce or avoid this indebtedness.

(2) The agency has no other funds to make the allocation required by subdivision (a) of Section 33681.7.

(c) (1) Any agency that, pursuant to subdivision (b), allocates to the auditor less than the amount required by subdivision (a) of Section 33681.7 shall adopt, prior to December 31, 2002, after a noticed public hearing, a resolution that lists all of the following:

(A) Each existing indebtedness incurred prior to the effective date of this section.

(B) Each indebtedness on which a payment is required to be made during the 2002-03 fiscal year.

(C) The amount of each payment, the time when it is required to be paid, and the total of the payments required to be made during the 2002-03 fiscal year. For indebtedness that bears interest at a variable rate, or for short-term indebtedness that is maturing during the fiscal year and that is expected to be refinanced, the amount of payments during the fiscal year shall be estimated by the agency.

(2) The information contained in the resolution required by this subdivision shall be reviewed for accuracy by the chief fiscal officer of the agency.

(3) The legislative body shall additionally adopt the resolution required by this section.

(d) (1) Any agency that, pursuant to subdivision (b), determines that it will be unable in the 2002-03 fiscal year, to allocate the full amount required by subdivision (a) of Section 33681.7 shall, subject to paragraph (3), enter into an agreement with the legislative body by February 15, 2003, to fund the payment of the difference between the full amount required to be paid pursuant to subdivision (a) of Section 33681.7 and the amount available for allocation by the agency.

(2) The obligations imposed by paragraph (1) are hereby declared to be indebtedness incurred by the redevelopment agency to finance a portion of a redevelopment project within the meaning of Section 16 of Article XVI of the California Constitution. This indebtedness shall be payable from tax revenues allocated to the agency pursuant to Section 33670, and any other funds received by the agency. The obligations imposed by paragraph (1) shall remain an indebtedness of the agency to the legislative body until paid in full, or until the agency and the legislative body otherwise agree.

(3) The agreement described in paragraph (1) shall be subject to these terms and conditions specified in a written agreement between the legislative body and the agency.

(e) If the agency fails, under either Section 33681.7 or subdivision (d), to transmit the full amount of funds required by Section 33681.7, is precluded by court order from transmitting that amount, or

is otherwise unable to meet its full obligation pursuant to Section 33681.7, the county auditor, by no later than May 15, 2003, shall transfer any amount necessary to meet the obligation determined for that agency in subparagraph (D) of paragraph (2) of subdivision (a) of Section 33681.7 from the legislative body's property tax allocation pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

**33681.9. Allocations to the educational revenue augmentation fund 2003-04**

(a) (1) During the 2003-04 fiscal year, a redevelopment agency shall, prior to May 10, remit an amount equal to the amount determined for that agency pursuant to subparagraph (I) of paragraph (2) 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.

(2) For the 2003-04 fiscal year, on or before October 1, the Director of Finance shall do all of the following:

(A) Determine the net tax increment apportioned to each agency pursuant to Section 33670, excluding any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33607.5, or 33676, in the 2001-02 fiscal year.

(B) Determine the net tax increment apportioned to all agencies pursuant to Section 33670, excluding any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33607.5, or 33676, in the 2001-02 fiscal year.

(C) Determine a percentage factor by dividing sixty-seven million five hundred thousand dollars ($67,500,000) by the amount determined pursuant to subparagraph (B).

(D) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (A) by the percentage factor determined pursuant to subparagraph (C).

(E) Determine the total amount of property tax revenue apportioned to each agency pursuant to Section 33670, including any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33607.5, or 33676, in the 2001-02 fiscal year.

(F) Determine the total amount of property tax revenue apportioned to all agencies pursuant to Section 33670, including any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33607.5, or 33676, in the 2001-02 fiscal year.

(G) Determine a percentage factor by dividing sixty-seven million five hundred thousand dollars ($67,500,000) by the amount determined pursuant to subparagraph (F).

(H) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (E) by the percentage factor determined pursuant to subparagraph (G).

(I) Add the amount determined pursuant to subparagraph (D) to the amount determined pursuant to subparagraph (H).

(J) Notify each agency and each legislative body of the amount determined pursuant to subparagraph (I).

(K) Notify each county auditor of the amounts determined pursuant to subparagraph (I) for each agency in his or her county.

(b) (1) Notwithstanding Sections 33334.2, 33334.3, and 33334.6, and any other provision of law, in order to make the full allocation required by this section, an agency may borrow up to 50 percent of the amount required to be allocated to the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6 during the 2003-04 fiscal year, unless executed contracts exist that would be impaired if the agency reduced the amount allocated to the Low and Moderate Income Housing Fund pursuant to the authority of this subdivision.

(2) As a condition of borrowing pursuant to this subdivision, an agency shall make a finding that there are insufficient other moneys to meet the requirements of subdivision (a). Funds borrowed pursuant to this subdivision shall be repaid in full within 10 years following the date on which moneys were borrowed.

(c) In order to make the allocation required by this section, an agency may use any funds that are legally available and not legally obligated for other uses, including, but not limited to, reserve funds, proceeds of land sales, proceeds of bonds or other indebtedness, lease revenues, interest, and other earned income. No moneys held in a low- and moderate-income fund as of July 1 of that fiscal year may be used for this purpose.

(d) The legislative body shall by March 1 report to the county auditor as to how the agency intends to fund the allocation required by this section, or that the legislative body intends to remit the amount in lieu of the agency pursuant to Section 33681.11.

(e) The allocation obligations imposed by this section, including amounts owed, 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.

(f) It is the intent of the Legislature, in enacting this section, that these allocations directly or indirectly assist in the financing or refinancing, in whole or in part, of the community's redevelopment projects pursuant to Section 16 of Article XVI of the California Constitution.

(g) In making the determinations required by subdivision (a), the Director of Finance shall use those amounts reported as the "Tax Increment Retained by Agency" for all agencies and for each agency in Table 7 of the 2001-02 fiscal year Controller's State of California Community Redevelopment Agencies Annual Report.

(h) If revised reports have been accepted by the Controller on or before January 1, 2004, the Director of Finance shall use appropriate data that has been certified by the Controller for the purpose of making the determinations required by subdivision (a).

**33681.10. Educational revenue augmentation fund during 2003-04 – *existing indebtedness* defined**

(a) (1) For the purposes of this section, "existing indebtedness" means one or more of the following obligations incurred by a redevelopment agency prior to the effective date of this section, the payment of which is to be made in whole or in part, directly or indirectly, out of taxes allocated to the agency pursuant to Section 33670, and that is required by law or provision of the existing

indebtedness to be made during the fiscal year of the relevant allocation required by Section 33681.9:

(A) Bonds, notes, interim certificates, debentures, or other obligations issued by the 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) A contractual obligation that, if breached, could subject the agency to damages or other liabilities or remedies.

(D) An obligation incurred pursuant to Section 33445.

(E) Indebtedness incurred pursuant to Section 33334.2.

(F) An amount, to be expended for the operation and administration of the agency, that may not exceed 90 percent of the amount spent for those purposes in the 2001-02 fiscal year.

(G) Obligations imposed by law with respect to activities that occurred prior to the effective date of the act that adds this section.

(2) Existing indebtedness incurred prior to the effective date of this section may be refinanced, refunded, or restructured after that date, and shall remain existing indebtedness for the purposes of this section, if the annual debt service during that fiscal year does not increase over the prior fiscal year and the refinancing does not reduce the ability of the agency to make the payment required by subdivision (a) of Section 33681.9.

(3) For the purposes of this section, indebtedness shall be deemed to be incurred prior to the effective date of this section if the agency has entered into a binding contract subject to normal marketing conditions, to deliver the indebtedness, or if the redevelopment agency has received bids for the sale of the indebtedness prior to that date and the indebtedness is issued for value and evidence thereof is delivered to the initial purchaser no later than 30 days after the date of the contract or sale.

(b) During the 2003-04 fiscal year, an agency that has adopted a resolution pursuant to subdivision (c) may, pursuant to subdivision (a) of Section 33681.9, allocate to the auditor less than the amount required by subdivision (a) of Section 33681.9, if the agency finds that either of the following has occurred:

(1) That the difference between the amount allocated to the agency and the amount required by subdivision (a) of Section 33681.9 is necessary to make payments on existing indebtedness that are due or required to be committed, set aside, or reserved by the agency during the applicable fiscal year and that are used by the agency for that purpose, and the agency has no other funds that can be used to pay this existing indebtedness, and no other feasible method to reduce or avoid this indebtedness.

(2) The agency has no other funds to make the allocation required by subdivision (a) of Section 33681.9.

(c) (1) Any agency that, pursuant to subdivision (b), intends to allocate to the auditor less than the amount required by subdivision (a) of Section 33681.9 shall adopt,

prior to December 31, 2003, after a noticed public hearing, a resolution that lists all of the following:

(A) Each existing indebtedness incurred prior to the effective date of this section.

(B) Each indebtedness on which a payment is required to be made during the 2003-04 fiscal year.

(C) The amount of each payment, the time when it is required to be paid, and the total of the payments required to be made during the 2003-04 fiscal year. For indebtedness that bears interest at a variable rate, or for short-term indebtedness that is maturing during the fiscal year and that is expected to be refinanced, the amount of payments during the fiscal year shall be estimated by the agency.

(2) The information contained in the resolution required by this subdivision shall be reviewed for accuracy by the chief fiscal officer of the agency.

(3) The legislative body shall additionally adopt the resolution required by this section.

(d) (1) Any agency that, pursuant to subdivision (b), determines that it will be unable in the 2003-04 fiscal year, to allocate the full amount required by subdivision (a) of Section 33681.9 shall, subject to paragraph (3), enter into an agreement with the legislative body by February 15, 2004, to fund the payment of the difference between the full amount required to be paid pursuant to subdivision (a) of Section 33681.9 and the amount available for allocation by the agency.

(2) The obligations imposed by paragraph (1) are hereby declared to be indebtedness incurred by the redevelopment agency to finance a portion of a redevelopment project within the meaning of Section 16 of Article XVI of the California Constitution. This indebtedness shall be payable from tax revenues allocated to the agency pursuant to Section 33670, and any other funds received by the agency. The obligations imposed by paragraph (1) shall remain an indebtedness of the agency to the legislative body until paid in full, or until the agency and the legislative body otherwise agree.

(3) The agreement described in paragraph (1) shall be subject to these terms and conditions specified in a written agreement between the legislative body and the agency.

(e) If the agency fails, under either Section 33681.9 or subdivision (d), to transmit the full amount of funds required by Section 33681.9, is precluded by court order from transmitting that amount, or is otherwise unable to meet its full obligation pursuant to Section 33681.9, the county auditor, by no later than May 15, 2004, shall transfer any amount necessary to meet the obligation determined for that agency in paragraph (1) of subdivision (c) of Section 33681.9 from the legislative body's property tax allocation pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

**33681.11. Inability to make payments to educational revenue augmentation fund during 2003-04 – Legislative body to make payment**

(a) In lieu of the remittance required by Section 3368l.9, during the 2003-04 fiscal year, a legislative body may, prior to May 10, 2004, remit an amount equal to the amount determined for the agency pursuant to subparagraph (I) of paragraph (2) of subdivision (a) of Section 33681.9 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.

(b) The legislative body may make the remittance authorized by this section from any funds that are legally available for this purpose. No moneys held in an agency's Low and Moderate Income Housing Fund shall be used for this purpose.

(c) If the legislative body, pursuant to subdivision (d) of Section 33681.9, reported to the county auditor that it intended to remit the amount in lieu of the agency and the legislative body fails to transmit the full amount as authorized by this section by May 10, 2004, the county auditor, no later than May 15, 2004, shall transfer an amount necessary to meet the obligation from the legislative body's property tax allocation pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. If the amount of the legislative body's property tax allocation is not sufficient to meet this obligation, the county auditor shall transfer an additional amount necessary to meet this obligation from the property tax increment revenue apportioned to the agency pursuant to Section 33670, provided that no moneys allocated to the agency's Low and Moderate Income Housing Fund shall be used for this purpose.

**33681.12. Allocations to the educational revenue augmentation fund 2004-05 and 2005-06**

(a) (1) During the 2004-05 fiscal year, a redevelopment agency shall, prior to May 10, remit an amount equal to the amount determined for that agency pursuant to subparagraph (I) of paragraph (2) 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. During the 2005-06 fiscal year, a redevelopment agency shall, prior to May 10, remit an amount equal to the amount determined for that agency pursuant to subparagraph (I) of paragraph (2) 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.

(2) For the 2004-05 and 2005-06 fiscal years, on or before November 15, the Director of Finance shall do all of the following:

(A) Determine the net tax increment apportioned to each agency pursuant to Section 33670, excluding any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33607.5, or 33676.

(B) Determine the net tax increment apportioned to all agencies pursuant to Section 33670, excluding any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33607.5, or 33676.

(C) Determine a percentage factor by dividing one hundred twenty-five million dollars ($125,000,000) by the amount determined pursuant to subparagraph (B).

(D) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (A) by the percentage factor determined pursuant to subparagraph (C).

(E) Determine the total amount of property tax revenue apportioned to each agency pursuant to Section 33670, including any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33607.5, or 33676.

(F) Determine the total amount of property tax revenue apportioned to all agencies pursuant to Section 33670, including any amounts apportioned to affected taxing agencies pursuant to Section 33401, 33607.5, or 33676.

(G) Determine a percentage factor by dividing one hundred twenty-five million dollars ($125,000,000) by the amount determined pursuant to subparagraph (F).

(H) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (E) by the percentage factor determined pursuant to subparagraph (G).

(I) Add the amount determined pursuant to subparagraph (D) to the amount determined pursuant to subparagraph (H).

(J) Notify each agency and each legislative body of the amount determined pursuant to subparagraph (I).

(K) Notify each county auditor of the amounts determined pursuant to subparagraph (I) for each agency in his or her county.

(3) The obligation of any agency to make the payments required pursuant to this subdivision shall be subordinate to the lien of any pledge of collateral securing, directly or indirectly, the payment of the principal, or interest on any bonds of the agency including, without limitation, bonds secured by a pledge of taxes allocated to the agency pursuant to Section 33670.

(b) (1) Notwithstanding Sections 33334.2, 33334.3, and 33334.6, and any other provision of law, in order to make the full allocation required by this section, an agency may borrow up to 50 percent of the amount required to be allocated to the Low and Moderate Income Housing Fund pursuant to Sections 33334.2, 33334.3, and 33334.6 during the 2004-05 fiscal year and, if applicable, the 2005-06 fiscal year, unless executed contracts exist that would be impaired if the agency reduced the amount allocated to the Low and Moderate Income Housing Fund pursuant to the authority of this subdivision.

(2) As a condition of borrowing pursuant to this subdivision, an agency shall make a finding that there are insufficient other moneys to meet the requirements of subdivision (a). Funds borrowed pursuant to this subdivision shall be repaid in full within 10 years following the date on which moneys are remitted to the county auditor for deposit in the county's Educational Revenue Augmentation Fund pursuant to subdivision (a).

(c) In order to make the allocation required by this section, an agency may use any funds that are legally available and not legally obligated for other uses, including, but not limited to, reserve funds, proceeds of land sales, proceeds of bonds or other indebtedness, lease revenues, interest, and other earned income. No moneys held in a low- and moderate-income fund as of July 1 of the applicable fiscal year may be used for this purpose.

(d) The legislative body shall by March 1 report to the county auditor as to how the agency intends to fund the allocation required by this section, or that the legislative body intends to remit the amount in lieu of the agency pursuant to Section 33681.14.

(e) The allocation obligations imposed by this section, including amounts owed, 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.

(f) It is the intent of the Legislature, in enacting this section, that these allocations directly or indirectly assist in the financing or refinancing, in whole or in part, of the community's redevelopment project pursuant to Section 16 of Article XVI of the California Constitution.

(g) In making the determinations required by subdivision (a), the Director of Finance shall use those amounts reported as the "Tax Increment Retained by Agency" for all agencies and for each agency in the most recent published edition of the Controller's Community Redevelopment Agencies Annual Report made pursuant to Section 12463.3 of the Government Code.

(h) If revised reports have been accepted by the Controller on or before September 1, 2005, the Director of Finance shall use appropriate data that has been certified by the Controller for the purpose of making the determinations required by subdivision (a).

(i) (1) Notwithstanding any other provision of law, a city, city and county, or county redevelopment agency may enter into a loan agreement with the legislative body to have the agency remit to the county's Educational Revenue Augmentation Fund for each of the 2004-05 and 2005-06 fiscal years an amount greater than that determined pursuant to subparagraph (I) of paragraph (2) of subdivision (a) or, for the 2009-10 fiscal year, to have the agency remit to the county auditor on the city's, city and county's, or county's behalf all or a portion of the reduction amount determined for the county under Section 100.06 of the Revenue and Taxation Code, if, in either instance, all of the following conditions are met:

(A) The agency does not exercise its authority under subdivision (b) to borrow from its Low and Moderate Income Housing Fund to finance its payments to the county's Educational Revenue Augmentation Fund or to the county auditor.

(B) The agency does not have any outstanding loans from its Low and Moderate Income Housing Fund that were made under subdivision (b) *** of Section 33681.7, or subdivision (b) of Section 33681.9.

(C) The loan agreement requires the city, city and county, or county to repay any excess remitted amounts or amounts paid to the city, city and county, or county auditor on the county's behalf in the 2009-10 fiscal year, including interest, to the agency within three fiscal years subsequent to the fiscal year in which the loan is made.

(D) The agency making the loan does not participate in pooled borrowing under Section 33681.15.

(2) A loan agreement described in paragraph (1) shall be transmitted to the county auditor not later than December 1 of the fiscal year in which the loan is made. Any amount remitted by the agency to the county Educational Revenue Augmentation Fund for the 2004-05 or 2005-06 fiscal year in excess of the amount determined pursuant to paragraph (1) of subdivision (a) shall be credited to the amount that would otherwise be subtracted by the county auditor pursuant to subdivision (a) of Section 97.71 of the Revenue and Taxation Code for, as applicable, the 2004-05 and 2005-06 fiscal years.

(3) Notwithstanding subparagraph (C) of paragraph (1), a county redevelopment agency and a legislative body that have entered into a loan agreement for the 2004-05 or 2005-06 fiscal year under paragraph (1) may, by mutual consent, adopt either or both of the following modifications to that agreement:

(A) The repayment period may be extended, but the full repayment shall be completed no later than June 30, 2021.

(B) The repayment obligation may be offset by the amount of any expenditures by the county for capital improvements or deferred maintenance that substantially benefit any or all of the redevelopment project areas of the redevelopment agency if the agency approves the expenditure and the agency adopts a finding that the expenditure furthers the goals and objectives of the agency's redevelopment plan or plans.

***Notes***

*Section 33681.12 was added by an urgency statute that was chaptered on July 28, 2009 and took effect immediately.*

**33681.13. Inability to make payments to education revenue augmentation funds during 2004-05 and 2005-06; *existing indebtedness* defined**

(a) (1) For the purpose of this section, "existing indebtedness" means one or more of the following obligations incurred by a redevelopment agency prior to the effective date of this section, the payment of which is to be made in whole or in part, directly or indirectly, out of taxes allocated to the agency pursuant to Section 33670, and that is required by law or provision of the existing indebtedness to be made during the fiscal year of the relevant allocation required by Section 33681.12.

(A) Bonds, notes, interim certificates, debentures, or other obligations issued by the 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) A contractual obligation that, if breached, could subject the agency to damages or other liabilities or remedies.

(D) An obligation incurred pursuant to Section 33445.

(E) Indebtedness incurred pursuant to Section 33334.2.

(F) An amount, to be expended for the operation and administration of the agency, that may not exceed 90 percent of the amount spent for those purposes in the 2002-03 fiscal year.

(G) Obligations imposed by law with respect to activities that occurred prior to the effective date of the act that adds this section.

(2) Existing indebtedness incurred prior to the effective date of this section may be refinanced, refunded, or restructured after that date, and shall remain existing indebtedness for the purposes of this section, if the annual debt service during that fiscal year does not increase over the prior fiscal year and the refinancing does not reduce the ability of the agency to make the payment required by subdivision (a) of Section 33681.12.

(3) For the purposes of this section, indebtedness shall be deemed to be incurred prior to the effective date of this section if the agency has entered into a binding contract subject to normal marketing conditions, to deliver the indebtedness, or if the redevelopment agency has received bids for the sale of the indebtedness prior to that date and the indebtedness is issued for value and evidence thereof is delivered to the initial purchaser no later than 30 days after the date of the contract or sale.

(b) During the 2004-05 and 2005-06 fiscal years, an agency that has adopted a resolution pursuant to subdivision (c) may, pursuant to subdivision (a) of Section 33681.12, allocate to the auditor less than the amount required by subdivision (a) of Section 33681.12, if the agency finds that either of the following has occurred:

(1) That the difference between the amount allocated to the agency and the amount required by subdivision (a) of Section 33681.12 is necessary to make payments on existing indebtedness that are due or required to be committed, set aside, or reserved by the agency during the applicable fiscal year and that are used by the agency for that purpose, and the agency has no other funds that can be used to pay this existing indebtedness, and no other feasible method to reduce or avoid this indebtedness.

(2) The agency has no other funds to make the allocation required by subdivision (a) of Section 33681.12.

(c) (1) Any agency that, pursuant to subdivision (b), intends to allocate to the auditor less than the amount required by subdivision (a) of Section 33681.12 shall adopt, prior to December 31 of the applicable fiscal year, after a noticed public hearing, a resolution that lists all of the following:

(A) Each existing indebtedness incurred prior to the effective date of this section.

(B) Each indebtedness on which a payment is required to be made during the applicable fiscal year.

(C) The amount of each payment, the time when it is required to be paid, and the total of the payments required to be made during the applicable fiscal year. For indebtedness that bears interest at a variable rate, or for short-term indebtedness that is maturing during the fiscal year and that is expected to be refinanced, the amount of payments during the fiscal year shall be estimated by the agency.

(2) The information contained in the resolution required by this subdivision shall be reviewed for accuracy by the chief fiscal officer of the agency.

(3) The legislative body shall additionally adopt the resolution required by this section.

(d) (1) Any agency that, pursuant to subdivision (b), determines that it will be unable either in the 2004-05 or the 2005-06 fiscal year, to allocate the full amount required by subdivision (a) of Section 33681.12 shall, subject to paragraph (3), enter into an agreement with the legislative body by February 15 of the applicable fiscal year, to fund the payment of the difference between the full amount required to be paid pursuant to subdivision (a) of Section 33681.12 and the amount available for allocation by the agency.

(2) The obligations imposed by paragraph (1) are hereby declared to be indebtedness incurred by the redevelopment agency to finance a portion of a redevelopment project within the meaning of Section 16 of Article XVI of the California Constitution. This indebtedness shall be payable from tax revenues allocated to the agency pursuant to Section 33670, and any other funds received by the agency. The obligations imposed by paragraph (1) shall remain an indebtedness of the agency to the legislative body until paid in full, or until the agency and the legislative body otherwise agree.

(3) The agreement described in paragraph (1) shall be subject to these terms and conditions specified in a written agreement between the legislative body and the agency.

(e) If the agency fails, under either Section 33681.12 or subdivision (d), to transmit the full amount of funds required by Section 33681.12, is precluded by court order from transmitting that amount, or is otherwise unable to meet its full obligation pursuant to Section 33681.12, the county auditor, by no later than May 15 of the applicable fiscal year, shall transfer any amount necessary to meet the obligation determined for that agency in paragraph (1) of subdivision (c) of Section 33681.12 from the legislative body's allocations pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

### 33681.14. Inability to make payments to educational revenue augmentation fund during 2004-05 and 2005-06 – Legislative body to make payment

(a) In lieu of the remittance required by Section 33681.12, during either the 2004-05 or 2005-06 fiscal year, a legislative body may, prior to May 10 of the applicable fiscal year, remit an amount equal to the amount determined for the agency pursuant to subparagraph (I) of paragraph (2) of subdivision (a) of Section 33681.12 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.

(b) The legislative body may make the remittance authorized by this section from any funds that are legally available for this purpose. No moneys held in an agency's Low and Moderate Income Housing Fund shall be used for this purpose.

(c) If the legislative body, pursuant to subdivision (d) of Section 33681.12, reported to the county auditor that it intended to remit the amount in lieu of the agency and the legislative body fails to transmit the full amount as authorized by this section by May 10 of the applicable fiscal year, the county auditor, no later than May 15 of the applicable fiscal year, shall transfer an amount necessary to meet the obligation from the legislative body's allocations pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. If the amount of the legislative body's allocations are not sufficient to meet this obligation, the county auditor shall transfer an additional amount necessary to meet this obligation from the property tax increment revenue apportioned to the agency pursuant to Section 33670, provided that no moneys allocated to the agency's Low and Moderate Income Housing Fund shall be used for this purpose.

### 33681.15. Loans to agencies unable to make payments required by Section 33681.12; *authorized issuer* defined

(a) For the purposes of this section, an "authorized issuer" is limited to a joint powers entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code that consists of no less than 100 local agencies issuing bonds pursuant to the Marks-Roos Local Bond Pooling Act of 1984 (commencing with Section 6584) of the Government Code.

(b) An authorized issuer may issue bonds, notes, or other evidence of indebtedness to provide net proceeds to make one or more loans to one or more redevelopment agencies to be used by the agency to timely make the payment required by Section 33681.12.

(c) With the prior approval of the legislative body by adoption of a resolution by a majority of that body that recites that a first lien on the property tax revenues allocated to the legislative body will be created in accordance with subdivision (h), an agency may enter into an agreement with an authorized issuer issuing bonds pursuant to subdivision (b) to repay a loan used to make the payment required by Section 33681.12, notwithstanding the expiration of the time limit on establishing loans, advances, advances and indebtedness, and the time limit on repayment of indebtedness. For the purpose of calculating the amount that has been divided and allocated to the redevelopment agency to determine whether the limitation adopted pursuant to Section 33333.2 or 33333.4 or pursuant to an agreement or court order has been reached, any funds used to repay a loan entered into pursuant to this section shall be deducted from the amount of property tax revenue deemed to have been received by the agency.

(d) A loan made pursuant to this section shall be repayable by the agency from any available funds of the agency not otherwise obligated for other uses and shall be repayable by the agency on a basis subordinate to all existing and future obligations of the agency.

(e) Upon making a loan to an agency pursuant to this section, the trustee for the bonds issued to provide the funds to make the loan shall timely pay, on behalf of the agency, to the county auditor of the county in which the agency is located the net proceeds (after payment of costs of issuance, credit enhancement costs, and reserves, if any) of the loan in payment in full or in part, as directed by the agency, of the amount required to be paid by the agency pursuant to Section 33681.12 and shall provide the county auditor with the repayment schedule for the loan, together with the name of the trustee.

(f) In the event the agency shall, at any time and from time to time, fail to repay timely the loan in accordance with the schedule provided to the county auditor, the trustee for the bonds shall promptly notify the county auditor of the amount of the payment on the loan that is past due.

(g) The county auditor shall reallocate from the legislative body and shall pay, on behalf of the agency, the past due amount from the first available proceeds of the property tax allocation that would otherwise be transferred to the legislative body pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. This transfer shall be deemed a reallocation of the property tax revenue from the legislative body to the agency for the purpose of payment of the loan, and not as a payment by the legislative body on the loan.

(h) To secure repayment of a loan to an agency made pursuant to this section, the trustee for the bonds issued to provide the funds to make the loan shall have a lien on the property tax revenues allocated to the legislative body pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. This lien shall arise by operation of this section automatically upon the making of the loan without the need for any action on the part of any person. This lien shall be valid, binding, perfected, and enforceable against the legislative body, its successors, creditors, purchasers, and all others asserting rights in those property tax revenues, irrespective of whether those persons have notice of the lien, irrespective of the fact that the property tax revenues subject to the lien may be commingled with other property, and without the need for physical delivery, recordation, public notice, or any other act. This lien shall be a first priority lien on these property tax revenues. This lien shall not apply to any portion of the property taxes allocated to the agency pursuant to Section 33670.

**33682. Inability to make payments to educational revenue augmentation funds during 1992-93; *existing indebtedness* defined**

(a) (1) For the purposes of this section, "existing indebtedness" means one or more of the following obligations incurred by a redevelopment agency prior to the effective date of the statute that adds this chapter, the payment of which is to be made in whole or in part, directly or indirectly, out of taxes allocated to the

agency pursuant to Section 33670, and which is required by law or provision of the existing indebtedness to be made during the 1992-93 fiscal year:

(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) A contractual obligation which, if breached, could subject the agency to damages or other liabilities or remedies.

(D) An obligation incurred pursuant to Section 33445.

(E) Indebtedness incurred pursuant to Section 33334.2.

(F) An amount, to be expended for the operation and administration of the agency, which may not exceed 90 percent of the amount spent for those purposes in the 1991-92 fiscal year.

(G) Obligations imposed by law with respect to activities which occurred prior to the effective date of the act that adds this chapter.

(2) Existing indebtedness incurred prior to the effective date of the statute that adds this article may be refinanced, refunded, or restructured after that date, and shall remain existing indebtedness for the purposes of this section, if the annual debt service during the 1992-93 fiscal year does not increase and the refinancing does not reduce the ability of the agency to make the payment required by subdivision (a) of Section 33681.

(3) For the purposes of this section, indebtedness shall be deemed to be incurred prior to the effective date of this chapter if the agency has entered into a binding contract subject to normal marketing conditions, to deliver the indebtedness, or if the redevelopment agency has received bids for the sale of the indebtedness prior to that date and the indebtedness is issued for value and evidence thereof is delivered to the initial purchaser no later than 30 days after the date of the contract or sale.

(b) During the 1992-93 fiscal year, an agency that has adopted a resolution pursuant to subdivision (c) may, pursuant to subdivision (a) of Section 33681, allocate to the auditor less than the amount required by subdivision (a) of Section 33681, if the agency finds that either of the following has occurred:

(1) That the difference between the amount allocated and the amount required by subdivision (a) of Section 33681 is necessary to make payments on existing indebtedness that are due or required to be committed, set aside, or reserved by the agency during the 1992-93 fiscal year and that are used by the agency for that purpose, and the agency has no other funds that can be used to pay this existing indebtedness, and no other feasible method to reduce or avoid this indebtedness.

(2) The agency has no other funds to make the allocation required by subdivision (a) of Section 33681.

(c) (1) Any agency that, pursuant to subdivision (b), allocates to the auditor less than the amount required by subdivision (a) of Section 33681 shall adopt, prior to

December 31, 1992, for the 1992-93 fiscal year, after a noticed public hearing, a resolution which lists all of the following:

(A) Each existing indebtedness incurred prior to the effective date of the act that adds this article.

(B) Each indebtedness on which a payment is required to be made during the 1992-93 fiscal year.

(C) The amount of each payment, the time when it is required to be paid, and the total of the payments required to be made during the 1992-93 fiscal year. For indebtedness that bears interest at a variable rate, or for short-term indebtedness that is maturing during the fiscal year and expected to be refinanced, the amount of payments during the fiscal year shall be estimated by the agency.

(2) The information contained in the resolution required by this subdivision shall be certified by the chief fiscal officer of the agency.

(3) The legislative body shall additionally adopt the resolution required by this section.

(d) (1) Any agency that, pursuant to subdivision (b), determines that it will be unable to allocate the full amount required by subdivision (a) of Section 33681 shall, subject to paragraph (3), enter into an agreement with the legislative body by February 15, 1993, to fund the payment of the difference between the full amount required to be paid pursuant to subdivision (a) of Section 33681 and the amount available for allocation by the agency.

(2) The obligations imposed by paragraph (1) are hereby declared to be indebtedness incurred by the redevelopment agency to finance a portion of a redevelopment project within the meaning of Section 16 of Article XVI of the California Constitution. This indebtedness shall be payable from tax revenues allocated to the agency pursuant to Section 33670, and any other funds received by the agency. The obligations imposed by paragraph (1) shall remain an indebtedness of the agency to the legislative body until paid in full, or until the agency and the legislative body otherwise agree.

(3) The agreement described in paragraph (1) shall be subject to these terms and conditions specified in a written agreement between the legislative body and the agency.

(e) If the agency fails, under either Section 33681 or subdivision (d), to transmit the full amount of funds required by Section 33681, is precluded by court order from transmitting that amount, or is otherwise unable to meet its full obligation pursuant to Section 33681, the county auditor, by no later than May 15, 1993, shall transfer any amount necessary to meet the obligation determined for that agency in subparagraph (D) of paragraph (2) of subdivision (a) of Section 33681 from the legislative body's property tax allocation pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

(f) It is the intent of the Legislature in enacting this section that this section supersede and be operative in place of Section 33682 of the Health and Safety Code as added by Senate Bill 617 of the 1991-92 Regular Session.

**33682.1. Inability to make payments to educational revenue augmentation funds: *existing indebtedness* further defined**

For purposes of Section 33682, "existing indebtedness" also means an obligation incurred pursuant to a reimbursement agreement made for the purpose of funding an unfunded liability of a fire and police retirement system of a charter city meeting all of the criteria specified in Section 33608. This section shall not be applied retroactively.

**33682.5. Inability to make payments to educational revenue augmentation funds during 1993-94 or 1994-95; *existing indebtedness* defined**

(a) (1) For the purposes of this section, "existing indebtedness" means one or more of the following obligations incurred by a redevelopment agency prior to the effective date of the statute that adds this chapter, the payment of which is to be made in whole or in part, directly or indirectly, out of taxes allocated to the agency pursuant to Section 33670, and which is required by law or provision of the existing indebtedness to be made during the fiscal year of the relevant allocation required by Section 33681.5:

(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) A contractual obligation that, if breached, could subject the agency to damages or other liabilities or remedies.

(D) An obligation incurred pursuant to Section 33445.

(E) Indebtedness incurred pursuant to Section 33334.2.

(F) An amount, to be expended for the operation and administration of the agency, that may not exceed 90 percent of the amount spent for those purposes in the 1991-92 fiscal year.

(G) Obligations imposed by law with respect to activities which occurred prior to the effective date of the act that adds this chapter.

(2) Existing indebtedness incurred prior to the effective date of the statute that adds this article may be refinanced, refunded, or restructured after that date, and shall remain existing indebtedness for the purposes of this section, if the annual debt service during that fiscal year does not increase over the prior fiscal year and the refinancing does not reduce the ability of the agency to make the payment required by subdivision (a) of Section 33681.5.

(3) For the purposes of this section, indebtedness shall be deemed to be incurred prior to the effective date of this chapter if the agency has entered into a binding contract subject to normal marketing conditions, to deliver the indebtedness, or if the redevelopment agency has received bids for the sale of the indebtedness prior to that date and the indebtedness is issued for value and evidence thereof is delivered to the initial purchaser no later than 30 days after the date of the contract or sale.

(b) During the 1993-94 or 1994-95 fiscal year, an agency that has adopted a resolution pursuant to subdivision (c) may, pursuant to subdivision (a) of Section 33681.5, allocate to the auditor less than the amount required by subdivision (a) of Section 33681.5, if the agency finds that either of the following has occurred:

(1) That the difference between the amount allocated and the amount required by subdivision (a) of Section 33681.5 is necessary to make payments on existing indebtedness that are due or required to be committed, set aside, or reserved by the agency during the applicable fiscal year and that are used by the agency for that purpose, and the agency has no other funds that can be used to pay this existing indebtedness, and no other feasible method to reduce or avoid this indebtedness.

(2) The agency has no other funds to make the allocation required by subdivision (a) of Section 33681.5.

(c) (1) Any agency that, pursuant to subdivision (b), allocates to the auditor less than the amount required by subdivision (a) of Section 33681.5 shall adopt, prior to December 31 of the relevant fiscal year, after a noticed public hearing, a resolution which lists all of the following:

(A) Each existing indebtedness incurred prior to the effective date of the act that adds this article.

(B) Each indebtedness on which a payment is required to be made during the relevant fiscal year.

(C) The amount of each payment, the time when it is required to be paid, and the total of the payments required to be made during the relevant fiscal year. For indebtedness that bears interest at a variable rate, or for short-term indebtedness that is maturing during the fiscal year and expected to be refinanced, the amount of payments during the fiscal year shall be estimated by the agency.

(2) The information contained in the resolution required by this subdivision shall be reviewed for accuracy by the chief fiscal officer of the agency.

(3) The legislative body shall additionally adopt the resolution required by this section.

(d) (1) Any agency that, pursuant to subdivision (b), determines that it will be unable in either the 1993-94 or 1994-95 fiscal year to allocate the full amount required by subdivision (a) of Section 33681.5 shall, subject to paragraph (3), enter into an agreement with the legislative body by February 15 of the relevant fiscal year to fund the payment of the difference between the full amount required to be paid pursuant to subdivision (a) of Section 33681.5 and the amount available for allocation by the agency.

(2) The obligations imposed by paragraph (1) are hereby declared to be indebtedness incurred by the redevelopment agency to finance a portion of a redevelopment project within the meaning of Section 16 of Article XVI of the California Constitution. This indebtedness shall be payable from tax revenues allocated to the agency pursuant to Section 33670, and any other funds received by the agency. The obligations imposed by paragraph (1) shall remain an indebtedness of the agency to the legislative body until paid in full, or until the agency and the legislative body otherwise agree.

(3) The agreement described in paragraph (1) shall be subject to these terms and conditions specified in a written agreement between the legislative body and the agency.

(e) If the agency fails, under either Section 33681.5 or subdivision (d), to transmit the full amount of funds required by Section 33681.5, is precluded by court order from transmitting that amount, or is otherwise unable to meet its full obligation pursuant to Section 33681.5, the county auditor, by no later than May 15 of the fiscal year, shall transfer any amount necessary to meet the obligation determined for that agency in subparagraph (D) of paragraph (2) of subdivision (a) of Section 33681.5 from the legislative body's property tax allocation pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

**33683. Payments to educational revenue augmentation funds not counted toward tax increment caps**

For the purpose of calculating the amount that has been divided and allocated to the redevelopment agency to determine whether the limitation adopted pursuant to Section 33333.2 or 33333.4 or pursuant to agreement or court order has been reached, any payments made pursuant to subdivision (a) of Sections 33681, 33681.5, 33681.7, 33681.9, and 33681.12 or subdivision (d) of Sections 33681.8, 33681.10, 33682, and 33682.5 with property tax revenues shall be deducted from the amount of property tax dollars deemed to have been received by the agency.

**33684. Obligation to file passthrough payment report with county auditor**

(a) (1) This section shall apply to each redevelopment project area that, pursuant to a redevelopment plan that contains the provisions required by Section 33670, meets any of the following:

(A) Was adopted on or after January 1, 1994, including later amendments to these redevelopment plans.

(B) Was adopted prior to January 1, 1994, but amended after January 1, 1994, to include new territory. For plans amended after January 1, 1994, only the tax increments from territory added by the amendment shall be subject to this section.

(2) This section shall apply to passthrough payments, as required by Sections 33607.5 and 33607.7, for the 2003-04 to 2008-09, inclusive, fiscal years. For purposes of this section, a passthrough payment shall be considered the responsibility of an agency in the fiscal year the agency receives the tax increment revenue for which the passthrough payment is required.

(3) For purposes of this section, "local educational agency" is a school district, a community college district, or a county office of education.

(b) On or before October 1, 2008, each agency shall submit a report to the county auditor and to each affected taxing entity that describes each project area, including its location, purpose, date established, date or dates amended, and statutory and contractual passthrough requirements. The report shall specify, by year, for each project area all of the following:

(1) Gross tax increment received between July 1, 2003, and June 30, 2008, that is subject to a passthrough payment pursuant to Sections 33607.5 and 33607.7, and accumulated gross tax increments through June 30, 2003.

(2) Total passthrough payments to each taxing entity that the agency deferred pursuant to a subordination agreement approved by the taxing agency under subdivision (e) of Section 33607.5 and the dates these deferred payments will be made.

(3) Total passthrough payments to each taxing entity that the agency was responsible to make between July 1, 2003, and June 30, 2008, pursuant to Sections 33607.5 and 33607.7, excluding payments identified in paragraph (2).

(4) Total passthrough payments that the agency disbursed to each taxing entity between July 1, 2003, and June 30, 2008, pursuant to Sections 33607.5 and 33607.7.

(5) Total sums reported in paragraph (4) for each local educational agency that are considered to be property taxes under the provisions of paragraph (4) of subdivision (a) of Section 33607.5 and Section 33607.7.

(6) Total outstanding payment obligations to each taxing entity as of June 30, 2008. This amount shall be calculated by subtracting the amounts reported in paragraph (4) from paragraph (3) and reporting any positive difference.

(7) Total outstanding overpayments to each taxing entity as of June 30, 2008. This amount shall be calculated by subtracting the amounts reported in paragraph (3) from paragraph (4) and reporting any positive difference.

(8) The dates on which the agency made payments identified in paragraph (6) or intends to make the payments identified in paragraph (6).

(9) A revised estimate of the agency's total outstanding passthrough payment obligation to each taxing agency pursuant to paragraph (6) of subdivision (b) and paragraph (6) of subdivision (c) and the dates on which the agency intends to make these payments.

(c) On or before October 1, 2009, each agency shall submit a report to the county auditor and to each affected taxing entity that describes each project area, including its location, purpose, date established, date or dates amended, and statutory and contractual passthrough requirements. The report shall specify, by year, for each project area all of the following:

(1) Gross tax increment received between July 1, 2008, and June 30, 2009, that is subject to a passthrough payment pursuant to Sections 33607.5 and 33607.7.

(2) Total passthrough payments to each taxing entity that the agency deferred pursuant to a subordination agreement approved by the taxing entity under subdivision (e) of Section 33607.5 and the dates these deferred payments will be made.

(3) Total passthrough payments to each taxing entity that the agency was responsible to make between July 1, 2008, and June 30, 2009, pursuant to Sections 33607.5 and 33607.7, excluding payments identified in paragraph (2).

(4) Total passthrough payments that the agency disbursed to each taxing entity between July 1, 2008, and June 30, 2009, pursuant to Sections 33607.5 and 33607.7.

(5) Total sums reported in paragraph (4) for each local educational agency that are considered to be property taxes under the provisions of paragraph (4) of subdivision (a) of Sections 33607.5 and 33607.7.

(6) Total outstanding payment obligations to each taxing entity as of June 30, 2009. This amount shall be calculated by subtracting the amounts reported in paragraph (4) from paragraph (3) and reporting any positive difference.

(7) Total outstanding overpayments to each taxing entity as of June 30, 2009. This amount shall be calculated by subtracting the amounts reported in paragraph (3) from paragraph (4) and reporting any positive difference.

(8) The dates on which the agency made payments identified in paragraph (6) or intends to make the payments identified in paragraph (6).

(d) If an agency reports pursuant to paragraph (6) of subdivision (b) or paragraph (6) of subdivision (c) that it has an outstanding passthrough payment obligation to any taxing entity, the agency shall submit annual updates to the county auditor on October 1 of each year until such time as the county auditor notifies the agency in writing that the agency's outstanding payment obligations have been fully satisfied. The report shall contain both of the following:

(1) A list of payments to each taxing agency and to the Educational Revenue Augmentation Fund pursuant to subdivision (j) that the agency disbursed after the agency's last update filed pursuant to this subdivision or, if no update has been filed, after the agency's submission of the reports required pursuant to subdivisions (b) and (c). The list of payments shall include only those payments that address obligations identified pursuant to paragraph (6) of subdivision (b) and paragraph (6) of subdivision (c). The update shall specify the date on which each payment was disbursed.

(2) A revised estimate of the agency's total outstanding passthrough payment obligation to each taxing agency pursuant to paragraph (6) of subdivision (b) and paragraph (6) of subdivision (c) and the dates on which the agency intends to make these payments.

(e) The county auditor shall review each agency's reports submitted pursuant to subdivisions (b) and (c) and any other relevant information to determine whether the county auditor concurs with the information included in the reports.

(1) If the county auditor concurs with the information included in a report, the county auditor shall issue a finding of concurrence within 45 days.

(2) If the county auditor does not concur with the information included in a report or considers the report to be incomplete, the county auditor shall return the report to the agency within 45 days with information identifying the elements of the report with which the county auditor does not concur or considers to be incomplete. The county auditor shall provide the agency at least 15 days to respond to concerns raised by the county auditor regarding the information contained in the report. An agency may revise a report that has not received a finding of concurrence and resubmit it to the county auditor.

(3) If an agency and county auditor do not agree regarding the passthrough requirements of Sections 33607.5 and 33607.7, an agency may submit a report pursuant to subdivisions (b) and (c) and a statement of dispute identifying the issue needing resolution.

(4) An agency may amend a report for which the county auditor has issued a finding of concurrence and resubmit the report pursuant to paragraphs (1), (2), and (3) if any of the following apply:

(A) The county auditor and agency agree that an issue identified in the agency's statement of dispute has been resolved and the agency proposes to modify the sections of the report to conform with the resolution of the statement of dispute.

(B) The county auditor and agency agree that the amount of gross tax increment or the amount of a passthrough payment to a taxing entity included in the report is not accurate.

(5) The Controller may revoke a finding of concurrence and direct the agency to resubmit a report to the county auditor pursuant to paragraphs (1), (2), and (3) if the Controller finds significant errors in a report.

(f) On or before December 15, 2008, and annually thereafter through 2014, the county auditor shall submit a report to the Controller that includes all of the following:

(1) The name of each redevelopment project area in the county for which an agency must submit a report pursuant to subdivision (b) or (c) and information as to whether the county auditor has issued a finding of concurrence regarding the report.

(2) A list of the agencies for which the county auditor has issued a finding of concurrence for all project areas identified in paragraph (1).

(3) A list of agencies for which the county auditor has not issued a finding of concurrence for all project areas identified in paragraph (1).

(4) Using information applicable to agencies listed in paragraph (2), the county auditor shall report all of the following:

(A) The total sums reported by each redevelopment agency related to each taxing entity pursuant to paragraphs (1) to (7), inclusive, of subdivision (b) and, on or after December 15, 2009, pursuant to paragraphs (1) to (7), inclusive, of subdivision (c).

(B) The names of agencies that have outstanding passthrough payment obligations to a local educational agency that exceed the amount of outstanding passthrough payments to the local educational agency.

(C) Summary information regarding agencies' stated plans to pay the outstanding amounts identified in paragraph (6) of subdivision (b) and paragraph (6) of subdivision (c) and the actual amounts that have been deposited into the county Educational Revenue Augmentation Fund pursuant to subdivision (j).

(D) All unresolved statements of dispute filed by agencies pursuant to paragraph (3) of subdivision (e) and the county auditor's analyses supporting the county auditor's conclusions regarding the issues under dispute.

(g) (1) On or before February 1, 2009, and annually thereafter through 2015, the Controller shall submit a report to the Legislative Analyst's Office and the Department of Finance and provide a copy to the Board of Governors of the California Community Colleges. The report shall provide information as follows:

(A) Identify agencies for which the county auditor has issued a finding of concurrence for all reports required under subdivisions (b) and (c).

(B) Identify agencies for which the county auditor has not issued a finding of concurrence for all reports required pursuant to subdivision (b) and all reports required pursuant to subdivision (c) or for which a finding of concurrence has been withdrawn by the Controller.

(C) Summarize the information reported in paragraph (4) of subdivision (f). This summary shall identify, by local educational agency and by year, the total amount of passthrough payments that each local educational agency received, was entitled to receive, subordinated, or that has not yet been paid, and the portion of these amounts that are considered to be property taxes for purposes of Sections 2558, 42238, and 84751 of the Education Code. The report shall identify, by agency, the amounts that have been deposited to the county Educational Revenue Augmentation Fund pursuant to subdivision (j).

(D) Summarize the statements of dispute. The Controller shall specify the status of these disputes, including whether the Controller or other state entity has provided instructions as to how these disputes should be resolved.

(E) Identify agencies that have outstanding passthrough payment liabilities to a local educational agency that exceed the amount of outstanding passthrough overpayments to the local educational agency.

(2) On or before February 1, 2009, and annually thereafter through 2015, the Controller shall submit a report to the State Department of Education and the Board of Governors of the California Community Colleges. The report shall identify, by local educational agency and by year of receipt, the total amount of passthrough payments that the local educational agency received from redevelopment agencies listed in subparagraph (A) of paragraph (1).

(h) (1) On or before April 1, 2009, and annually thereafter until April 1, 2015, the State Department of Education shall do all of the following:

(A) Calculate for each school district for the 2003-04 to 2007-08, inclusive, fiscal years the difference between 43.3 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount subtracted from each school district's apportionment pursuant to paragraph (6) of subdivision (h) of Section 42238 of the Education Code.

(B) Calculate for each county superintendent of schools for the 2003-04 to 2007-08, inclusive, fiscal years the difference between 19 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount received pursuant to Sections 33607.5 and 33607.7 and subtracted from each county superintendent of schools apportionment pursuant to subdivision (c) of Section 2558 of the Education Code.

(C) Notify each school district and county superintendent of schools for which any amount calculated in subparagraph (A) or (B) is nonzero as to the reported change and its resulting impact on apportionments. After April 1, 2009, however, the department shall not notify a school district or county superintendent of schools if the amount calculated in subparagraph (A) or (B) is the same amount as the department calculated in the preceding year.

(2) On or before April 1, 2010, and annually thereafter until April 1, 2015, the State Department of Education shall do all of the following:

(A) Calculate for each school district for the 2008-09 fiscal year the difference between 43.3 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount subtracted from each school district's apportionment pursuant to paragraph (6) of subdivision (h) of Section 42238 of the Education Code.

(B) Calculate for each county superintendent of schools for the 2008-09 fiscal year the difference between 19 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount received pursuant to Sections 33607.5 and 33607.7 and subtracted from each county superintendent of schools apportionment pursuant to subdivision (c) of Section 2558 of the Education Code.

(C) Notify each school district and county superintendent of schools for which any amount calculated in subparagraph (A) or (B) is nonzero as to the reported change and its resulting impact on revenue limit apportionments. After April 1, 2010, however, the department shall not notify a school district or county superintendent of schools if the amount calculated in subparagraph (A) or (B) is the same amount as the department calculated in the preceding year.

(3) For the purposes of Article 3 (commencing with Section 41330) of Chapter 3 of Part 24 of Division 3 of Title 2 of the Education Code, the amounts reported to each school district and county superintendent of schools in the notification required pursuant to subparagraph (C) of paragraph (1) and subparagraph (C) of paragraph (2) shall be deemed to be apportionment significant audit exceptions and the date of receipt of that notification shall be deemed to be the date of receipt of the final audit report that includes those audit exceptions.

(4) On or before March 1, 2009, and annually thereafter until March 1, 2015, the Board of Governors of the California Community Colleges shall do all of the following:

(A) Calculate for each community college district for the 2003-04 to 2007-08, inclusive, fiscal years the difference between 47.5 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount subtracted from each district's total revenue owed pursuant to subdivision (d) of Section 84751 of the Education Code.

(B) Notify each community college district for which any amount calculated in subparagraph (A) is nonzero as to the reported change and its resulting impact on apportionments. After March 1, 2009, however, the board shall not notify a school district or county superintendent of schools if the amount calculated in subparagraph (A) is the same amount as the board calculated in the preceding year.

(5) On or before March 1, 2010, and annually thereafter until March 1, 2015, the Board of Governors of the California Community Colleges shall do all of the following:

(A) Calculate for each community college district for the 2003-04 to 2007-08, inclusive, fiscal years the difference between 47.5 percent of the amount reported pursuant to paragraph (2) of subdivision (g) and the amount subtracted from each district's total revenue owed pursuant to subdivision (d) of Section 84751 of the Education Code.

(B) Notify each community college district for which any amount calculated in subparagraph (A) is nonzero as to the reported change and its resulting impact on revenue apportionments. After March 1, 2010, however, the board shall not notify a community college district if the amount calculated in subparagraph (A) is the same amount as the board calculated in the preceding year.

(6) A community college district may submit documentation to the Board of Governors of the California Community Colleges showing that all or part of the amount reported to the district pursuant to subparagraph (B) of paragraph (4) and subparagraph (B) of paragraph (5) was previously reported to the California Community Colleges for the purpose of the revenue level calculations made pursuant to Section 84751 of the Education Code. Upon acceptance of the documentation, the board of governors shall adjust the amounts calculated in paragraphs (4) and (5) accordingly.

(7) The Board of Governors of the California Community Colleges shall make corrections in any amounts allocated in any fiscal year to each community college district for which any amount calculated in paragraphs (4) and (5) is nonzero so as to account for the changes reported pursuant to paragraph (4) of subdivision (b) and paragraph (4) of subdivision (c). The board may make the corrections over a period of time, not to exceed five years.

(i) (1) After February 1, 2009, for an agency listed on the most recent Controller's report pursuant to subparagraph (B) or (E) of paragraph (1) of subdivision (g), all of the following shall apply:

(A) The agency shall be prohibited from adding new project areas or expanding existing project areas. For purposes of this paragraph, "project area" has the same meaning as in Sections 33320.1 to 33320.3, inclusive, and Section 33492.3.

(B) The agency shall be prohibited from issuing new bonds, notes, interim certificates, debentures, or other obligations, whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33640).

(C) 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 funds to pay, if any, all of the following:

(i) Bonds, notes, interim certificates, debentures, or other obligations issued by an agency before the imposition of the prohibition in subparagraph (B) whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33460)***.

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

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

(iv) Obligations incurred pursuant to Section 33445.

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

(vi) Obligations incurred pursuant to Section 33401.

(vii) An amount, to be expended for the monthly operation and administration of the agency, that may not exceed 75 percent of the average monthly amount spent for those purposes in the fiscal year preceding the fiscal year in which the agency was first listed on the Controller's report pursuant to subparagraph (B) or (E) of paragraph (1) of subdivision (g).

(2) After February 1, 2009, an agency identified in subparagraph (B) or (E) of paragraph (1) of subdivision (g) shall incur interest charges on any passthrough payment that is made to a local educational agency more than 60 days after the close of the fiscal year in which the passthrough payment was required. Interest shall be charged at a rate equal to 150 percent of the current Pooled Money Investment Account earnings annual yield rate and shall be charged for the period beginning 60 days after the close of the fiscal year in which the passthrough payment was due through the date that the payment is made.

(3) The Controller, with the concurrence of the Director of Finance, may waive the provisions of paragraphs (1) and (2) for a period of up to 12 months if the Controller determines all of the following:

(A) The county auditor has identified the agency in its most recent report issued pursuant to paragraph (2) of subdivision (f) as an agency for which the auditor has issued a finding of concurrence for all reports required pursuant to subdivisions (b) and (c).

(B) The agency has filed a statement of dispute on an issue or issues that, in the opinion of the Controller, are likely to be resolved in a manner consistent with the agency's position.

(C) The agency has made passthrough payments to local educational agencies and the county Educational Revenue Augmentation Fund, or has had funds previously withheld by the auditor, in amounts that would satisfy the agency's passthrough payment requirements to local educational agencies if the issue or issues addressed in the statement of dispute were resolved in a manner consistent with the agency's position.

(D) The agency would sustain a fiscal hardship if it made passthrough payments to local educational agencies and the county Educational Revenue Augmentation Fund in the amounts estimated by the county auditor.

(j) Notwithstanding any other provision of law, if an agency report submitted pursuant to subdivision (b) or (c) indicates outstanding payment obligations to a local educational agency, the agency shall make these outstanding payments as follows:

(1) Of the outstanding payments owed to school districts, including any interest payments pursuant to paragraph (2) of subdivision (i), 43.3 percent shall be deposited in the county Educational Revenue Augmentation Fund and the remainder shall be allocated to the school district or districts.

(2) Of the outstanding payments owed to community college districts, including any interest payments pursuant to paragraph (2) of subdivision (i), 47.5 percent shall be deposited in the county Educational Revenue Augmentation Fund and the remainder shall be allocated to the community college district or districts.

(3) Of the outstanding payments owed to county offices of education, including any interest payments pursuant to paragraph (2) of subdivision (i), 19 percent shall be deposited in the county Educational Revenue Augmentation Fund and the remainder shall be allocated to the county office of education.

(k) (1) This section shall not be construed to increase any allocations of excess, additional, or remaining funds that would otherwise have been allocated to cities, counties, cities and counties, or special districts pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 of, clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 of, or Article 4 (commencing with Section 98) of Chapter 6 of Part 0.5 of Division 1 of, the Revenue and Taxation Code had this section not been enacted.

(2) Notwithstanding any other provision of law, no funds deposited in the county Educational Revenue Augmentation Fund pursuant to subdivision (j) shall be distributed to a community college district.

(l) A county may require an agency to reimburse the county for any expenses incurred by the county in performing the services required by this section.

***Notes***

*Section 33684 was added pursuant to an urgency statute chaptered on September 30, 2008 and took effect immediately.*

**33685. Payments to the educational revenue augmentation fund during 2008-09**

(a) (1) For the 2008-09 fiscal year a redevelopment agency shall remit, as determined by the Director of Finance, prior to May 10, an amount equal to the amount determined for that agency pursuant to subparagraph (K) of paragraph (2) to the county auditor for deposit in the county 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. Notwithstanding any other provision of law, in the 2008-09 fiscal year, no funds deposited in the county Educational Revenue Augmentation Fund pursuant to this section shall be distributed to a community college district.

(2) On or before November 15, 2008, the Director of Finance shall do all of the following:

(A) (i) Determine the value of five percent of the statewide total property tax revenue apportioned to agencies pursuant to Section 33670.

(ii) If the value determined pursuant to clause (i) exceeds three-hundred fifty million dollars ($350,000,000), the value determined in clause (i) shall be allocated to each agency as provided in paragraphs (B) to (J), inclusive.

(iii) If the value determined pursuant to clause (i) does not exceed three-hundred fifty million dollars ($350,000,000), three-hundred fifty million dollars ($350,000,000) shall be allocated to each agency as provided in subparagraphs (B) to (J), inclusive.

(B) Determine the net tax increment apportioned to each agency pursuant to Section 33670, excluding any amounts apportioned to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(C) Determine the net tax increment apportioned to all agencies pursuant to Section 33670, excluding any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(D) Determine a percentage factor by dividing the amount determined pursuant to subparagraph (A) by two and then by the amount determined pursuant to subparagraph (C).

(E) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (B) by the percentage factor determined pursuant to subparagraph (D).

(F) Determine the total amount of property tax revenue apportioned to each agency pursuant to Section 33670, including any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(G) Determine the total amount of property tax revenue apportioned to all agencies pursuant to Section 33670, including any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(H) Determine a percentage factor by dividing the amount determined pursuant to subparagraph (A) by two and then by the amount determined pursuant to subparagraph (G).

(I) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (F) by the percentage factor determined pursuant to subparagraph (H).

(J) Add the amount determined pursuant to subparagraph (E) to the amount determined pursuant to subparagraph (I).

(K) Notify each agency, each legislative body, and each county auditor of each agency's amount. The county auditor shall deposit these amounts in the county Educational Revenue Augmentation Fund pursuant to paragraph (1).

(3) The obligation of any agency to make the payments required pursuant to this subdivision shall be subordinate to the lien of any pledge of collateral securing, directly or indirectly, the payment of the principal, or interest on any bonds of the agency including, without limitation, bonds secured by a pledge of taxes allocated to the agency pursuant to Section 33670. Agencies shall factor in the fiscal obligations created by this subdivision when issuing bonded indebtedness.

(b) (1) Notwithstanding any other provision of law, to make the full allocation required by this section, an agency may borrow up to 50 percent of the amount required to be allocated to the Low and Moderate Income Housing Fund, pursuant to Sections 33334.2, 33334.3, and 33334.6, unless, in a given fiscal year, executed contracts exist that would be impaired if the agency reduced the amount allocated to the Low and Moderate Income Housing Fund pursuant to the authority of this subdivision.

(2) As a condition of borrowing pursuant to this subdivision, an agency shall make a finding that there are insufficient other moneys to meet the requirements of

subdivision (a). Funds borrowed pursuant to this subdivision shall be repaid in full within 10 years following the date on which moneys are remitted to the county auditor for deposit in the county Educational Revenue Augmentation Fund pursuant to subdivision (a).

(c) To make the allocation required by this section, an agency may use any funds that are legally available and not legally obligated for other uses, including, but not limited to, reserve funds, proceeds of land sales, proceeds of bonds or other indebtedness, lease revenues, interest, and other earned income. No moneys held in a low- and moderate-income fund as of July 1 of the applicable fiscal year may be used for this purpose.

(d) The legislative body shall by March 1 of each year report to the county auditor as to how the agency intends to fund the allocation required by this section, or that the legislative body intends to remit the amount in lieu of the agency pursuant to Section 33687.

(e) The allocation obligations imposed by this section, including amounts owed, 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.

(f) It is the intent of the Legislature, in enacting this section, that these allocations directly or indirectly assist in the financing or refinancing, in whole or in part, of the community's redevelopment project pursuant to Section 16 of Article XVI of the California Constitution.

(g) In making the annual determinations required by subdivision (a), the Director of Finance shall use those amounts reported in "Table 7, Assessed Valuation, Tax Increment Distribution and Statement of Indebtedness" for all agencies and for each agency in the most recent published edition of the Controller's Community Redevelopment Agencies Annual Report made pursuant to Section 12463.3 of the Government Code.

(h) If revised reports have been accepted by the Controller on or before September 1 of the applicable fiscal year, the Director of Finance shall use appropriate data that has been certified by the Controller for the purpose of making the determinations required by subdivision (a).

(i) Nothing in this section shall be construed as extending the time limits on the ability of agencies to do any of the following:

(1) Establish loans, advances, or indebtedness.

(2) Receive tax increment revenues.

(3) Exercise eminent domain powers.

***Notes***

*Section 33685 was added pursuant to an urgency statute chaptered on September 30, 2008 and took effect immediately.*

**33686. Inability to make payments to educational revenue augmentation funds during 2008-09 – *existing indebtedness* defined**

(a) (1) For purposes of this section, "existing indebtedness" means one or more of the following obligations incurred by a redevelopment agency prior to the effective date of this section, the payment of which is to be made in whole or in part, directly or indirectly, out of taxes allocated to the agency pursuant to Section 33670, and that is required by law or provision of the existing indebtedness to be made during the fiscal year of the relevant allocation required by Section 33685:

(A) Bonds, notes, interim certificates, debentures, or other obligations issued by the 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) A contractual obligation that, if breached, could subject the agency to damages or other liabilities or remedies.

(D) An obligation incurred pursuant to Section 33445.

(E) Indebtedness incurred pursuant to Section 33334.2.

(F) An amount, to be expended for the operation and administration of the agency, that may not exceed 90 percent of the amount spent for those purposes in the 2005-06 fiscal year.

(G) Obligations imposed by law with respect to activities that occurred prior to the effective date of the act that adds this section.

(2) Existing indebtedness incurred prior to the effective date of this section may be refinanced, refunded, or restructured after that date, and shall remain existing indebtedness for the purposes of this section if the annual debt service during that fiscal year does not increase over the prior fiscal year and the refinancing does not reduce the ability of the agency to make the payment required by subdivision (a) of Section 33685.

(3) For purposes of this section, indebtedness shall be deemed to be incurred prior to the effective date of this section if the agency has entered into a binding contract subject to normal marketing conditions or to deliver the indebtedness, or if the redevelopment agency has received bids for the sale of the indebtedness prior to that date and the indebtedness is issued for value and evidence thereof is delivered to the initial purchaser no later than 30 days after the date of the contract or sale.

(b) For the 2008-09 fiscal year, an agency that has adopted a resolution pursuant to subdivision (c) may allocate, pursuant to subdivision (a) of Section 33685, to the auditor less than the amount required by subdivision (a) of Section 33685 if the agency finds that any of the following has occurred:

(1) That the difference between the amount allocated to the agency and the amount required by subdivision (a) of Section 33685 is necessary to make payments on existing indebtedness that are due or required to be committed, set aside, or reserved by the agency during the 2008-09 fiscal year and that are used by the agency for that purpose, and the agency has no other funds that can be used to pay this existing indebtedness and no other feasible method to reduce or avoid this indebtedness.

(2) The agency has no other funds to make the allocation required by subdivision (a) of Section 33685.

(c) (1) Any agency that intends to allocate, pursuant to subdivision (b), to the auditor less than the amount required by subdivision (a) of Section 33685 shall adopt, prior to December 31, 2008, after a noticed public hearing, a resolution that lists all of the following:

(A) Each existing indebtedness incurred prior to the effective date of this section.

(B) Each indebtedness on which a payment is required to be made during the applicable fiscal year.

(C) The amount of each payment, the time when it is required to be paid, and the total of the payments required to be made during the applicable fiscal year. For indebtedness that bears interest at a variable rate, or for short-term indebtedness that is maturing during the fiscal year and that is expected to be refinanced, the amount of payments during the fiscal year shall be estimated by the agency.

(2) The information contained in the resolution required by this subdivision shall be reviewed for accuracy by the chief fiscal officer of the agency.

(3) The legislative body shall additionally adopt the resolution required by this section.

(d) (1) Any agency that determines, pursuant to subdivision (b), that it will be unable in the 2008-09 fiscal year to allocate the full amount required by subdivision (a) of Section 33685 may enter into, subject to paragraph (3), an agreement with the legislative body by February 15, 2009, to fund the payment of the difference between the full amount required to be paid pursuant to subdivision (a) of Section 33685 and the amount available for allocation by the agency.

(2) The obligations imposed by paragraph (1) are hereby declared to be indebtedness incurred by the agency to finance a portion of a redevelopment project within the meaning of Section 16 of Article XVI of the California Constitution. This indebtedness shall be payable from tax revenues apportioned to the agency pursuant to Section 33670, and any other funds received by the agency. The obligations imposed by paragraph (1) shall remain an indebtedness of the agency to the legislative body until paid in full, or until the agency and the legislative body otherwise agree.

(3) The agreement described in paragraph (1) shall be subject to those terms and conditions specified in a written agreement between the legislative body and the agency.

(e) If the agency fails to provide to the county auditor the full payment required under Section 33685, or fails to arrange for full payment to be provided on the agency's behalf pursuant to subdivision (d) or by Section 33687 or 33688, all of the following shall apply:

(1) The agency shall be prohibited from adding new project areas or expanding existing project areas. For purposes of this paragraph, "project area" has the same meaning as in Sections 33320.1 to 33320.3, inclusive, and Section 33492.3.

(2) The agency shall be prohibited from issuing new bonds, notes, interim certificates, debentures, or other obligations, whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33640) of this chapter.

(3) 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 funds to pay, if any, all of the following:

(A) Bonds, notes, interim certificates, debentures, or other obligations issued by an agency before the imposition of the prohibition in paragraph (2), whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33460) of this chapter.

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

(C) Contractual obligations that, 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 monthly operation and administration of the agency, that may not exceed 75 percent of the average monthly amount spent for those purposes in the fiscal year preceding the fiscal year in which the agency failed to make the payment required by subdivision (a) of Section 33685.

(f) The prohibitions identified in subdivision (e) shall be lifted once the county auditor certifies to the Director of Finance that the payment required by Section 33685 has been made by the agency, or that payment has been made on the agency's behalf pursuant to this section or to Section 33687 or 33688.

***Notes***

*Section 33686 was added pursuant to an urgency statute chaptered on September 30, 2008 and took effect immediately.*

**33687. In-lieu payments by legislative body to educational revenue augmentation fund during 2008-09**

(a) In lieu of the remittance required by Section 33685, for the 2008-09 fiscal year, a legislative body may remit, prior to May 10, 2009, an amount equal to the amount determined for the agency pursuant to subparagraph (J) of paragraph (2) of subdivision (a) of Section 33685 to the county auditor for deposit in the county 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. Notwithstanding any other provision of law, in the 2008-09 fiscal year, no funds deposited in the county Educational Revenue Augmentation Fund pursuant to this section shall be distributed to a community college district.

(b) The legislative body may make the remittance authorized by this section from any funds that are legally available for this purpose. No moneys held in an agency's Low and Moderate Income Housing Fund, pursuant to Sections 33334.2, 33334.3, and 33334.6, shall be used for this purpose.

(c) If the legislative body, pursuant to subdivision (d) of Section 33685, reported to the county auditor that it intended to remit the amount in lieu of the agency and the legislative body fails to transmit the full amount as authorized by this section by May 10, 2009, the county auditor, no later than May 15, 2009, shall transfer an amount necessary to meet the obligation from the legislative body' s allocations pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. If the amount of the legislative body's allocations are not sufficient to meet this obligation, the county auditor shall transfer an additional amount necessary to meet this obligation from the property tax increment revenue apportioned to the agency pursuant to Section 33670, provided that no moneys allocated to the agency's Low and Moderate Income Housing Fund shall be used for this purpose.

***Notes***

*Section 33687 was added pursuant to an urgency statute chaptered on September 30, 2008 and took effect immediately.*

**33688. Issuance of bonds to make payments to educational revenue augmentation funds during 2008-09**

(a) For purposes of this section, an "authorized issuer" is limited to a joint powers entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code that consists of no less than 100 local agencies issuing bonds pursuant to the Marks-Roos Local Bond Pooling Act of 1984 (Article 4 (commencing with Section 6584) of Chapter 5 of Division 7 of Title 1 of the Government Code).

(b) An authorized issuer may issue bonds, notes, or other evidence of indebtedness to provide net proceeds to make one or more loans to one or more agencies to be used by the agency to timely make the payment required by Section *** 33685, 33690, or 33690.5.

(c) With the prior approval of the legislative body by adoption of a resolution by a majority of that body that recites that a first lien on the property tax revenues allocated to the legislative body will be created in accordance with subdivision (h), an agency may enter into an agreement with an authorized issuer issuing bonds pursuant to subdivision (b) to repay a loan used to make the payment required by Section 33685, 33690 or 33690.5. For the purpose of calculating the amount that has been divided and allocated to the agency to determine whether the limitation adopted pursuant to Section 33333.2 or 33333.4 or pursuant to an agreement or court order that has been reached, any funds used to repay a loan entered into pursuant to this section shall be deducted from the amount of property tax revenue deemed to have been received by the agency.

(d) A loan made pursuant to this section shall be repayable by the agency from any available funds of the agency not otherwise obligated for other uses and shall be repayable by the agency on a basis subordinate to all existing and future obligations of the agency.

(e) Upon making a loan to an agency pursuant to this section, the trustee for the bonds issued to provide the funds to make the loan shall timely pay, on behalf of the agency, to the county auditor of the county in which the agency is located the net proceeds (after payment of costs of issuance, credit enhancement costs, and reserves, if any) of the loan in payment in full or in part, as directed by the agency, of the amount required to be paid by the agency pursuant to Section 33685, 33690, or 33690.5 and shall provide the county auditor with the repayment schedule for the loan, together with the name of the trustee.

(f) In the event the agency shall fail to repay timely, at any time and from time to time, the loan in accordance with the schedule provided to the county auditor, the trustee for the bonds shall promptly notify the county auditor of the amount of the payment on the loan that is past due.

(g) The county auditor shall reallocate from the legislative body and shall pay, on behalf of the agency, the past due amount from the first available proceeds of the property tax allocation that would otherwise be transferred to the legislative body pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. This transfer shall be deemed a reallocation of the property tax revenue from the legislative body to the agency for the purpose of payment of the loan, and not as a payment by the legislative body on the loan.

(h) To secure repayment of a loan to an agency made pursuant to this section, the trustee for the bonds issued to provide the funds to make the loan shall have a lien on the property tax revenues allocated to the legislative body pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. This lien shall arise by operation of this section automatically upon the making of the loan without the need for any action on the part of any person. This lien shall be valid, binding, perfected, and enforceable against the legislative body, its successors, creditors, purchasers, and all others asserting rights in those property tax revenues, irrespective of whether those persons have notice of the lien, irrespective of the fact that the property tax revenues subject to the lien may be commingled with other property, and without the need for physical delivery, recordation, public notice, or any other act. This lien shall be a first priority lien on these property tax revenues. This lien shall not apply to any portion of the property taxes allocated to the agency pursuant to Section 33670.

***Notes***

*Section 33688 was added pursuant to an urgency statute chaptered on September 30, 2008 and took effect immediately.*

### 33689. Payments to educational revenue augmentation funds for 2008-09 not counted toward tax increment caps

For the purpose of calculating the amount that has been divided and allocated to the agency to determine whether the limitation adopted pursuant to Section 33333.2 or 33333.4 or pursuant to agreement or court order that has been reached, any payments made pursuant to subdivision (a) of Section 33685 with property tax revenues shall be deducted from the amount of property tax dollars deemed to have been received by the agency.

***Notes***

*Section 33689 was added pursuant to an urgency statute chaptered on September 30, 2008 and took effect immediately.*

**33690. Payments to the county Supplemental Educational Revenue Augmentation Fund during 2009-2010 fiscal year**

(a) (1) (A) For the 2009-10 fiscal year, a redevelopment agency shall remit, as determined by the Director of Finance, prior to May 10, 2010, an amount equal to the amount determined for that agency pursuant to paragraph (2) to the county auditor for deposit in the county Supplemental Educational Revenue Augmentation Fund that is established in the county treasury. Notwithstanding any other law, any funds deposited in the Supplemental Educational Revenue Augmentation Fund shall not be distributed to a community college district.

(B) On or before May 25, 2010, the county auditor shall report to the Department of Finance each amount transferred to the Supplemental Educational Revenue Augmentation Fund for the 2009-10 fiscal year.

(2) On or before November 15, 2009, the Director of Finance shall do all of the following:

(A) Determine the net tax increment apportioned to each agency pursuant to Section 33670, excluding any amounts apportioned to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(B) Determine the net tax increment apportioned to all agencies pursuant to Section 33670, excluding any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(C) Determine a percentage factor by dividing one billion seven hundred million dollars ($1,700,000,000) by two and then by the amount determined pursuant to subparagraph (B).

(D) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (A) by the percentage factor determined pursuant to subparagraph (C).

(E) Determine the total amount of property tax revenue apportioned to each agency pursuant to Section 33670, including any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(F) Determine the total amount of property tax revenue apportioned to all agencies pursuant to Section 33670, including any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(G) Determine a percentage factor by dividing one billion seven hundred million dollars ($1,700,000,000) by two and then by the amount determined pursuant to subparagraph (F).

(H) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (E) by the percentage factor determined pursuant to subparagraph (G).

(I) Add the amount determined pursuant to subparagraph (D) to the amount determined pursuant to subparagraph (H).

(J) Notify each agency, each legislative body, and each county auditor of each agency's amount. The county auditor shall deposit these amounts in the county Supplemental Educational Revenue Augmentation Fund pursuant to paragraph (1).

(3) The obligation of any agency to make the payments required pursuant to this subdivision shall be subordinate to the lien of any pledge of collateral securing, directly or indirectly, the payment of the principal, or interest on any bonds of the agency including, without limitation, bonds secured by a pledge of taxes allocated to the agency pursuant to Section 33670. Agencies shall factor in the fiscal obligations created by this subdivision when issuing bonded indebtedness.

(b) To make the allocation required by this section, an agency may use any funds that are legally available and not legally obligated for other uses, including, but not limited to, reserve funds proceeds of land sales, proceeds of bonds or other indebtedness, lease revenues, interest, and other earned income.

(c) (1) Notwithstanding any other law, to make the full allocation required by this section, an agency may borrow from either the amount required to be allocated to the Low and Moderate Income Housing Fund, pursuant to Sections 33334.2, 33334.3, and 33334.6, or any moneys in that fund, or both, unless executed contracts exist that would be impaired if the agency reduced the amount allocated to the Low and Moderate Income Housing Fund or the amount of moneys in the fund, or both, pursuant to the authority of this subdivision.

(2) As a condition of borrowing pursuant to this subdivision, an agency shall make a finding that there are insufficient other moneys to meet the requirements of subdivision (a). Funds borrowed pursuant to this subdivision shall be repaid in full on or before June 30, 2015. An agency that fails to repay funds borrowed pursuant to this subdivision shall 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 the agency receives tax revenue pursuant to Section 33670.

(d) The legislative body shall by March 1, 2010, report to the county auditor as to how the agency intends to fund the allocation required by this section, or that the legislative body intends to remit the amount in lieu of the agency pursuant to Section 33692.

(e) The allocation obligations imposed by this section, including amounts owed, 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.

(f) It is the intent of the Legislature, in enacting this section, that these allocations directly or indirectly assist in the financing or refinancing, in whole or in part, of the community's redevelopment project pursuant to Section 16 of Article XVI of the California Constitution.

(g) In making the determination required by subdivision (a), the Director of Finance shall use those amounts reported in "Table 7, Assessed Valuation, Tax Increment Distribution and Statement of Indebtedness" for all agencies and for each agency in the 2006-07 edition of the Controller's Community

Redevelopment Agencies Annual Report made pursuant to Section 12463.3 of the Government Code, subject to any adjustments required by subdivision (h)

(h) With respect to the use of amounts reported in the 2006-07 edition of the Controller's Community Redevelopment Agencies Annual Report for purposes of subdivision (a), both of the following shall apply:

(1) If revised reports were accepted by the Controller on or before September 1, 2008, the Director of Finance shall use appropriate data that has been certified by the Controller for the purpose of making the determinations required by subdivision (a).

(2) The director shall adjust the reported amounts of net and total tax increment revenue to exclude amounts apportioned to any redevelopment agency from any territory that has been deleted from any project area, as reported to the State Board of Equalization in accordance with Section 33375 prior to August 1, 2009, and that deletion is not reflected in the Controller's 2006-07 published report or in the revised reports described in paragraph (1).

(i) Except as provided in Section 33331.5, nothing in this section shall be construed as extending the time limits on the ability of agencies to do both of the following:

(1) Establish loans, advances, or indebtedness.

(2) Exercise eminent domain powers.

(j) (1) Notwithstanding Sections 97.2 and 97.3 of the Revenue and Taxation Code, the county auditor-controller shall distribute the funds that are remitted to the county Supplemental Educational Revenue Augmentation Fund by a redevelopment agency pursuant to this section only to a K-12 school district or county office of education that is located partially or entirely within any project area of that redevelopment agency in an amount proportional to the average daily attendance of each school district.

(2) The county auditor-controller shall notify each K-12 school district, and the State Department of Education, of the amount of Supplemental Educational Revenue Augmentation Fund moneys a district receives pursuant to this section from each redevelopment agency. The county auditor-controller shall also notify each K-12 school district receiving funds pursuant to paragraph (1) of the project area boundaries of each redevelopment agency from which the K-12 school district received funds.

(3) (A) The county superintendent of schools shall provide the average daily attendance reported for each school district as of the Second Principal Apportionment for the 2009-10 fiscal year to the county auditor-controller.

(B) The county auditor-controller shall, based on information provided by the county superintendent of schools pursuant to subparagraph (A), allocate the funding pursuant to this subdivision to those districts within the county.

(4) The county auditor-controller shall notify, on or before May 25, 2010, the Department of Finance of the amount of funding apportioned to each district or county office of education pursuant to this subdivision.

(5) School districts and county offices of education shall use the funds received under this section to serve pupils living in the redevelopment areas or in housing supported by redevelopment agency funds. Redevelopment agencies shall provide whatever information school districts and county offices of education need to accomplish this purpose.

(k) (1) For the 2009-10 fiscal year, the amount of property tax revenues apportioned to each school district, pursuant to Article 2 (commencing with Section 96.1) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code, shall be reduced by the total amount of Supplemental Educational Revenue Augmentation Fund moneys the district receives. The amount of property tax revenues that is the product of this reduction shall be deposited in the county Supplemental Revenue Augmentation Fund established pursuant to Section 100.06 of the Revenue and Taxation Code.

(2) For the purpose of making the computations required by Section 8 of Article XVI of the California Constitution, the total amount of Supplemental Educational Revenue Augmentation Fund moneys a district receives, regardless of the actual date the funds are received, pursuant to this section from each redevelopment agency shall be deemed to be "allocated local proceeds of taxes," as defined in subdivisions (g) and (h) of Section 41202, and for purposes of Section 42238 of the Education Code, for the 2009-10 fiscal year.

(l) For purposes of this section, "K-12 school district" has the same meaning as a school district, as defined in Section 80 of the Education Code.

(m) This section shall not be construed to increase any allocations of excess, additional, or remaining funds that would otherwise have been allocated to cities, counties, cities and counties, or special districts pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 of, clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 of, or Article 4 (commencing with Section 98) of Chapter 6 of Part 0.5 of Division 1 of, the Revenue and Taxation Code had this section not been enacted.

***Notes***

*Section 33690 was amended by an urgency statute that was chaptered on November 12, 2009 and took effect immediately.*

**33690.5. Payments to the county Supplemental Educational Revenue Augmentation Fund during 2010-2011 fiscal year**

(a) (1) (A) For the 2010-11 fiscal year a redevelopment agency shall remit, as determined by the Director of Finance, prior to May 10, 2011, an amount equal to the amount determined for that agency pursuant to paragraph (2) to the county auditor for deposit in the county Supplemental Educational Revenue Augmentation Fund.

(B) On or before May 25, 2011, the county auditor shall report to the Department of Finance each amount transferred to the Supplemental Education Revenue Augmentation Fund for the 2010-11 fiscal year.

(2) On or before November 15, 2010, the Director of Finance shall do all of the following:

(A) Determine the net tax increment apportioned to each agency pursuant to Section 33670, excluding any amounts apportioned to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(B) Determine the net tax increment apportioned to all agencies pursuant to Section 33670, excluding any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(C) Determine a percentage factor by dividing three hundred fifty million dollars ($350,000,000) by two and then by the amount determined pursuant to subparagraph (B).

(D) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (A) by the percentage factor determined pursuant to subparagraph (C).

(E) Determine the total amount of property tax revenue apportioned to each agency pursuant to Section 33670, including any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5, or 33676.

(F) Determine the total amount of property tax revenue apportioned to all agencies pursuant to Section 33670, including any amounts allocated to affected taxing entities pursuant to Section 33401, 33607.5 or 33676.

(G) Determine a percentage factor by dividing three hundred fifty million dollars ($350,00,000) by two and then by the amount determined pursuant to subparagraph (F).

(H) Determine an amount for each agency by multiplying the amount determined pursuant to subparagraph (E) by the percentage factor determined pursuant to subparagraph (G).

(I) Add the amount determined pursuant to subparagraph (D) to the amount determined pursuant to subparagraph (H).

(J) Notify each agency, each legislative body, and each county auditor of each agency's amount. The county auditor shall deposit these amounts in the county Supplemental Educational Revenue Augmentation Fund pursuant to paragraph (1).

(3) The obligation of any agency to make the payments required pursuant to this subdivision shall be subordinate to the lien of any pledge of collateral securing, directly or indirectly, the payment of the principal, or interest on any bonds of the agency including, without limitation, bonds secured by a pledge of taxes allocated to the agency pursuant to Section 33670. Agencies shall factor in the fiscal obligations created by this subdivision when issuing bonded indebtedness.

(b) To make the allocation required by this section, an agency may use any funds that are legally available and not legally obligated for other uses, including, but not limited to, reserve funds, proceeds of land sales, proceeds of bonds or other indebtedness, lease revenues, interest, and other earned income.

(c) (1) Notwithstanding any other law, to make the full allocation required by this section, an agency may borrow the amount required to be allocated to the Low and Moderate Income Housing Fund, pursuant to Sections 33334.2, 33334.3, and 33334.6, unless, in a given fiscal year, executed contracts exist that would

be impaired if the agency reduced the amount allocated to the Low and Moderate Income Housing Fund pursuant to the authority of this subdivision.

(2) As a condition of borrowing pursuant to this subdivision, an agency shall make a finding that there are insufficient other moneys to meet the requirements of subdivision (a). Funds borrowed pursuant to this subdivision shall be repaid in full on or before June 30, 2016. An agency that fails to repay funds borrowed pursuant to this subdivision shall 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 the agency receives tax revenue pursuant to Section 33670.

(d) The legislative body shall by March 1, 2011, report to the county auditor as to how the agency intends to fund the allocation required by this section, or that the legislative body intends to remit the amount in lieu of the agency pursuant to Section 33692.

(e) The allocation obligations imposed by this section, including amounts owed, 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.

(f) It is the intent of the Legislature, in enacting this section, that these allocations directly or indirectly assist in the financing or refinancing, in whole or in part, of the community's redevelopment project pursuant to Section 16 of Article XVI of the California Constitution.

(g) In making the determination required by subdivision (a), the Director of Finance shall use those amounts reported in "Table 7, Assessed Valuation, Tax Increment Distribution and Statement of Indebtedness" for all agencies and for each agency in the 2006-07 edition of the Controller's Community Redevelopment Agencies Annual Report made pursuant to Section 12463.3 of the Government Code, subject to any adjustments required by subdivision (h).

(h) With respect to the use of amounts reported in the 2006-07 edition of the Controller's Community Redevelopment Agencies Annual Report for purposes of subdivision (a), both of the following shall apply:

(1) If revised reports were accepted by the Controller on or before September 1, 2008, the Director of Finance shall use appropriate data that has been certified by the Controller for the purpose of making the determinations required by subdivision (a).

(2) The director shall adjust the reported amounts of net and total tax increment revenue to exclude amounts apportioned to any redevelopment agency from any territory that has been deleted from any project area, as reported to the State Board of Equalization in accordance with Section 33375 prior to August 1, 2009, and that deletion is not reflected in the Controller's 2006-07 published report or in the revised reports described in paragraph (1).

(i) Except as provided in Section 33331.5, nothing in this section shall be construed as extending the time limits on the ability of agencies to do both of the following:

(1) Establish loans, advances, or indebtedness.

(2) Exercise eminent domain powers.

(j) (1) Notwithstanding Sections 97.2 and 97.3 of the Revenue and Taxation Code, the county auditor-controller shall distribute the funds that are remitted to the

county Supplemental Educational Revenue Augmentation Fund by a redevelopment agency pursuant to this section only to a K-12 school district or county office of education that is located partially or entirely within any project area of that redevelopment agency in an amount proportional to the average daily attendance of each school district.

(2) The county auditor-controller shall notify each K-12 school district, and the State Department of Education, of the amount of Supplemental Educational Revenue Augmentation Fund moneys a district receives pursuant to this section from each redevelopment agency. The county auditor-controller shall also notify each K-12 school district receiving funds pursuant to paragraph (1) of the project area boundaries of each redevelopment agency from which the K-12 school district received funds.

(3) (A) The county superintendent of schools shall provide the average daily attendance reported for each school district as of the Second Principal Apportionment for the 2009-10 fiscal year to the county auditor-controller.

(B) The county auditor-controller shall, based on information provided by the county superintendent of schools pursuant to subparagraph (A), allocate the funding pursuant to this subdivision to those districts within the county.

(4) The county auditor-controller shall notify, on or before May 25, 2011, the Department of Finance the amount of funding apportioned to each district or county office of education pursuant to this subdivision.

(5) School districts and county offices of education shall use the funds received under this section to serve pupils living in the redevelopment areas or in housing supported by redevelopment agency funds. Redevelopment agencies shall provide whatever information school districts need to accomplish this purpose.

(k) (1) For the 2010-11 fiscal year, the amount of property tax revenues apportioned to each school district, pursuant to Article 2 (commencing with Section 96.1) of Chapter 6 of Part 0.5 of Division 1 of the Revenue and Taxation Code, shall be reduced by the total amount of Supplemental Educational Revenue Augmentation Fund moneys the district receives. The amount of property tax revenues that is the product of this reduction shall be deposited in the county Supplemental Revenue Augmentation Fund established pursuant to Section 100.06 of the Revenue and Taxation Code.

(2) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the total amount of Supplemental Educational Revenue Augmentation Fund moneys a district receives, regardless of the actual date the funds are received, pursuant to this section from each redevelopment agency shall be deemed to be "allocated local proceeds of taxes," as defined in subdivisions (g) and (h) of Section 41202 and for purposes of Section 42238 of the Education Code, for the 2010-11 fiscal year.

(l) For purposes of this section, "K-12 school district" has the same meaning as a school district, as defined in Section 80 of the Education Code.

(m) This section shall not be construed to increase any allocations of excess, additional, or remaining funds that would otherwise have been allocated to cities, counties, cities and counties, or special districts pursuant to clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.2 of, clause (i) of subparagraph (B) of paragraph (4) of subdivision (d) of Section 97.3 of, or Article 4

(commencing with Section 98) of Chapter 6 of Part 0.5 of Division 1 of, the Revenue and Taxation Code had this section not been enacted.

***Notes***

*Section 33690.5 was amended by an urgency statute that was chaptered on November 12, 2009 and took effect immediately.*

**33691. Inability to make payments to the county Supplemental Educational Revenue Augmentation funds during 2009-2010 and 2010-2011 fiscal years – *existing indebtedness* defined**

(a) (1) For purposes of this section, "existing indebtedness" means one or more of the following obligations incurred by a redevelopment agency prior to the effective date of this section, the payment of which is to be made in whole or in part, directly or indirectly, out of taxes allocated to the agency pursuant to Section 33670, and that is required by law or provision of the existing indebtedness to be made during the fiscal year of the relevant allocation required by Section 33690 or 33690.5:

(A) Bonds, notes, interim certificates, debentures, or other obligations issued by the 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) A contractual obligation that, if breached, could subject the agency to damages or other liabilities or remedies.

(D) An obligation incurred pursuant to Section 33445.

(E) Indebtedness incurred pursuant to Section 33334.2.

(F) An amount to be expended for the operation and administration of the agency, that may not exceed 90 percent of the amount spent for those purposes in the 2005-06 fiscal year.

(G) Obligations imposed by law with respect to activities that occurred prior to the effective date of the act that adds this section.

(2) Existing indebtedness incurred prior to the effective date of this section may be refinanced, refunded, or restructured after that date, and shall remain existing indebtedness for the purposes of this section if the annual debt service during that fiscal year does not increase over the prior fiscal year and the refinancing does not reduce the ability of the agency to make the payment required by subdivision (a) of Section 33690 or subdivision (a) of Section 33690.5.

(3) For purposes of this section, indebtedness shall be deemed to be incurred prior to the effective date of this section if the agency has entered into a binding contract subject to the normal marketing conditions or to deliver the indebtedness, or if the redevelopment agency has received bids for the sale of the indebtedness prior to that date and the indebtedness is issued for value and

evidence thereof is delivered to the initial purchaser no later than 30 days after the date of the contract or sale.

(b) For the 2009-10 fiscal year or the 2010-11 fiscal year, as applicable, an agency that has adopted a resolution pursuant to subdivision (c) may allocate, pursuant to subdivision (a) of Section 33690 or subdivision (a) of Section 33690.5, as applicable, to the auditor less than the amount required by subdivision (a) of Section 33690 or subdivision (a) of Section 33690.5, as applicable, if the agency finds that any of the following have occurred:

(1) That the difference between the amount allocated to [sic] the agency and the amount required by subdivision (a) of Section 33690 or subdivision (a) of Section 33690.5, as applicable, is necessary to make payments on existing indebtedness that are due or required to be committed, set aside, or reserved by the agency during the 2009-10 fiscal year or the 2010-11 fiscal year, as applicable, and that are used by the agency for that purpose, and the agency has no other funds that can be used to pay this existing indebtedness and no other feasible method to reduce or avoid this indebtedness.

(2) The agency has no other funds to make the allocation required by subdivision (a) of Section 33690 or subdivision (a) of Section 33690.5, as applicable.

(c) (1) Any agency that intends to allocate, pursuant to subdivision (b), to the auditor less than the amount required by subdivision (a) of Section 33690 shall adopt, prior to December 31, 2009, after a noticed public hearing, a resolution that lists all of the following:

(A) Each existing indebtedness incurred prior to the effective date of this section.

(B) Each indebtedness on which a payment is required to be made during the applicable fiscal year.

(C) The amount of each payment, the time when it is required to be paid, and the total of the payments required to be made during the applicable fiscal year. For indebtedness that bears interest at a variable rate, or for short-term indebtedness that is maturing during the fiscal year and that is expected to be refinanced, the amount of payments during the fiscal year shall be estimated by the agency.

(2) Any agency that intends to allocate, pursuant to subdivision (b), to the auditor less than the amount required by subdivision (a) of Section 33690.5 shall adopt, prior to December 31, 2010, after a noticed public hearing, a resolution that lists all of the following:

(A) Each existing indebtedness incurred prior to the effective date of this section.

(B) Each indebtedness on which a payment is required to be made during the applicable fiscal year.

(C) The amount of each payment, the time when it is required to be paid, and the total of the payments required to be made during the applicable fiscal year. For indebtedness that bears interest at a variable rate, or for short-term indebtedness that is maturing during the fiscal year and that is expected to be refinanced, the amount of payments during the fiscal year shall be estimated by the agency.

(3) The information contained in the resolution required by this subdivision shall be reviewed for accuracy by the chief fiscal officer of the agency.

(4) The legislative body shall additionally adopt the resolution required by this section.

(d) (1) (A) Any agency that determines, pursuant to subdivision (b), that it will be unable in the 2009-10 fiscal year to allocate the full amount required by subdivision (a) of Section 33690 may enter into, subject to paragraph (3), an agreement with the legislative body by February 15, 2010, to fund the payment of the difference between the full amount required to be paid pursuant to subdivision (a) of Section 33690 and the amount available for allocation by the agency.

(B) Any agency that determines, pursuant to subdivision (b), that it will be unable in the 2010-11 fiscal year to allocate the full amount required by subdivision (a) of Section 33690.5 may enter into, subject to paragraph (3), an agreement with the legislative body by February 15, 2011, to fund the payment of the difference between the full amount required to be paid pursuant to subdivision (a) of Section 33690.5 and the amount available for allocation by the agency.

(2) The obligations imposed by paragraph (1) are hereby declared to be indebtedness incurred by the agency to finance a portion of a redevelopment project within the meaning of Section 16 of Article XVI of the California Constitution. This indebtedness shall be payable from tax revenues apportioned to the agency pursuant to Section 33670, and any other funds received by the agency. The obligations imposed by paragraph (1) shall remain an indebtedness of the agency to the legislative body until paid in full, or until the agency and the legislative body otherwise agree.

(3) The agreements described in paragraph (1) shall be subject to those terms and conditions specified in a written agreement between the legislative body and the agency.

(e) If the agency fails to provide to the county auditor the full payment required under Section 33690 by May 10, 2010, or 33690.5 by May 10, 2011, as applicable, or fails to arrange for full payment to be provided on the agency's behalf pursuant to subdivision (d) or by Section 33688 or 33692, all of the following shall apply:

(1) The agency shall be prohibited from adding new project areas or expanding existing project areas. For purposes of this paragraph, "project area" has the same meaning as in Sections 33320.1 to 33320.3, inclusive, and Section 33492.3.

(2) The agency shall be prohibited from issuing new bonds, notes, interim certificates, debentures, or other obligations, whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33460) of this chapter.

(3) 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 funds to pay, if any, all of the following:

(A) Bonds, notes, interim certificates, debentures, or other obligations issued by an agency before the imposition of the prohibition in

paragraph (2), whether funded, refunded, assumed, or otherwise, pursuant to Article 5 (commencing with Section 33460) of this chapter.

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

(C) Contractual obligations that, 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 monthly operation and administration of the agency, that may not exceed 75 percent of the average monthly amount spent for those purposes in the fiscal year preceding the fiscal year in which the agency failed to make the payment required by subdivision (a) of Section 33690 or subdivision (a) of Section 3390.5, as applicable.

(f) The prohibitions identified in subdivision (e) shall be lifted once the county auditor certifies to the Director of Finance that the payment required by Section 33690 or 33690.5, as applicable, has been made by the agency, or that payment has been made on the agency's behalf pursuant to this section or to Section 33688 or 33692.

**33692. In-lieu payments by legislative body to the county Supplemental Educational Revenue Augmentation Fund during 2009-2010 and 2010-2011 fiscal years**

(a) In lieu of the remittance required by Section 33690, for the 2009-10 fiscal year, a legislative body may remit, prior to May 10, 2010, an amount equal to the amount determined for the agency pursuant to paragraph (2) of subdivision (a) of Section 33690 to the county auditor for deposit in the county Supplemental Educational Revenue Augmentation Fund, to be established in the county treasury pursuant to paragraph (1) of subdivision (a) of Section 33690.

(b) In lieu of the remittance required by Section 33690.5, for the 2010-11 fiscal year, a legislative body may remit, prior to May 10, 2011, an amount equal to the amount determined for the agency pursuant to paragraph (2) of subdivision (a) of Section 33690.5 to the county auditor for deposit in the county Supplemental Educational Revenue Augmentation Fund, to be established in the county treasury pursuant to paragraph (1) of subdivision (a) of Section 33690.

(b) The legislative body may make the remittance authorized by this section from any funds that are legally available for this purpose.

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# CHAPTER 7. SPECIAL HOUSING AND RENEWAL

## [REPEALED BY A.B. 382, CH596, STATS 2007, EFF. 1/1/08]

### Chapter 7 (commencing with Section 33701) of Part 1 of Division 24

**REPEALS:** **CA HEALTH AND SAFETY CODE SECTIONS 33701; 33702; 33703; 33704; 33705; 33706; 33707; 33708; 33709; 33710; 33711; 33712; 33713; 33714; 33715; 33716; 33717; 33718; 33719; 33720; 33724; 33725; 33726; 33727; 33728; 33729; 33730; 33731; 33732; 33733; 33734; 33735; 33736; 33737; 33737.5; 33737.6; 33738**

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# CHAPTER 7.5. LOANS TO TAX-EXEMPT ORGANIZATIONS

**33740. Legislative findings and declarations**

The Legislature hereby finds and declares that it would be beneficial to empower redevelopment agencies to issue tax-exempt revenue bonds for the purpose of lending the proceeds to nonprofit organizations exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (26 U.S.C. Sec. 501(c)(3)), for the housing purposes specified in Section 33741.

**33741. Issuance of bonds for multifamily rental housing development**

An agency may issue bonds to provide funds to be loaned by the agency to nonprofit organizations exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (26 U.S.C. Sec. 501(c)(3)), for use by the organization to finance the acquisition, construction, rehabilitation, refinancing, or development of multifamily rental housing, including mobilehome parks that are or will be nonprofit or cooperatively owned, or both, in which residents rent spaces and either rent or own the mobilehomes occupying these spaces, to provide housing within the territorial jurisdiction of the agency in accordance with the organization's tax-exempt purposes under that federal law. The bonds shall be issued so as to satisfy the requirements of Section 145 of the Internal Revenue Code of 1986, as amended (26 U.S.C. Sec. 145).

**33742. Affordability restrictions**

(a) Occupancy and rent restrictions with respect to housing acquired pursuant to this chapter shall either meet the requirements of subparagraphs (A) and (B) of paragraph (1) or the requirements of paragraph (2), as follows:

(1) (A) Not less than 20 percent of the total number of units in a multifamily rental housing development financed, or for which financing has been extended or committed, pursuant to this chapter from the proceeds of the sale of bonds of each bond issuance of the agency shall be for occupancy on a priority basis by lower income households, as defined by Section 50079.5. If a multifamily rental housing development is located within a targeted area project, as defined by Section 103(b)(12)(A) of Title 26 of the United States Code, not less than 15 percent of the total number of units financed, or for which financing has been extended or committed pursuant to this chapter, shall be for occupancy on a priority basis by lower income households. Not less than one-half of the units required for occupancy on a priority basis by lower income households shall be for occupancy on a priority basis for very low income households, as defined by Section 50105.

(B) (i) With respect to multifamily rental developments that are not mobilehome parks, the rental payments on the units required for occupancy by very low income households paid by the persons occupying the units (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those persons or on behalf of those units) shall not exceed 30 percent of an amount equal to 50 percent of area median income. If the nonprofit organization elects to establish a base rent for all or part of the units for lower income households and very low income households, the base rents shall be adjusted for household size. In adjusting rents for household size for this purpose, it shall be

assumed that one person will occupy a studio unit, two persons will occupy a one-bedroom unit, three persons will occupy a two-bedroom unit, four persons will occupy a three-bedroom unit, and five persons will occupy a four-bedroom unit.

(ii) With respect to mobilehome parks:

(I) Where a resident rents both the mobilehome and the space occupied by the mobilehome, for spaces and mobilehomes required for occupancy by very low income households, the total rental payments paid by the household on the mobilehome and the space occupied by the mobilehome (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to that household or on behalf of that space and mobilehome) shall not exceed 30 percent of an amount equal to 50 percent of the area median income, adjusted for household size as appropriate for the unit that occupies the space.

(II) Where a resident is both the registered and legal owner of the mobilehome, is not making mortgage payments for the purchase of that mobilehome, and rents the space that the mobilehome occupies, for spaces and mobilehomes required for occupancy by very low income households, the total rental charge for occupancy of that space, excluding a reasonable allowance for other related housing costs determined at the time of acquisition of the mobilehome park by the nonprofit corporation, excluding any supplemental rental assistance from the state, the federal government, or any other public agency to that household on behalf of that space and mobilehome, shall not exceed 30 percent of 50 percent of the area median income, adjusted for household size as appropriate for the unit that occupies the space.

(III) Where a resident is the registered owner of the mobilehome, is making mortgage payments for the purchase of that mobilehome, and rents the space occupied by the mobilehome, for spaces and mobilehomes required for occupancy by very low income households, the rental charge for occupancy of a space by a mobilehome, exclusive of any charges for utilities and storage (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to that household or on behalf of that space and mobilehome), shall not exceed 15 percent of 50 percent of the area median income, adjusted for household size as appropriate for the unit that occupies the space.

(IV) In adjusting rents for household size, either the occupancy standards established in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) or the alternative standards that assume that one person will occupy a recreational vehicle, two persons will occupy a single-wide mobilehome, and three persons will occupy a multisectional mobilehome may be utilized.

(2) The multifamily rental housing development is a "qualified low-income housing project," within the meaning of Section 42(g) of the federal Internal Revenue Code (26 U.S.C. Sec. 42), because it meets the criteria set forth in Section 42(g)(1)(B) and (2) of the federal Internal Revenue Code.

(b) If at the time of acquisition any of the units or mobilehome spaces are occupied by ineligible households, that fact alone shall neither constitute a cause for the tenant's eviction nor render the project ineligible. Upon vacation of any unit initially occupied by an ineligible household, that unit shall be rented to an eligible household until the required residency by eligible households is attained.

(c) As a condition of financing pursuant to this chapter, the nonprofit organization shall enter into a regulatory agreement with the agency, which shall require that units reserved for occupancy by lower income households shall remain available on a priority basis for occupancy for the term of the bonds issued to provide the financing or 30 years, whichever is greater. The regulatory agreement shall contain a provision making the covenants and conditions of the agreement binding upon successors in interest of the nonprofit organization. The regulatory agreement shall be recorded in the office of the county recorder of the county in which the multifamily rental housing development is located. The regulatory agreement shall be recorded in the grantor-grantee index to the name of the property owner as grantor and to the name of the agency as grantee.

**33743. Authority to acquire commercial property; limitations**

An agency may, in conjunction with the financing of multifamily rental housing pursuant to this chapter, finance the acquisition of commercial property for lease, subject to all of the following conditions:

(a) No more than 10 percent of the proceeds of any revenue bonds issued pursuant to this chapter may be used to acquire the commercial property for lease.

(b) The commercial property acquired will be located on the same parcel or on a parcel adjacent to a multifamily rental housing development.

(c) As a condition of the financing, any lease payments collected in excess of payments necessary for debt service, operating expenses and any required reserves related to the property, shall be used to reduce rents or units reserved for occupancy by lower income households and very low income households in a multifamily rental housing development.

**33744. Violation of affordability restrictions; remedies**

Whenever a complaint is received concerning a violation of the restrictions imposed pursuant to Section 33742, the agency shall investigate promptly and make a report to the complaining party on whether the violation existed and whether it persists, and if it persists, what action the agency will take to remedy the violation. When the agency determines that a violation exists, whether determined upon an investigation of a complaint or on its own motion, the agency shall take all appropriate action, including necessary legal action, to promptly eliminate the violation.

Notwithstanding other provisions of this section, any person aggrieved by a violation of the restrictions imposed pursuant to Section 33742 may seek a judicial remedy without regard to whether a complaint has been made to the agency or whether the agency is then taking any action to remedy the violation.

**33745. Payment of administrative costs**

For the purposes of this chapter, an agency shall have the power to issue its bonds to defray, in whole or in part, the costs of studies and surveys, insurance premiums, underwriting fees, and legal, accounting and marketing services incurred in connection with the issuance and sale of bonds pursuant to this chapter, including bond and mortgage reserve accounts, trustee, custodian, and rating agency fees, and any other costs which are reasonably related to the foregoing.

**33746. Repayment of bonds; tax-exempt status**

(a) Bonds issued pursuant to this chapter shall be repayable solely from payments of principal and interest on account of the loans funded thereby. The agency may pledge all or any portion of these payments to secure the bonds.

(b) Neither the members of the agency nor any person executing the bonds shall be personally liable on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(c) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of this state and for their health and welfare. Any bonds issued under this chapter, their transfer, and income therefrom shall at all times be free from taxation of every kind by the state and by the municipalities and political subdivisions of the state, except estate taxes.

(d) This chapter provides an alternative method for issuing bonds and lending moneys for acquisition of multifamily rental housing by private nonprofit organizations.

# CHAPTER 8. REDEVELOPMENT CONSTRUCTION LOANS

## Article 1. General Provisions and Definitions

### 33750. Legislative findings and declarations

The Legislature finds and declares that it is necessary and essential that redevelopment agencies be authorized to make long-term, low-interest loans through qualified mortgage lenders to finance residential construction in order to encourage investment and upgrade redevelopment project areas and increase the supply of housing. Unless redevelopment agencies intervene to generate mortgage funds and to provide some form of assistance to finance residential construction, many redevelopment areas will stagnate and deteriorate because owners and investors are not able to obtain loans from private sources.

The Legislature further finds and declares that financing of rehabilitation, as provided in this chapter, serves an essential public purpose for the economic renewal of our cities.

### 33751. Further legislative findings and declarations

The Legislature further finds and determines that a program to provide residential construction financing would accomplish the following:

(a) Facilitate increasing the supply of urban housing and ease the housing shortage that exists in many parts of the state.

(b) Encourage Californians of all social and economic positions to reinhabit urban areas, thereby rendering these areas more socially balanced and economically self-sufficient.

(c) Reduce pressures for suburbanization and thereby mitigate many of the problems caused by urban migration, including inefficient use of scarce energy resources and urban sprawl.

(d) Stimulate urban building and construction activity and thereby increase urban employment and improve the urban tax base.

### 33751.5. Further legislative findings and declarations

The Legislature further finds and declares that the construction and rehabilitation of residences intended for occupancy primarily by persons and families of low or moderate income, as defined in Section 50093, is properly included within redevelopment plans whether or not such construction or rehabilitation is to occur within a redevelopment area, since redevelopment agencies have specific obligations for development of housing whether or not such development is feasible within specific redevelopment project areas.

### 33752. Legislative intent

It is the intent of the Legislature, in enacting this chapter, to strengthen the vitality and promote the completion of urban redevelopment for the general public benefit. The construction of federally assisted housing for low- and moderate-income households is not a primary purpose of this chapter. However, nothing in this chapter shall be deemed to prohibit financing of federally assisted housing for low- and moderate-income households when such housing is consistent with the redevelopment plan and the loan is directly or indirectly insured.

**33753. Definitions**

The definitions set forth in Article 1 (commencing with Section 33000) of Chapter 1 of this part shall govern the construction of this chapter. Additionally, as used in this chapter:

(a) "Construction loan" means a loan to finance residential construction under this chapter, whether such loan is insured or uninsured.

(b) "Financing" means the lending of moneys or any other thing of value for the purpose of facilitating residential construction pursuant to this chapter, including the making of construction loans and mortgage loans to purchasers of newly constructed and newly rehabilitated residences and the making of loans to qualified mortgage lenders, and the making of mortgage loans to purchasers of newly constructed or existing residences located in targeted areas as provided in Section 33760.

(c) "Local codes" means applicable local, state and federal standards for residential construction or rehabilitation, including any other standards adopted by the agency for a redevelopment project area or as part of its redevelopment program.

(d) "Mortgage loan" means a long-term loan which is secured by a mortgage and is made for permanent financing of residences, pursuant to this chapter.

(e) "Participating party" means any person, corporation, partnership, firm, or other entity or group of entities requiring financing for residential construction pursuant to the provisions of this chapter. No elective officer of the state other than officers provided for by Article VI of the California Constitution, and no employee or member of the redevelopment agency, shall be eligible to be a participating party under the provisions of this chapter. If any elected officer of any political subdivision of the state participates in deliberations or votes on a financing plan, redevelopment plan, or bond issue, that person shall not be eligible to be a participating party for bonds issued pursuant to those plans or issues.

(f) "Qualified mortgage lender" means a mortgage lender authorized by a redevelopment agency to do business with the agency and to aid in financing pursuant to this chapter on behalf of the agency, for which service the qualified mortgage lender will be reasonably compensated. Such a mortgage lender shall be a state or national bank, federal or state-chartered savings and loan association, or trust company or mortgage banker which is capable of providing service or otherwise aiding in the financing of mortgages on residential construction within the jurisdiction of the agency. Nothing in any other provision of state law shall prevent such a lender from serving as a qualified mortgage lender pursuant to this chapter.

(g) "Redevelopment project area" means a project area, as defined in Section 33320.1, for which a final redevelopment plan has been adopted pursuant to Section 33365.

(h) "Rehabilitation" means repairs and improvements to a substandard residence necessary to make it meet local codes; and also means the acquisition of substandard residences for purposes of repairs and improvements where the cost of such repairs and improvements equals or exceeds 25 percent of the cost of the acquisition. As used in this section, "substandard residence" has the same meaning as the term "substandard building," as defined in Section 17920.3, except that "substandard residence" shall include all property improved with any structure defined in subdivision (j) of this section as a "residence," with respect to which any of the conditions listed in Section 17920.3 exist.

(i) "Residential construction" means the construction of new residences or the rehabilitation and improvement of substandard residences to meet requirements of local codes and the redevelopment plan. "Residential construction" also means the improvement of residences as provided in subdivision (h).

(j) (1) "Residence" means real property improved with a residential structure and within a redevelopment project area real property improved with a commercial structure (or structures) or a mixed residential and commercial structure, which the redevelopment agency determines to be an integral part of a residential neighborhood. For purposes of determining the integrality of new construction

for such purpose, a proposed commercial or mixed residential and commercial structure shall be located within or immediately adjacent to a neighborhood primarily residential in character.

(2) "Residence" also means residential hotels in which not less than one-half of the occupied dwelling units are occupied on a nontransient basis. A dwelling unit shall be deemed to be used on a nontransient basis if the term of the tenancy is one month or longer or if the tenant has resided in the unit for more than 30 days. In a residential hotel, individual dwelling units shall lack either cooking facilities or individual sanitary facilities, or both. However, for purposes of this paragraph, a residential hotel does not include dormitories, fraternity and sorority houses, hospitals, sanitariums, rest homes, or trailer parks and courts.

New construction of any commercial structure, or of the commercial portion of any mixed residential and commercial structure, financed under this chapter shall not exceed 80,000 square feet of gross building area per development. Any suit challenging such finding shall be filed within 60 days, or the findings of the agency shall be conclusive.

An agency may not provide long-term financing pursuant to this chapter for new construction of a commercial structure or the commercial portion of a mixed residential and commercial structure if conventional financing in an amount sufficient to complete the construction has been obtained for the construction of such structure or portion thereof.

Prior to the financing of any commercial structure within a redevelopment project area, the agency shall adopt a financing plan by resolution, which may include commercial and residential structures. The square footage of the commercial structures shall not exceed 30 percent of the aggregate square footage of all the commercial and residential structures within the project area and financed pursuant to the financing plan. The financing plan for the commercial and residential structures shall include structures that have been, or are being, financed pursuant to this chapter or under federal or state financial assistance programs or local assistance programs of any kind whatsoever. However, such a financing plan shall not be required for an agency that has financed residential structures with the proceeds of bonds issued prior to September 30, 1980, nor shall such amendments affect the validity of the tax-exempt status of bonds issued pursuant to this chapter prior to such date.

Additionally, any financing for a commercial structure or a mixed residential and commercial structure authorized or preliminarily approved by resolution adopted by a redevelopment agency or community development commission established pursuant to Section 33201 either (1) on or before June 3, 1980, in furtherance of which the agency or any person or entity has expended substantial funds or committed to reimburse another person or entity which has expended substantial funds; provided that if the long-term permanent financing is in excess of five million dollars ($5,000,000) on any one project from all financing sources, including conventional and tax-exempt financing, a redevelopment agency or community development commission shall not provide such long-term permanent financing unless such agency or commission adopted a resolution before January 1, 1981, officially approving and authorizing the sale of revenue bonds to provide such long-term permanent financing, and the bonds were sold and delivered before March 1, 1981; or (2) before October 31, 1980, in furtherance of which the agency has expended funds in connection with such financing or plans relating to such financing if the structure to be financed is located within a city designated pursuant to Section 119 of federal Public Law 95-128, as amended, or within a city designated as of September 30, 1980, under Title IX of federal Public Law 89-136, as amended, as a long-term economic

deterioration area, or financing for a commercial structure or mixed residential and commercial structure as to which bonds have been delivered on or before July 31, 1980 (without regard to the date the bonds were authorized or received preliminary approval), shall not be subject to new requirements or conditions of this subdivision enacted by Chapter 1331 of the Statutes of 1980.

"Residence" includes condominium and cooperative dwelling units, and includes both real property improved with single-family residential structures and real property improved with multiple-family residential structures.

(k) "Revenue bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by an agency pursuant to this chapter and which are payable exclusively from revenues and from any other funds specified in this chapter upon which the revenue bonds may be made a charge and from which they are payable.

(l) "Revenues" means all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the redevelopment agency from the financing of residential construction, including moneys deposited in a sinking, redemption, or reserve fund or other fund to secure the revenue bonds or to provide for the payment of the principal of, or interest on, the revenue bonds.

(m) "Target areas" has the same meaning as in Section 103A of the Federal Internal Revenue Code of 1954, as amended.

## Article 2. Powers and Procedures

### 33760. Residential mortgage or construction loans; affordability restrictions

(a) Within its territorial jurisdiction, an agency may determine the location and character of any residential construction to be financed under this chapter 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, or make loans to qualified mortgage lenders, for financing any of the following:

(1) Residential construction within a redevelopment project area.

(2) Residential construction of residences in which the dwelling units are committed, for the period during which the loan is outstanding, for occupancy by persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of the residence.

(3) To the extent required by Section 103A of Title 26 of the United States Code, as amended, to maintain the exemption from federal income taxes of interest on bonds or notes issued by the agency under this chapter, residences located within targeted areas, as defined by Section 103(b)(12)(A) of Title 26 of the United States Code. Any loans to qualified mortgage lenders shall be made under terms and conditions which, in addition to other provisions as determined by the agency, shall require the qualified mortgage lender to use all of the net proceeds thereof, directly or indirectly, for the making of mortgage loans or construction loans in an appropriate principal amount equal to the amount of the net proceeds. Those mortgage loans may, but need not, be insured.

(b) (1) Not less than 20 percent (15 percent in target areas) of the units in any residential project financed pursuant to this section on or after January 1, 1986,

shall be occupied by, or made available to, individuals of low and moderate income, as defined by Section 103(b)(12)(C) of Title 26 of the United States Code. If the sponsor elects to establish a base rent for units reserved for lower income households, the base rents shall be adjusted for household size, as determined pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), or its successor, for a family of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

(2) Not less than one-half of the units described in paragraph (1) shall be occupied by, or made available to, very low income households, as defined by Section 50105. The rental payments for those units paid by the persons occupying the units (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those persons or on behalf of those units) shall not exceed the amount derived by multiplying 30 percent times 50 percent of the median adjusted gross income for the area, adjusted for family size, as determined pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), or its successor, for a family of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

(c) Units required to be reserved for occupancy as provided in subdivision (b) and financed with the proceeds of bonds issued on or after January 1, 1986, shall remain occupied by, or made available to, those persons until the bonds are retired.

(d) (1) When issuing tax-exempt bonds for purposes of this section, the regulatory agreement entered into by the agency shall require that following the expiration or termination of the qualified project period, except in the event of foreclosure and redemption of the bonds, deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, units required to be reserved for occupancy for low-or very low income households and financed or refinanced with proceeds of bonds issued pursuant to this section on or after January 1, 2006, or refinanced with the proceeds of bonds issued pursuant to Section 53583 of the Government Code or any charter city authority on or after January 1, 2007, shall remain available to any eligible household occupying a reserved unit at the date of expiration or termination, at a rent not greater than the amount set forth by the regulatory agreement prior to the date or expiration or termination, until the earliest of any of the following occur:

(A) The household's income exceeds 140 percent of the maximum eligible income specified in the regulatory agreement for reserved units.

(B) The household voluntarily moves or is evicted for "good cause." "Good cause" for the purposes of this section, means the nonpayment of rent or allegation of facts necessary to prove major, or repeated minor, violations of material provisions of the occupancy agreement which detrimentally affect the health and safety of other persons or the structure, the fiscal integrity of the development, or the purposes or special programs of the development.

(C) Thirty years after the date of the commencement of the qualified project period.

(D) The sponsor pays the relocation assistance and benefits to tenants as provided in subdivision (b) of Section 7264 of the Government Code.

(2) As used in this subdivision, "qualified project period" shall have the meaning specified in, and shall be determined in accordance with the provisions of, subsection (d) of Section 142 of the Internal Revenue Code of 1986, as amended, and United States Treasury regulations and rulings promulgated pursuant thereto.

(3) The amendment to this subdivision made during the 2005-06 Regular Session of the Legislature that is set forth in paragraph (1) is declaratory of existing law.

(e) This section shall become operative January 1, 1996.

**33760.5. Residential mortgage or construction loans outside redevelopment project areas in jurisdictions of more than 600,000 persons**

(a) Notwithstanding the requirements of Section 33760, agencies which operate within a jurisdiction, the population of which is in excess of 600,000 persons, as determined by the Department of Finance, may additionally provide financing for residential construction of multifamily rental units outside of a redevelopment project area as set forth in and subject to the limitations of this section.

(b) Within its territorial jurisdiction, an agency may determine the location and character of any residential construction to be financed under this chapter 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.

(c) Not less than 20 percent (15 percent in target areas) of the units in each project financed pursuant to this section shall be occupied by, or made available to, individuals of low and moderate income, as defined in Section 103(b)(12)(C) of Title 26 of the United States Code. If the sponsor elects to establish a base rent for units reserved for lower income households, the base rents shall be adjusted for household size, as determined pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), or its successor, for a family of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

(d) Not less than one-half of the low- and moderate-income units described in subdivision (c) shall be occupied by, or made available to, very low income households, as defined in Section 50105. The rental payments for those units paid by the persons occupying the units (excluding any supplemental rental assistance from the state, the federal government, or any other public agency to those persons or on behalf of those units) shall not exceed the amount derived by multiplying 30 percent times 50 percent of the median adjusted gross income for the area, adjusted for family size, as determined pursuant to Section 8 of the United States Housing Act of 1937, (42 U.S.C. Sec. 1437f), or its successor, for a family of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

(e) No agency may issue any bonds on or after January 1, 1986, until the information required to be filed pursuant to Section 8855.5 of the Government Code has been filed with the California Debt Advisory Commission and the Treasurer certifies to the Legislature that the agency has filed that information.

(f) Units required to be reserved for occupancy by subdivisions (c) and (d) and financed with the proceeds of bonds issued on or after January 1, 1986, shall remain occupied by, or made available to, those persons until the bonds are retired.

(g) This section shall become operative January 1, 1996.

**33760.7. Notice requirements**

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 Section 33760 or 33760.5.

**33761. Authority to issue revenue bonds**

An agency may issue revenue bonds for the purpose of financing residential construction authorized by this chapter and for the purpose of funding or refunding previously issued revenue bonds. An agency may also issue revenue bonds for the purpose of refunding bonds previously issued by another political subdivision of the state for the purpose of financing residential construction authorized by this chapter for projects within the jurisdiction of the agency. For the purposes of this section, "political subdivision" means a city, a housing authority, or a nonprofit corporation acting on behalf of a city or a housing authority, all of which operate within the jurisdiction of the agency. Any savings that accrue to the agency from refunding bonds previously issued by another political subdivision shall be limited to the expenditures authorized in subdivision (e) of Section 33334.2.

**33761.5. Requirements for refunding previously issued bonds**

(a) (1) When refunding revenue bonds for multifamily housing which were previously issued pursuant to this chapter, the agency shall ensure that rental units required, by this chapter or by applicable federal law at the time the original bonds were issued, to be reserved for occupancy for low- and very low income households shall remain occupied by, or made available to, those persons at least until the later of the following:

(A) The date originally so required.

(B) As long as any bonds remain outstanding with respect to the development.

(2) For bonds previously issued to finance a development where all of the units, other than management units, are, at the time of the refunding, subsidized by a housing assistance payments contract for new construction and substantial rehabilitation pursuant to Section 8 of the United States Housing Act of 1937 (42 U.S.C. Sec. 1437f), subparagraph (B) of paragraph (1) shall mean a period of time until the termination of the contract.

(b) The agency may determine that the period set forth in paragraph (1) of subdivision (a) shall not apply to the refunding of previously issued revenue bonds for which there is a mandatory redemption or acceleration as a result of default under the terms of the existing loan agreement or other security documents.

**33762. Limitations on fees, charges and interest rates for financing residential construction**

An agency may establish limitations respecting fees, charges, and interest rates to be used by qualified mortgage lenders for financing residential construction pursuant to this chapter and may from time to time revise such fees, charges, and interest rates to reflect changes in interest rates on the agency's revenue bonds, losses due to defaults, changes in loan-servicing charges, or other expenses related to administration of the residential construction financing program. Any change in interest rate shall conform to the provisions of Section 1916.5 of the Civil Code, except that paragraph (3) of subdivision (a) of Section 1916.5 shall not apply and that the "prescribed standard" specified in Section 1916.5 shall be periodically determined by the redevelopment agency after hearing preceded by public notice to affected

parties, and shall reflect changes in interest rates on the agency's bonds, and bona fide changes in loan servicing charges related to the administration of a program under the provisions of this chapter. An agency may purchase mortgage or construction loans made by a qualified mortgage lender without premium or may itself pay such fees and charges incurred in lending money for the purpose of residential construction and may collect and disburse, or may contract to pay any person, partnership, association, corporation, or public agency for, collection and disbursal of payments of principal, interest, taxes, insurance, and mortgage insurance. An agency may hold deeds of trust or mortgages, including mortgages insured under Title II of the National Housing Act, as security for financing residential construction and may pledge or assign the same as security for repayment of revenue bonds. Such deeds of trust or mortgages may be assigned to, and held on behalf of the agency by, any bank or trust company appointed to act as trustee or fiscal agent by the agency in any indenture or resolution providing for issuance of bonds pursuant to this chapter. An agency may establish the terms and conditions of financing, which shall be consistent with the provisions of any applicable federal or state law under which the financing is to be insured.

**33763. Additional requirements for mortgage loans**

(a) No loan shall be made for financing except through a qualified mortgage lender.

(b) All mortgage loans made for financing pursuant to this chapter from the proceeds of bonds issued on or before October 1, 1983, shall be insured or guaranteed, in whole or in part, by any instrumentality of the United States, or the State of California, or by any person licensed to insure mortgages in this state. Mortgage loans made for financing pursuant to this chapter from the proceeds of bonds issued after October 1, 1983, may be insured or guaranteed, in whole or in part by those entities or persons. However, nothing in this subdivision shall impair any contractual rights which may have vested in bondholders or other persons prior to October 1, 1983.

**33763.5. Additional requirements for loans**

All loans made by a redevelopment agency shall be made according to a regulation that contains standards, qualifications, and criteria for the making and approval of loans and that has been adopted by the redevelopment agency at a public meeting.

**33764. Employment of consultants**

An agency may employ engineering, architectural, accounting, collection, or other services, including services in connection with the servicing of loans made to participating parties, as may be necessary in the judgment of the agency for the successful financing of residential construction pursuant to this chapter. An agency may pay the reasonable costs of consulting engineers, architects, accountants, and other experts, if, in the judgment of the agency, such services are necessary to the successful financing of any residential construction and if the agency is not able to provide such services. An agency may employ and fix the compensation of financing consultants, bond counsel, and other advisers as may be necessary in its judgment to provide for the issuance and sale of any revenue bonds of the agency.

**33765. Additional powers**

In addition to all other powers specifically granted by this chapter, an agency may do all things necessary or convenient to carry out the purposes of this chapter.

**33766. Repayment of revenue bonds**

Revenues and the proceeds of mortgage insurance or guarantee claims, if any, shall be the sole source of funds pledged by an agency for repayment of its revenue bonds. Revenue bonds issued under this chapter do not constitute a debt or liability of the agency or the state for which the faith and credit of the agency or the state is pledged but shall be payable solely from revenues and the proceeds of mortgage insurance or guarantee claims, if any.

**33767. Rules and regulations for residential construction; property acquisition and disposition**

All residential construction shall be undertaken or completed subject to the rules and regulations of the agency. An agency may acquire by deed, purchase, lease, contract, gift, devise, or otherwise any real or personal property, structures, rights, rights-of-way, franchises, easements, and other interests in lands necessary or convenient for the financing of residential construction, upon such terms and conditions as it deems advisable, and may lease, sell, or dispose of the same in such manner as may be necessary or desirable to carry out the objectives and purposes of this chapter.

**33768. Relocation assistance laws not applicable to acquisition for loan default**

The provisions of Chapter 16 (commencing with Section 7260) of Division 7 of Title I of the Government Code shall not apply to owners or tenants of any property acquired by foreclosure, trust deed, sale or other proceeding resulting from default on a loan made by the agency.

**33769. Prohibition against discrimination**

(a) An agency shall require that any residence that is constructed with financing obtained under this chapter shall be open, upon sale or rental of any portion thereof, to all regardless of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code. The agency shall also require that contractors and subcontractors engaged in residential construction financed under this chapter shall provide equal opportunity for employment, without discrimination as to any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, and except as otherwise provided in Section 12940 of the Government Code. All contracts and subcontracts for residential construction financed under this chapter shall be let without discrimination as to any basis listed in subdivision (a) of Section 12940 of the Government Code, as those bases are defined in Sections 12926 and 12926.1 of the Government Code, and except as otherwise provided in Section 12940 of the Government Code. It shall be the policy of an agency financing residential construction under this chapter to encourage participation by minority contractors, and the agency shall adopt rules and regulations to implement this section.

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

## Article 3. Bonds and Notes

### 33775. Issuance of revenue bonds and bond anticipation notes

(a) An agency may, from time to time, issue its negotiable revenue bonds for the purpose of making or purchasing mortgage or construction loans, or making loans to qualified mortgage lenders, to finance residential construction. In anticipation of the sale of bonds, the agency may issue negotiable bond anticipation notes and may renew the notes from time to time. Bond anticipation notes may be paid from the proceeds of sale of the bonds of the agency in anticipation of which they were issued. Bond anticipation notes and agreements relating thereto and the resolution or resolutions authorizing the notes and agreements may contain any provisions, conditions, or limitations which a bond, agreement relating thereto, or bond resolution of the agency may contain except that any note or renewal thereof shall mature at a time not later than five years from the date of the issuance of the original note.

(b) Every issue of its revenue bonds shall be a special obligation of the redevelopment agency payable from all or any part of the revenues specified in this chapter. The revenue bonds shall be negotiable instruments for all purposes, subject only to the provisions of the bonds for registration.

### 33775.5. Costs of issuance

In determining the amount of bonds to be issued, the agency may include all costs of the issuance of such revenue bonds, bond reserve funds, and bond interest estimated to accrue for a period not exceeding 12 months from the date of issuance of the bonds.

### 33776. Resolution of the agency; types and terms of bonds

The revenue bonds may be issued as serial bonds or as term bonds, or the redevelopment agency, in its discretion, may issue revenue bonds of both types. The revenue bonds shall be authorized by resolution of the agency and shall bear such date or dates, mature at such time or times, not exceeding 50 years from their respective dates of issuance, bear interest at such fixed or variable rate or rates, be payable at such time or times, be in such denominations, be in such form either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption as the resolution or resolutions of the redevelopment agency may provide. The bonds may be sold at either a public or private sale and for such prices as the agency shall determine. Pending preparation of the definitive bonds, the agency may issue interim receipts, certificates, or temporary bonds, which shall be exchanged for such definitive bonds.

### 33777. Contract with bondholders

Any resolution or resolutions authorizing any revenue bonds or any issue of revenue bonds may contain provisions respecting any of the following terms and conditions, which shall be a part of the contract with the holders of the revenue bonds:

(a) The pledge of all or any part of the revenues, subject to such agreements with bondholders as may then exist.

(b) The interest and principal to be received and other charges to be charged and the amounts to be raised each year thereby, and the use and disposition of the revenues.

(c) The setting aside of reserves or sinking funds and the regulation and disposition thereof.

(d) Limitations on the purposes to which the proceeds of a sale of any issue of revenue bonds, then or thereafter issued, may be applied, and pledging such proceeds to secure the payment of the revenue bonds or any issue of revenue bonds.

(e) Limitations on the issuance of additional revenue bonds, the terms upon which additional revenue bonds may be issued and secured, and the refunding of outstanding revenue bonds.

(f) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of revenue bonds the holders of which must consent thereto, and the manner in which such consent may be given.

(g) Limitation on expenditures for operating, administration, or other expenses of the agency.

(h) Specification of the acts or omissions to act which shall constitute a default in the duties of the redevelopment agency to holders of its revenue bonds, and providing the rights and remedies of such holders in the event of default.

(i) The mortgaging of any residence and the site thereof for the purpose of securing the bondholders.

(j) The mortgaging of land, improvements, or other assets owned by a participating party for the purpose of securing the bondholders.

**33777.5. Interim investment of revenues and proceeds of bonds**

When not immediately required to provide financing under this chapter, revenues and the proceeds of revenue bonds may be invested in any securities or obligations authorized by the resolution providing for issuance of the bonds or authorized by its trust indenture. Such investments may include mortgage obligations on single-family dwellings purchased from a state or federally chartered bank or savings and loan association pursuant to a repurchase agreement under which the bank or savings and loan association will repurchase the mortgage obligation on or before a specified date and for a specified amount, provided that the mortgage or the repurchase agreement shall be insured by a mortgage insurance company licensed to insure mortgages in the State of California and qualified to provide insurance on mortgages purchased by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

The authority provided in this section is additional and alternative to any other authorization for investments contained in this part, including Section 33782, or in other provisions of law.

**33778. No personal liability**

Neither the members of the agency nor any person executing the revenue bonds shall be liable personally on the revenue bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

**33779. Agency may purchase its own revenue bonds**

The agency shall have the power out of any funds available therefor to purchase its revenue bonds. The agency may hold, pledge, cancel, or resell such revenue bonds, subject to and in accordance with agreements with the bondholders.

**33780. Security for repayment of bonds**

In the discretion of the agency, any revenue bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the agency and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without this state. Such a trust agreement or the resolution providing for the issuance of revenue bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged, and may convey or mortgage any residence the construction of which is to be financed out of the proceeds of such revenue bonds. Such trust agreement or the resolution providing for the issuance of bonds may provide for the assignment to such corporate trustee or trustees of mortgage or construction loans or loans to qualified mortgage lenders, to be held by such trustee or trustees on behalf of the agency for the benefit of the bondholders. Such trust agreement or resolution providing for the issuance of revenue bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including such provisions as may be included in any resolution or resolutions of the agency authorizing the issuance of the revenue bonds. Any bank or trust company doing business under the laws of this state which may act as depositary of the proceeds of revenue bonds or of revenues or other moneys may furnish such indemnity bonds or pledge such securities as may be required by the agency. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the agency may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of residential construction.

**33781. Rights of bondholders to enforce obligations**

Any holder of revenue bonds issued under the provisions of this chapter or any of the coupons appertaining thereto, and the trustee or trustees appointed pursuant to any resolution authorizing the issuance of such revenue bonds, except to the extent the rights thereof may be restricted by the resolution authorizing the issuance of the revenue bonds, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect or enforce any and all rights specified in the laws of this state or in such resolution, and may enforce and compel the performance of all duties required by this chapter or by such resolution to be performed by the agency or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of rates, fees, interest, and charges authorized and required by the provisions of such resolution to be fixed, established, and collected.

**33782. Refunding or redemption of bonds**

Any agency may provide for the issuance of the revenue bonds of the agency for the purpose of refunding any revenue bonds of the agency then outstanding, or for the purpose of refunding any revenue bonds of another political subdivision of the state then outstanding pursuant to Section 33761, including the payment of any redemption premiums thereof and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of the bonds, and, if both (a) deemed advisable by the agency, and (b) projects financed with the bonds fall within the jurisdiction of the agency, for the additional purpose of paying all or any part of the cost of additional residential construction.

The proceeds of revenue bonds issued pursuant to this section may, in the discretion of the agency, be applied to the purchase or retirement at maturity or redemption of outstanding revenue bonds, either at their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and, pending that application, the portion of the proceeds allocated for that purpose may be placed in escrow, to be applied to the purchase or retirement at maturity or redemption on that date, as may be determined by the agency. Pending use for purchase, retirement at maturity, or redemption of outstanding revenue bonds, any proceeds held in such an escrow may be invested and reinvested as provided in the resolution authorizing the issuance of the refunding bonds. Any interest or other increment earned or realized on any such investment may also be applied to the payment of the outstanding revenue bonds to be refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of the

proceeds and any interest or increment earned or realized from the investment thereof may be returned to the agency to be used by it for any lawful purpose under this chapter. That portion of the proceeds of any revenue bonds issued pursuant to this section which is designated for the purpose of paying all or any part of the cost of additional residential construction may be invested and reinvested in obligations of, or guaranteed by, the United States of America or in certificates of deposit or time deposits secured by obligation of, or guaranteed by, the United States of America, maturing not later than the time or times when the proceeds will be needed for the purpose of paying all or any part of the cost.

All revenue bonds issued pursuant to this section shall be subject to this chapter in the same manner and to the same extent as other bonds issued pursuant to this chapter.

### 33783. Status of bonds as legal investments

Notwithstanding any other provision of law, revenue bonds issued pursuant to this chapter shall be legal investments for all trust funds, insurance companies, savings and loan associations, investment companies and banks, both savings and commercial, and shall be legal investments for executors, administrators, guardians, conservators, trustees, and all other fiduciaries. Such bonds shall be legal investments for state school funds and for any funds which may be invested in county, municipal, or school district bonds, and such bonds shall be deemed to be securities which may properly and legally be deposited with, and received by, any state or municipal officer or by any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now, or may hereafter be authorized by law, including deposits to secure public funds.

### 33784. Tax-exempt status of bonds

The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of this state and for their health and welfare. Any revenue bonds issued under the provisions of this chapter, their transfer and the income therefrom, shall at all times be free from taxation of every kind by the state and by the municipalities and other political subdivisions of the state, except inheritance and gift taxes.

## Article 4. Residential Construction

### 33790. Agreements for residential construction required

An agency may not finance mortgage or construction loans which have not been authorized by prior written agreement between the agency and the participating party. All agreements for such loans shall provide that the architectural and engineering design of the residential construction shall be subject to such standards as may be established by the agency and that the work of such residential construction shall be subject to such supervision as the agency deems necessary.

### 33791. Loan agreements for residential construction

An agency may enter into loan agreements with any participating party relating to residential construction of any kind or character. The terms and conditions of such loan agreements may be as mutually agreed upon, but such terms and conditions shall not be inconsistent with the provisions of this chapter or regulations adopted pursuant thereto. Any such loan agreement may provide the means or methods by which any mortgage taken by the agency shall be discharged, and it shall contain such other terms and conditions as the agency may require. An agency may fix, revise, charge and collect interest and principal and all other rates, fees, and charges with respect to financing of residential construction. Such rates, fees, charges and interest shall be fixed and adjusted so that the aggregate of such rates, fees, charges,

and interest will provide funds sufficient with other revenues and moneys which it is anticipated will be available therefor, if any, to all of the following:

(a) Pay the principal of, and interest on, outstanding revenue bonds of the agency issued to finance such residential construction as the same shall become due and payable.

(b) Create and maintain reserves required or provided for in any resolution authorizing such revenue bonds. A sufficient amount of the revenues derived from residential construction may be set aside at such regular intervals as may be provided by the resolution in a sinking or other similar fund, which is hereby pledged to, and charged with, the payment of the principal of and interest on such revenue bonds as the same shall become due, and the redemption price or the purchase price of revenue bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time the pledge is made. The rates, fees, interest, and other charges, revenues, or moneys so pledged and thereafter received by the agency shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the agency, irrespective of whether such parties have notice thereof. Neither the resolution nor any loan agreement by which a pledge is created need be filed or recorded except in the records of the agency. The use and disposition of moneys to the credit of such sinking or other similar fund shall be subject to the provisions of the resolution authorizing the issuance of such revenue bonds. Except as may otherwise be provided in the resolution, such sinking or other similar fund may be a fund for all revenue bonds of the agency issued to finance the construction of the residence of a particular participating party without distinction or priority. The agency, however, in any such resolution may provide that such sinking or other similar fund shall be the fund for particular project or projects of residential construction and for the bonds issued to finance such project or projects and may, additionally, authorize and provide for the issuance of revenue bonds having a lien with respect to the security authorized by this section which is subordinate to the lien of other revenue bonds of the agency, and in such case, the agency may create separate sinking or other similar funds securing the revenue bonds having the subordinate lien.

(c) Pay operating and administrative costs of the agency incurred in the administration of the program authorized by this chapter.

**33792. Revenues deemed trust funds**

All moneys received pursuant to the provisions of this chapter, whether revenues or proceeds from the sale of revenue bonds or proceeds of mortgage insurance or guarantee claims, shall be deemed to be trust funds to be held and applied solely for the purposes of this chapter. Any bank or trust company in which such moneys are deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes specified in this chapter, subject to the terms of the resolution authorizing the revenue bonds.

**33795. Liberal construction of chapter**

This chapter being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purposes.

**33796. Immaterial omissions or defects in proceedings**

If the jurisdiction of the agency to order a proposed act is not affected, an omission of any officer or the agency in proceedings under this chapter or any other defect in the proceedings shall not invalidate the proceedings or revenue bonds issued pursuant to this chapter.

**33797. Full authority to issue bonds**

This chapter is full authority for the issuance of bonds by an agency for the purpose of financing residential construction.

**33798. Authority supplemental to other laws**

This chapter shall be deemed to provide a complete, additional, and alternative method for doing the things authorized thereby, and shall be regarded as supplemental and additional to the powers conferred by other laws. The issuance of revenue bonds and refunding revenue bonds under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of bonds.

**33799. Validation actions**

An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any issuance or proposed issuance of revenue bonds under this chapter and the legality and validity of all proceedings previously taken or proposed in a resolution of an agency to be taken for the authorization, issuance, sale, and delivery of the revenue bonds and for the payment of the principal thereof and interest thereon.

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# CHAPTER 9. SPECIAL ASSESSMENTS

## Article 1. Definitions

### 33800. Construction of chapter

The definitions contained in this article govern the construction of this chapter, unless the context requires otherwise.

### 33801. *Indebtedness* defined

"Indebtedness" means any obligations incurred by a redevelopment agency prior to July 1, 1978, the payment of which is to be made in whole or in part out of taxes allocated to the agency pursuant to Section 33670 and includes:

(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) of Chapter 6 of this part.

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

(c) A contractual obligation which, if breached, could subject the agency to damages or other liabilities or remedies.

(d) An obligation incurred pursuant to Section 33445.

(e) Indebtedness incurred pursuant to Section 33334.2.

(f) Obligations imposed by law with respect to activities which occurred prior to July 1, 1978.

### 33802. *Indebtedness* further defined

"Indebtedness" also means a loan from the Local Agency Indebtedness Fund pursuant to Article 6.5 (commencing with Section 16496) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code for the purpose of making payments of principal or interest with respect to indebtedness specified in Section 33801.

### 33803. *Payment* defined

"Payment" means any payment of principal or interest payable with respect to indebtedness payable from taxes allocated pursuant to subdivision (b) of Section 33670, which is as defined in Section 33801 or 33802, including redemption payments and any administrative costs associated with the payment of such indebtedness.

### 33804. *Persons and families of low or moderate income* defined

"Persons and families of low or moderate income" has the same meaning as defined in Section 50093.

## Article 2. Findings and Declarations

**33810. Legislative findings and declarations**

The Legislature finds and declares that the security of millions of dollars of indebtedness incurred prior to July 1, 1978, and dependent upon taxes allocated pursuant to Section 16 of Article XVI of the California Constitution and subdivision (b) of Section 33670 for its security is seriously threatened.

**33811. Further legislative findings and declarations**

The Legislature further finds and declares that unless supplemental sources of revenue for the payment of such indebtedness can be established, a substantial portion of such indebtedness will not be repaid, which will include the default of bonds and the breach of contractual obligations, and that if such defaults and breaches of contract occur, the credit and future borrowing capacity of both local agencies and the state may be impaired.

**33812. Further legislative findings and declarations**

The Legislature further finds and declares that such defaults and breach of contracts may result in lengthy and costly legal actions against public agencies for the impairment of contractual rights.

**33813. Further legislative findings and declarations**

The Legislature further finds and declares that there is a need to establish a flexible procedure to enable legislative bodies to obtain necessary supplemental revenues to pay the incurred indebtedness because the need for state funds for such purpose will be decreased and because the facts and circumstances surrounding each project and the indebtedness incurred are different and different solutions may be required.

**33814. Further legislative findings and declarations**

The Legislature further finds and declares that certain properties within the boundaries of redevelopment project areas established pursuant to the Community Redevelopment Law have increased in value and have received and will continue to receive special benefits from redevelopment activities undertaken by agencies, including, but not limited to, acquisition, assembly and disposition of lands, demolition and site clearance and the construction of public improvements financed by the proceeds of indebtedness incurred by redevelopment agencies.

**33815. Further legislative findings and declarations**

The Legislature further finds and declares that the establishment of special assessments on the properties so specially benefited from the activities described in Section 33814 is the most equitable method for providing supplemental revenues to be used to pay the indebtedness.

**33816. Purpose to authorize special assessment areas within redevelopment project areas**

It is the purpose of this chapter to authorize and provide for the establishment of special assessment areas within redevelopment project areas and for the levy of special assessments on properties within such special assessment areas to obtain supplemental revenues to be used for the payment of

indebtedness incurred prior to July 1, 1978, and temporary borrowing from the state incurred to avoid default thereon.

### 33817. *Special assessment area* defined

A special assessment area may include any or all property within a project area as the project area existed on July 1, 1978, established pursuant to Chapter 4 (commencing with Section 33300) of this part, and may, but need not be, coterminous with such project area; however, only properties benefited by redevelopment activities described in Section 33814 shall be included within the special assessment area. The properties included in a special assessment area may be either contiguous or noncontiguous; however, only properties within a single project area may be included within a single special assessment area.

## Article 3. Proceedings

### 33820. Authority to establish special assessment areas and levy special assessments

Special assessment areas wholly within redevelopment project areas may be established and special assessments levied within such special assessment areas pursuant to this chapter.

### 33821. Report to legislative body

When, in the opinion of the governing board of an agency, it is determined that there will be insufficient tax revenues allocated to the agency to pay its incurred indebtedness, the agency shall file with the legislative body a report.

### 33822. Contents of report to legislative body

The report shall contain all of the following:

(a) The total amount of outstanding indebtedness incurred by the agency with respect to the project area containing the special assessment area, a listing of the different kinds of indebtedness incurred together with the amount of debt incurred for each separate kind of indebtedness, and the annual payment required to be made for each such kind of indebtedness for each year during which the debt is outstanding.

(b) An estimate of the amount of taxes which will be received by the agency pursuant to subdivision (b) of Section 33670 which will be available to make payments on the different kinds of indebtedness when due.

(c) A description and estimated amounts of other revenues, funds and other moneys, other than tax revenues described in subdivision (b), which are or will be available to the agency for making the payments.

(d) An estimate of the total and annual amounts of the payments which the agency will be unable to make because of the insufficiency of funds available for that purpose.

(e) A schedule of payments and either (1) copies of contracts, agreements, or other documents creating the indebtedness, or (2) a list (including a summary of parties and purpose) of contracts, agreements, and other documents creating the indebtedness.

(f) A description of the redevelopment activities which have been or will be undertaken by the agency with the proceeds derived from the indebtedness.

(g) A diagram showing the following:

(1) The boundaries of a special area of the redevelopment project area which, in the opinion of the agency, has been specially benefited.

(2) The dimensions or description of the parcels of property within the special area as they existed at the time of making the report. Each such subdivision shall be given a separate number upon the diagram.

(3) The proposed assessment on each of the parcels of property within the special assessment area levied in proportion to benefits.

(h) A statement as to whether the proposed assessment district includes property containing residential dwelling units, an estimate of the number of such dwelling units occupied by persons and families of low or moderate income, and an estimate of the total amount of assessments to be levied on such dwelling units occupied by persons and families of low or moderate income.

(i) A request that the legislative body proceed with the formation of a special assessment area and levy a special assessment on properties in the special assessment area.

(j) For each fiscal year in which the special assessment is proposed to be levied, the amount of taxes which was projected to be available for allocation to the agency pursuant to subdivision (b) of Section 33670, based on the actual tax rates in effect for the 1977-78 fiscal year and on the projected assessed values under the applicable laws in effect for the 1977-78 fiscal year, with respect to its indebtedness incurred prior to July 1, 1978. The statement shall contain information upon which the assessed values were projected. If any bonds have been issued and the official statement or bond resolution for such bonds contained an estimate of projected tax revenues which were to be received by the agency pursuant to subdivision (b) of Section 33670, the information shall refer to the official statement or bond resolution.

### 33822.5. Documents to be available to public

Copies of contracts, agreements, and other documents specified in subdivision (e) of Section 33822 shall be made available to the public at the time the report is filed with the legislative body.

### 33822.7. Notice to Department of Housing and Community Development

The agency shall notify the Department of Housing and Community Development within five days following the filing of a report with the legislative body pursuant to Section 33821.

### 33823. Resolution of intention by legislative body

After the receipt of the report, the legislative body may adopt a resolution of intention to form a special assessment area and to levy special assessments on properties located therein to provide supplemental revenues for the purpose of making payments on the indebtedness when due.

### 33824. Contents of resolution of intention

The resolution of intention shall:

(a) Describe the exterior boundaries of the special assessment area.

(b) Include the estimated annual amounts needed to be levied on the properties within such area for the purpose of making such payments and the period during which such special assessments will be required, which in no case shall be longer than the time by which the debt is to be repaid.

(c) Include the proposed assessments.

The resolution shall incorporate by reference the report required by Section 33822.

**33825. Notice of hearing by legislative body required**

The resolution shall contain a notice of the time and place at which any person may appear before the legislative body and object to the formation of the special assessment area and the levy of special assessments therein. The hearing shall be held not less than 30 days after the passage of the resolution.

**33826. Contents of notice of hearing**

The notice shall contain all of the following:

(a) A statement of the time, place, and purpose of the hearing on the resolution of intention and report of the agency.

(b) A statement of the total estimated payments of principal and interest and other payments required.

(c) The amounts as shown on the report of the agency, to be assessed against each parcel of property annually.

(d) A statement that any owner of property within the proposed assessment area may file a written protest as provided in Section 33831.

(e) A statement that the city or county will pay the assessment levied on that portion of real property containing residential dwelling units occupied by persons and families of low or moderate income. The statement shall set forth a schedule of the applicable maximum annual incomes by family size which may be received by persons and families of low or moderate income and notice as to where applications and information regarding the payments may be obtained.

**33827. Clerk to give notice of hearing by legislative body**

The clerk of the legislative body shall give notice of the time and place in the resolution of intention as provided in Section 33825.

**33828. Publication, mailing and posting of notice of hearing by legislative body**

The notice shall be published pursuant to Section 6066 of the Government Code, the first publication of which shall be at least 20 days prior to the date set for hearing. Copies of the notice shall (1) be mailed by first class mail, postage prepaid, to the owners of property in the proposed special assessment area at the addresses of such owners as shown on the last equalized assessment roll used for tax purposes or as otherwise known to the clerk, (2) be mailed postage prepaid to the occupants of property in the proposed special assessment area, and (3) be posted conspicuously on all streets within the proposed special assessment area, not more than 300 feet apart on each street so posted, but not less than three in all. If property assessed pursuant to Section 19 of Article XIII of the Constitution is within such special assessment area, such notice shall be mailed to the owner of such property as shown on the roll last transmitted by the State Board of Equalization to the county auditor.

**33829. Substantial compliance required**

No proceeding shall be held invalid for the failure to mail notice to any property owner or occupant or to post the notice if there has been substantial compliance with the requirements of this article.

**33830. Newspaper for publication**

If no newspaper is published and circulated in the city, the notice shall be published in a newspaper published in any county in which the city is located.

**33831. Written protests; time for filing**

Any owner of property within the proposed special assessment area may protest the formation of the special assessment area, the extent thereof, or the proposed assessment by filing a written protest with the clerk of the legislative body at or before the time set for the hearing. Such protest shall contain a description of the property sufficient to identify the same and, if the signer is not shown on the last equalized assessment roll as the owner of such property, shall contain or be accompanied by written evidence that such signer is the owner of such property. The clerk shall endorse on each protest the date of its receipt and at the time appointed for the hearing shall present to the legislative body all protests filed. No other protests shall be considered by the legislative body.

**33832. Hearing by legislative body**

At the time and place set for hearing on the formation of the special assessment area and levy of special assessments, the legislative body shall consider the report of the agency and hear and pass upon all written protests. Such hearing may be continued from time to time by the legislative body.

**33833. Majority protest**

If protests are filed against the special assessment area, and the legislative body finds that such protests are signed by the owners of more than one-half of the area of the property included within the proposed special assessment area, all further proceedings under the resolution of intention are barred, and no new resolution of intention for the same shall be passed within six months after the decision of the legislative body on the hearing, unless the protests are overruled by an affirmative vote of four-fifths of the members of the legislative body.

**33834. Determination of existence of majority protest**

If it is necessary, in order to find whether a majority protest exists, to determine whether any or all of the signers of written protests are the "owners" of property to be assessed, the legislative body shall make such determination from the last equalized assessment roll or the roll specified in Section 33828, any written evidence submitted with a written protest and any other evidence received at the hearing. The legislative body shall be under no duty to obtain or consider any other evidence as to ownership of property and its determination of ownership shall be final and conclusive.

**33835. Findings and determinations of legislative body**

Prior to final action on the report, the legislative body shall find and determine, based on evidence submitted at the public hearing, (a) whether the properties proposed to be assessed are specially benefited by the redevelopment activities described in Section 33814, and are capable of bearing the burden of the proposed assessment, (b) whether the assessments have been apportioned in proportion to such benefits, (c)

whether property within the assessment area contains residential dwelling units, and (d) for each fiscal year in which the special assessment is proposed to be levied, the amount of taxes which was projected to be available for allocation to the agency pursuant to subdivision (b) of Section 33670, based on the actual tax rates in effect for the 1977-78 fiscal year and on the projected assessed values under the applicable laws in effect for the 1977-78 fiscal year, with respect to its indebtedness incurred prior to July 1, 1978.

### 33835.3. Limitation on amount of special assessment

In no event shall a special assessment be levied pursuant to this chapter if the amount specified in the adopted report pursuant to subdivision (b) of Section 33822 is equal to or greater than the amount determined by legislative body pursuant to subdivision (d) of Section 33835. If the amount established pursuant to subdivision (b) of Section 33822 in the adopted report is less than the amount determined pursuant to subdivision (d) of Section 33835, then the maximum amount which can be levied by special assessment pursuant to this chapter is the dollar difference between the amounts described in those two subdivisions plus any indebtedness described in Section 33802.

### 33835.5. Findings and determinations of legislative body

Prior to taking final action on the report pursuant to either Section 33821 or 33837, the legislative body shall find and determine that the total amount of revenues received by levying a special assessment pursuant to this chapter, plus the taxes which the legislative body has determined will be received pursuant to subdivision (b) of Section 33822 of the adopted report, does not exceed the amount determined pursuant to subdivision (d) of Section 33835 plus any indebtedness described in Section 33802.

### 33836. Formation of special assessment area and levy of special assessments

If written protests by more than one-half of the area of the property in the special assessment area are either not received or are received and are overruled the legislative body may, by resolution, confirm, modify, or correct the report and order the formation of the special assessment area, and levy the assessments shown on the report as confirmed, modified or corrected. The resolution shall be final as to all persons and the assessments thereby levied upon the respective subdivisions of land in the special assessment area until changed pursuant to Section 33838. However, for the purposes of Section 33838, the assessment levied pursuant to this section shall be the assessment for the first fiscal year.

### 33837. Annual report of proposed special assessments

Prior to May 15th of each year, after the first fiscal year, during which the assessment district is to continue, the agency shall file with the legislative body a report which shall contain (1) an estimate of the total amount of funds including taxes received by the agency pursuant to subdivision (b) of Section 33670 which will be available to pay the indebtedness for the next fiscal year, (2) an estimate of the amount of payments specified in the report pursuant to Section 33822 which the agency will be unable to pay because of insufficient funds, and (3) a diagram and a proposed assessment to be levied upon each parcel of property in the area for the next fiscal year.

### 33838. Adoption of annual report of proposed special assessments by legislative body

After receiving a report pursuant to Section 33837, the legislative body shall review and adopt the report, either as presented or as modified, and shall take one of the following actions:

(a) Find that the existing levy will raise substantially the same amount as is needed to make the payments, in which case no change to the existing levy is needed.

(b) Find that the existing levy will raise more than is needed to make the payments, in which case the legislative body shall reduce the levy for that fiscal year to an amount sufficient to make the payments.

(c) Find that the existing levy will not raise sufficient funds to make the payments, in which case the legislative body may, after a notice and hearing pursuant to Sections 33825 to 33835, inclusive, levy an increased assessment for that fiscal year in an amount sufficient to make the payments.

### 33839. Tax increments to be used first to pay indebtedness

Notwithstanding any other provision of this chapter, all tax increments allocated to the agency pursuant to subdivision (b) of Section 33670 with respect to a redevelopment project for which a special assessment district has been created pursuant to this chapter, shall first be used to pay indebtedness, as defined in this chapter.

## Article 4. Collection of Assessments

### 33840. Filing of diagram and assessment with county auditor

Immediately after the levy, but in all cases before July 15th, a certified copy of the diagram and assessment shall be filed with the county auditor. The county auditor shall enter the amounts of the respective assessments on the county tax roll opposite the respective parcels of property. Immediately upon such recording, each of such assessments shall be a lien upon the property against which it is made and shall only be discharged by payment of the assessment and, if applicable, penalties, costs, or other charges resulting from delinquency in the payment of the assessment.

### 33840.5. Payment by city or county of assessments on property occupied by persons and families of low or moderate income

A city or county which levies assessments pursuant to this chapter shall pay to the county tax collector all such assessments levied on real property containing one or more dwelling units occupied by persons and families of low or moderate income; provided, that where such real property contains uses other than residential dwelling units occupied by persons and families of low or moderate income only that portion of the assessment attributable to the portion of the property occupied by persons and families of low or moderate income shall be paid by the city or county. The city or county shall establish a reasonable method for determining such apportionments.

### 33840.7. Procedure for payment by city or county of assessments on property occupied by persons and families of low or moderate income

(a) Each city or county which makes a finding that the assessment area includes property containing residential dwelling units shall establish procedures to enable persons and families of low or moderate income who occupy dwelling units within the assessment area, or owners of such dwelling units as provided in subdivision (b), to apply to the city or county to have the assessment paid. Such procedures may include (1) reasonable time deadlines for application, which, if not met by the applicant, will extinguish the obligation of the city or county to pay the assessment for that year and (2) a requirement that the applicant, not more than once each year, provide information which will enable the city or county to determine the dwelling unit in which the applicant resides and whether the applicant is a person or family of low or moderate income.

(b) As to properties or portions of properties in which the occupancy of dwelling units is restricted by a written agreement or by operation of law to persons and families of low or moderate income,

the owner of the property may apply to the city or county to have the assessment paid on all such dwelling units and as to those properties or portions of properties the use of which the city or county knows is restricted by a written agreement or by operation of law to persons and families of low or moderate income, the city or county shall pay the assessment without requiring any application to be submitted. The city or county may require the owners of such properties to provide a copy of the subject written agreement, if any, and to provide other information annually which will enable the city or county to determine the number of dwelling units actually occupied by persons or families of low or moderate income.

(c) Except as to dwelling units in which the occupancy is restricted by law to persons and families of low or moderate income, the information required of applicants may include copies of federal and state income tax returns of the subject low or moderate income residents.

(d) The procedures established by a city or county pursuant to this section shall provide for annual reviews as to whether real property within the assessment area containing residential dwelling units is occupied by persons and families of low or moderate income. The procedures shall additionally provide for notice to occupants and owners of property within the special assessment area of the maximum annual income by family size which may be received by persons and families of low or moderate income; the notices shall be mailed to such occupants and owners not less than 30 days prior to the final date for receiving applications for payment of the assessment pursuant to Section 33840.5.

**33841. Priority of assessment liens**

The lien of an assessment levied pursuant to this chapter shall be subordinate to all fixed special assessment liens previously imposed upon the same property but it shall have priority over all fixed special assessment liens which may thereafter be created against the property.

**33842. Applicability of Revenue and Taxation Code**

Assessments levied under this chapter shall be subject to all the provisions of Division 1 (commencing with Section 101) of the Revenue and Taxation Code applicable to the collection, penalties, costs, or other charges resulting from delinquency, redemption, and sale for nonpayment of taxes on the county tax roll.

**33843. Continuation of special assessments**

The special assessments provided for in the resolution adopted pursuant to Section 33836 shall be deemed to have been levied in each succeeding year until the assessment is revised pursuant to Section 33838 or rescinded and the county auditor is given notice thereof.

**33844. Transfer of proceeds to agency**

All the proceeds of the assessment shall be placed in a separate fund of the legislative body and shall be transferred to the agency only for the payment of indebtedness.

**33845. Proceeds to be used for payment of indebtedness**

Upon receipt of any proceeds from the legislative body pursuant to Section 33844, the agency shall either immediately use such proceeds for the payment of indebtedness or it shall place such proceeds in a separate fund and shall thereafter only be removed and expended for the purpose of making such payments.

## Article 5. Legal Actions, Exceptions

### 33850. Limitation of actions

The validity of any assessment levied under this chapter shall not be contested in any action or proceeding unless commenced within 60 days after the levy thereof. The provisions of Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure shall be applicable to any such action or proceeding.

### 33851. Sale or issuance of bonds not authorized

Nothing in this chapter shall be construed as authorizing the sale or issuance of bonds.

### 33852. Exemption from CEQA

All proceedings and decisions undertaken or made pursuant to this chapter shall be exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code.

### 33853. Special Assessment Investigation, Limitation and Majority Protest Act of 1931 not applicable

The Special Assessment Investigation, Limitation and Majority Protest Act of 1931, Division 4 (commencing with Section 2800) of the Streets and Highways Code, shall not apply to proceedings under this part.

### 33854. Severability

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

### 33855. Limitation on severability

If Section 33840.5 or any portion thereof is held invalid such invalidity shall not affect other provisions of this chapter which can be given effect without such invalid section; however, after such section or portion thereof has been held to be invalid: (1) no assessment district shall be established which includes real property containing one or more residential dwelling units occupied by persons and families of low or moderate income; (2) no levy shall be imposed on any real property containing one or more residential dwelling units occupied by persons and families of low or moderate income; and (3) any existing levy imposed upon real property containing one or more residential units occupied by persons and families of low or moderate income shall be deemed to be rescinded and the lien discharged. If any provision in this section is held to be invalid no levy shall be imposed on any property within a special assessment area which includes real property containing one or more residential dwelling units occupied by persons and families of low or moderate income after such section or portion thereof is found to be invalid.

# PART 1.5. COMMUNITY REDEVELOPMENT DISASTER PROJECT LAW

**34000. Legislative findings and declarations**

(a) (1) The Legislature finds and declares all of the following:

(A) Floods, fires, hurricanes, earthquakes, storms, tidal waves, or other catastrophes are disasters that can harm the public health, safety, and welfare. Communities need effective methods for rebuilding after disasters.

(B) The extraordinary powers of redevelopment agencies have been and can be useful in the reconstruction of buildings and in stimulating local economic activity.

(C) The procedures and requirements of the Community Redevelopment Law (Part 1 (commencing with Section 33000)) restrict the ability of local officials to respond quickly after disasters.

(2) In enacting this part, it is, therefore, the intent of the Legislature to provide communities with alternative procedures and requirements for redevelopment after disasters.

(b) Any redevelopment agency or project area established pursuant to the Community Redevelopment Financial Assistance and Disaster Project Law (former Part 1.5 (commencing with Section 34000)), as that law existed prior to the effective date of the act that repeals that law, shall remain in existence and subject to that law as if the Legislature had not repealed that law.

(c) This part shall apply only to redevelopment activities undertaken pursuant to its provisions on and after the effective date of the act that adds this part.

(d) This part is known and may be cited as the Community Redevelopment Disaster Project Law.

**34001. Compliance with Community Redevelopment Law; timing of redevelopment plan adoption**

(a) Except as specifically provided in this part, a community shall comply with the Community Redevelopment Law.

(b) A community may establish a redevelopment agency, and adopt and implement a redevelopment plan pursuant to this part, within a disaster area if the community has commenced the adoption of the redevelopment plan within six months after the President of the United States has determined the disaster to be a major disaster pursuant to paragraph (1) of subdivision (a) of Section 34002 and the legislative body has adopted the redevelopment plan within 24 months after the President of the United States has determined the disaster to be a major disaster pursuant to paragraph (1) of subdivision (a) of Section 34002.

**34002. Definitions**

(a) As used in this part:

(1) "Disaster" means any flood, fire, hurricane, earthquake, storm, tidal wave, or other catastrophe occurring on or after January 1, 1996, for which the Governor of the state has certified the need for assistance and which the President of the United States has determined to be a major disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288), as it may be from time to time amended.

(2) "Project area" is an area that meets both of the following requirements:

(A) It is an area that is predominantly urbanized, as that term is defined in paragraph (3).

(B) It is limited to an area in which the disaster damage has caused conditions that are so prevalent and so substantial that they have caused a reduction, or a lack, of the normal predisaster usage of the area to an extent that causes a serious physical and economic burden that cannot reasonably be expected to be reversed or alleviated during the term of the redevelopment plan by private enterprise or governmental action, or both, without redevelopment.

(3) "Predominantly urbanized" means that not less than 80 percent of the land in the project area meets the requirements of paragraphs (1) and (3) of subdivision (b) of Section 33320.1.

(4) "Redevelopment agency" means any agency provided for and authorized to function pursuant to the Community Redevelopment Law or this part.

(b) Except as otherwise provided in this part, all words, terms, and phrases in this part shall have the same meanings as set forth in the Community Redevelopment Law.

**34003. Ordinance declaring need for redevelopment agency**

Any community in which a disaster has occurred, and which prior to January 1, 1996, had not authorized a redevelopment agency to transact business or exercise any powers, may, by ordinance, declare the need for an agency to function in the community. The ordinance of the legislative body declaring that there is a need for an agency to function in the community and the ordinance adopting the redevelopment plan shall be subject to referendum as prescribed by law for the ordinances of the legislative body.

**34004. Adoption of redevelopment plan: modified requirements**

Notwithstanding any provision of the Community Redevelopment Law, any redevelopment agency may plan, adopt, and implement a redevelopment plan, and the redevelopment agency and the legislative body of the community may approve a redevelopment plan for a project in a disaster area pursuant to the Community Redevelopment Law, without regard to any of the following:

(a) The requirements of Sections 33301 and 33302 that there be a planning commission and a general plan.

(b) The requirements of Sections 33320.1 and 33322 that the project area be a blighted area or that the project area be selected by a planning commission.

(c) The requirement of Section 33331 that the redevelopment plan shall conform to a general plan.

(d) The requirement of Section 33346 that the redevelopment plan be submitted to the planning commission.

(e) The requirements of Section 33367 that the ordinance of the legislative body adopting the redevelopment plan shall contain findings (1) that the project area is a blighted area and (2) that the redevelopment plan conforms to the general plan of the community.

(f) The "relocation findings and statement" required by Section 33367 or the requirement of subdivision (f) of Section 33352 that a relocation plan be adopted prior to the adoption of the redevelopment plan. Nothing in this subdivision shall be construed to eliminate the requirement that a redevelopment agency comply with the California Real Property Acquisition and Relocation Assistance Act (Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code).

(g) The time limits required by Section 33333.2. However, any redevelopment plan adopted pursuant to this part shall contain the following time limits:

(1) 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, which may not exceed 10 years from the adoption of the redevelopment plan.

(2) A time limit, not to exceed 10 years from the adoption of the redevelopment plan, on the effectiveness of the redevelopment plan.

(3) A time limit, not to exceed 30 years from the adoption of the redevelopment plan, to repay indebtedness with the proceeds of property taxes received pursuant to Section 33670.

**34004.1. San Bernardino County Redevelopment Agency – time limit on the effectiveness of the Cedar Glen Disaster Recovery Project Area**

Notwithstanding subdivision (g) of Section 34004, the time limit on the effectiveness of the redevelopment plan for the County of San Bernardino Redevelopment Agency's Cedar Glen Disaster Recovery Project Area shall not exceed 15 years from the adoption of the redevelopment plan.

***Notes***

*Section 34004.1 was added by an urgency statute that was chaptered on July 2, 2009 and took effect immediately.*

*The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of unique circumstances faced by the County of San Bernardino Redevelopment Agency. In that respect, a private water company's financial problems after the Old Fire delayed the construction of public works projects in the Cedar Glen Disaster Recovery Project Area.*

**34005. Limited exemption from CEQA**

(a) Notwithstanding subdivision (k) of Section 33352, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) shall not apply to the adoption of a redevelopment plan prepared pursuant to this part if the redevelopment agency determines at a public hearing, noticed in accord with this section, that the need to adopt a redevelopment plan at the

soonest possible time in order to use the authority in the Community Redevelopment Disaster Project Law requires the redevelopment agency to delay application of the provisions of the California Environmental Quality Act to the redevelopment plan in accordance with this section.

(b) If the redevelopment agency finds, pursuant to subdivision (a), that the application of the California Environmental Quality Act to the redevelopment plan is required to be delayed, the redevelopment agency shall prepare and certify an environmental impact report or approve a negative declaration for the redevelopment plan within 12 months after the effective date of the ordinance adopting the redevelopment plan. If, as a result of the preparation of the environmental document prepared pursuant to this subdivision, it is necessary to amend the redevelopment plan to mitigate any impacts, the agency shall amend the redevelopment plan according to the procedures of this part. If the environmental document is determined to be inadequate, the redevelopment agency shall not continue with projects which implement the redevelopment plan until an adequate environmental document has been certified; however, this determination shall not affect the validity of the redevelopment plan.

(c) Until the redevelopment agency certifies an environmental impact report or negative declaration for the redevelopment plan, all projects, as defined in the California Environmental Quality Act, which implement the redevelopment plan shall be subject to the California Environmental Quality Act, including, but not limited to, specific plans and rezonings. The environmental document for any implementing project shall include an analysis and mitigation of potential cumulative impacts, if any, that otherwise will not be known until an environmental document for the redevelopment plan is certified or approved and shall also include a reporting or monitoring program required pursuant to Section 21081 of the Public Resources Code.

(d) The notice for the public hearing required by subdivision (a) shall comply with and may be combined with the notices in Section 33349 or 33361. The notice shall state that the agency intends to consider and act upon a determination that the need to adopt a redevelopment plan at the soonest possible time in order to use the authority in the Community Redevelopment Disaster Project Law requires the redevelopment agency to delay application of the provisions of the California Environmental Quality Act to the redevelopment plan in accordance with this section.

**34006. *Last equalized assessment roll* and *base-year assessment roll* defined**

For purposes of Sections 33328, 33670, and 33675, and for purposes of allocation of taxes pursuant to Section 33670 and the provisions of any disaster area redevelopment plan, "last equalized assessment roll" and "base-year assessment roll" mean the assessment roll as reduced in accordance with subdivision (b) of Section 170 of the Revenue and Taxation Code.

**34007. Limitation on use of tax increments**

A redevelopment agency that has adopted a redevelopment plan pursuant to this part shall limit the use of the proceeds of taxes received pursuant to Section 33670 for the sole purpose of acquiring, demolishing, removing, relocating, repairing, restoring, rehabilitating, or replacing buildings, low- and moderate-income housing, facilities, structures, or other improvements, in accordance with applicable laws, which are within the project area, and which have been damaged or destroyed by the disaster, which are unsafe to occupy, or which are required to be acquired, demolished, altered, or removed because of the disaster. Nothing in this section shall be deemed to expand or diminish the authority of a redevelopment agency pursuant to the Community Redevelopment Law.

**34008. Inclusion within separate redevelopment plan**

A community that has adopted a redevelopment plan pursuant to this part may, prior to the termination of the plan, include all or a portion of the project area within a separate redevelopment plan pursuant to the Community Redevelopment Law. However, any portion of the project area included within the separate redevelopment plan shall meet all the requirements of the Community Redevelopment Law.

# PART 1.7. COMMUNITY DEVELOPMENT COMMISSION

## CHAPTER 1. DEFINITIONS

**34100. *Community* defined**

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

**34101. *Commission* defined**

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

**34102. *Redevelopment agency* defined**

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

**34103. *Housing authority* defined**

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

**34104. *Legislative body* defined**

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

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

### Article 1. Declaration of Creation and Establishment

**34110. Existence of community development commission**

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

**34111. Existence of redevelopment agency and housing authority**

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

### 34112. Purpose of community development commission

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

## Article 2. Procedures Making Commission Operative

### 34115. Ordinance declaring need for community development commission

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

### 34115.5. Function of community development commission

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

### 34116. Filing of ordinance

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

### 34117. Validity of establishment and authority of community development commission

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

### 34118. Authority of community development commission established prior to January 1, 1978

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

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

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

## Article 3. Legislative Body as Commission

### 34120. Declaration of legislative body as community development commission; appointment of tenant commissioners

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

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

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

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

### 34120.5. Creation and function of community development committee

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

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

**34121. Determination that legislative body not to function as community development commission**

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

## Article 4. Suspension of Commission

**34125. Ordinance declaring no further need for community development commission**

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

**34126. Filing of ordinance**

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

# CHAPTER 3. APPOINTMENT, COMPENSATION, AND REMOVAL OF COMMISSIONERS

**34130. Appointment of commissioners**

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

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

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

### 34130.5 Compensation to commissioners

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

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

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

### 34131. Limitation on membership

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

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

### 34140. Governmental functions

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

### 34141. General powers

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

**34143. Additional powers**

A commission may:

(a) Sue and be sued.

(b) Have a seal.

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

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

**34144. Employment of personnel**

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

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

**34145. Employment of staff, contractors and consultants**

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

**34146. Community development commission not a department of community**

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

**34147. Financial assistance**

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

**34148. Other assistance**

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

**34149. Other authorized powers**

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

**34150. Administration by general manager, executive director or administrator**

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

**34151. Charter cities**

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

**34152. Delegation of powers or functions by community development commission to community**

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

## CHAPTER 5. COMMUNITY REDEVELOPMENT LAW AND HOUSING AUTHORITIES LAW

**34160. Inconsistent provisions of Community Redevelopment Law and Housing Authorities Law not applicable**

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

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# A P P E N D I X

## RENT LEVELS

**50052.5. Affordable housing cost**

(a) For any owner-occupied housing that receives assistance prior to January 1, 1991, and a condition of that assistance is compliance with this section, "affordable housing cost" with respect to lower income households may not exceed 25 percent of gross income.

(b) For any owner-occupied housing that receives assistance on or after January 1, 1991, and a condition of that assistance is compliance with this section, "affordable housing cost" may not exceed the following:

(1) For extremely low households the product of 30 percent times 30 percent of the area median income adjusted for family size appropriate for the unit.

(2) For very low income households the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

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

(4) For moderate-income households, affordable housing cost shall not be less than 28 percent of the gross income of the household, nor exceed the product of 35 percent times 110 percent of area median income adjusted for family size appropriate for the unit. In addition, for any moderate-income household that has a gross income that exceeds 110 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable housing cost not exceed 35 percent of the gross income of the household.

(c) The department shall, by regulation, adopt criteria defining, and providing for determination of, gross income, adjustments for family size appropriate to the unit, and housing cost for purposes of determining affordable housing cost under this section. These regulations may provide alternative criteria, where necessary to be consistent with pertinent federal statutes and regulations governing federally assisted housing. The agency may, by regulation, adopt alternative criteria, and pursuant to subdivision (f) of Section 50462, alternative percentages of income may be adopted for agency-assisted housing development.

(d) with respect to moderate- and lower income households who are tenants of rental housing developments and members or shareholders of cooperative housing developments, or limited equity

cooperatives "affordable housing cost" has the same meaning as affordable rent, as defined in Section 50053.

(e) Regulations of the department shall also include a method for determining the maximum construction cost, mortgage loan, or sales price that will make housing available to an income group at affordable housing cost.

(f) For purposes of this section, "area median income" shall mean area median income as published by the department pursuant to Section 50093.

(g) For purposes of this section, "moderate income household" shall have the same meaning as "persons and families of moderate income" as defined in Section 50093.

(h) For purposes of this section, and provided there are no pertinent federal statutes applicable to a project or program, "adjusted for family size appropriate to the unit" shall mean for a household of one person in the case of a studio unit, two persons in the case of a one-bedroom unit, three persons in the case of a two-bedroom unit, four persons in the case of a three-bedroom unit, and five persons in the case of a four-bedroom unit.

**50053. Affordable rent**

(a) For any rental housing development that receives assistance prior to January 1, 1991, and a condition of that assistance is compliance with this section, "affordable rent" with respect to lower income households shall not exceed the percentage of the gross income of the occupant person or household established by regulation of the department that shall not be less than 15 percent of gross income nor exceed.25 percent of gross income.

(b) For any rental housing development that receives assistance on or after January 1, 1991, and a condition of that assistance is compliance with this section, "affordable rent," including a reasonable utility allowance, shall not exceed:

(1) For extremely low income households the product of 30 percent times 30 percent of the area median income adjusted for family size appropriate for the unit.

(2) For very low income households, the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

(3) For lower income households whose gross incomes exceed the maximum income for very low income households, the product of 30 percent times 60 percent of the area median income adjusted for family size appropriate for the unit. In addition, for those lower income households with gross incomes that exceed 60 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable rent be established at a level not to exceed 30 percent of gross income of the household.

(4) For moderate-income households, the product of 30 percent times 110 percent of the area median income adjusted for family size appropriate for the unit. In addition, for those moderate-income households whose gross incomes exceed 110 percent of the area median income adjusted for family size, it shall be optional for any state or local funding agency to require that affordable rent be established at a level not to exceed 30 percent of gross income of the household.

(c) The department's regulation shall permit alternative percentages of income for agency-assisted rental and cooperative housing developments pursuant to regulations adopted under subdivision (f) of Section 50462. The department shall, by regulation, adopt criteria defining and providing for determination of gross income, adjustments for family size appropriate to the unit, and rent for purposes of this section. These regulations may provide alternative criteria, where necessary, to be consistent with pertinent federal statutes and regulations governing federally assisted rental and cooperative housing. The agency may, by regulation, adopt alternative criteria, and pursuant to subdivision (f) of Section 50462, alternative percentages of income may be adopted for agency-assisted housing developments.

For purposes of this section, "area median income," "adjustments for family size appropriate to the unit," and "moderate-income household" shall have the same meaning as provided in Section 50052.5.

**50079.5 Lower income household**

(a) "Lower income households" means persons and families whose income does not exceed the qualifying limits for lower income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. The limits shall be published by the department in the California Code of Regulations as soon as possible after adoption by the Secretary of Housing and Urban Development. In the event the federal standards are discontinued, the department shall, by regulation, establish income limits for lower income households for all geographic areas of the state at 80 percent of area median income, adjusted for family size and revised annually.

(b) "Lower income households" includes very low income households, as defined in Section 50105, and extremely low income households, as defined in Section 50106. The addition of this subdivision does not constitute a change in, but is declaratory of, existing law.

(c) As used in this section, "area median income" means the median family income of a geographic area of the state.

**50093. Persons and families of low, moderate, and median income; definitions; filing and publication of standards and criteria**

"Persons and families of low or moderate income" means persons and families whose income does not exceed 120 percent of area median income, adjusted for family size by the department in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937. However, the agency and the department jointly, or either acting with the concurrence of the Secretary of the Business and Transportation Agency, may permit the agency to use higher income limitations in designated geographic areas of the state, upon a determination that 120 percent of the median income in the particular geographic area is too low to qualify a substantial number of persons and families of low or moderate income who can afford rental or home purchase of housing financed pursuant to Part 3 (commencing with Section 50900) without subsidy.

"Persons and families of low or moderate income" includes very low income households, as defined in Section 50105, extremely low income households, as defined in Section 50106, and lower income households as defined in Section 50079.5, and includes persons and families of extremely low income, persons and families of very low income, persons and families of low income, persons and families of moderate income, and middle-income families. As used in this division:

(a) "Persons and families of low income" or "persons of low income" means persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of housing financed pursuant to this division.

(b) "Persons and families of moderate income" or "middle-income families" means persons and families of low or moderate income whose income exceeds the income limit for lower income households.

(c) "Persons and families of median income" means persons and families whose income does not exceed the area median income, as adjusted by the department for family size in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937.

As used in this section, "area median income" means the median family income of a geographic area of the state, as annually estimated by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937. In the event these federal determinations of area median income are discontinued, the department shall establish and publish as regulations income limits for persons and families of median income for all geographic areas of the state at 100 percent of area median income, and for persons and families of low or moderate income for all geographic areas of the state at 120 percent of area median income. These income limits shall be adjusted for family size and shall be revised annually.

For purposes of this section, the department shall file, with the Office of Administrative Law, any changes in area median income and income limits determined by the United States Department of Housing and Urban Development, together with any consequent changes in other derivative income limits determined by the department pursuant to this section. These filings shall not be subject to Article 5 (commencing with Section 11346) or Article 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, but shall be effective upon filing with the Office of Administrative Law and shall be published as soon as possible in the California Regulatory Code Supplement and the California Code of Regulations.

The department shall establish and publish a general definition of income, including inclusions, exclusions, and allowances, for qualifying persons under the income limits of this section and Sections 50079.5**,** 50105, and 50106 to be used where no other federal or state definitions of income apply. This definition need not be established by regulation.

Nothing in this division shall prevent the agency or the department from adopting separate family size adjustment factors or programmatic definitions of income to qualify households, persons, and families for programs of the agency or department, as the case may be.

**50105. Very low income households**

(a) "Very low income households" means persons and families whose incomes do not exceed the qualifying limits for very low income families as established and amended from time to time pursuant to Section 8 of the United States Housing Act of 1937. These qualifying limits shall be published by the department in the California Code of Regulations as soon as possible after adoption by the Secretary of Housing and Urban Development. In the event the federal standards are discontinued, the department shall, by regulation, establish income limits for very low income households for all geographic areas of the state at 50 percent of area median income, adjusted for family size and revised annually.

(b) "Very low income households" includes extremely low income households, as defined in Section 50106. The addition of this subdivision does not constitute a change in, but is declaratory of, existing law.

(c) As used in this section, "area median income" means the median family income of a geographic area of the state.

**50106. Extremely low income households**

"Extremely low income households" means persons and families whose incomes do not exceed the qualifying limits for extremely low income families as established and amended from time to time by the Secretary of Housing and Urban Development and defined in Section5.603(b) of Title 24 of the Code of Federal Regulations. These limits shall be published by the department in the California Code of Regulations as soon as possible after adoption by the Secretary of Housing and Urban Development. In the event the federal standards are discontinued, the department shall, by regulation, establish income limits for extremely low income households for all geographic areas of the state at 30 percent of area median income, adjusted for family size and revised annually. As used in this section, "area median income" means the median family income of a geographic area of the state.

# Repealed Sections of Health & Safety Code

**1994**

| | |
|---|---|
| 330012 | Repealed by AB 1290, ch. 942, stats. 1993, eff. 1/1/94 |
| 33032 | Repealed by AB 1290,ch. 942, stats. 1993, eff. 1/1/94 |
| 33338.1 | Repealed by AB 1290,ch. 942, stats. 1993, eff. 1/1/94 |
| 33348.5 | Repealed by AB 1290,ch. 942, stats. 1993, eff. 1/1/94 |
| 33353 | Repealed by AB 1290,ch. 942, stats. 1993, eff. 1/1/94 |
| 33353.1 | Repealed by AB 1290,ch. 942, stats. 1993, eff. 1/1/94 |
| 33353.3 | Repealed by AB 1290,ch. 942, stats. 1993, eff. 1/1/94 |
| 33353.4 | Repealed by AB 1290,ch. 942, stats. 1993, eff. 1/1/94 |
| 33353.5 | Repealed by AB 1290,ch. 942, stats. 1993, eff. 1/1/94 |
| 33353.7 | Repealed by AB 1290,ch. 942, stats. 1993, eff. 1/1/94 |
| 33354.4 | Repealed by AB 1290,ch. 942, stats. 1993, eff. 1/1/94 |
| 33413 | *Repealed and added by ch. 942, stats. 1993, eff. 1/1/94 |

**1995**

None

**1996**

| | |
|---|---|
| 34000 | *Repealed and Added by AB 189, ch. 186, stats. 1995, eff. 1/1/96 |
| 34001 | *Repealed and Added by AB 189, ch. 186, stats. 1995, eff. 1/1/96 |
| 34002 | *Repealed and Added by AB 189, ch. 186, stats. 1995, eff. 1/1/96 |
| 34003 | *Repealed and Added by AB 189, ch. 186, stats. 1995, eff. 1/1/96 |
| 34004 | *Repealed and Added by AB 189, ch. 186, stats. 1995, eff. 1/1/96 |
| 34005 | *Repealed and Added by AB 189, ch. 186, stats. 1995, eff. 1/1/96 |
| 34006 | *Repealed and Added by AB 189, ch. 186, stats. 1995, eff. 1/1/96 |
| 34007 | *Repealed and Added by AB 189, ch. 186, stats. 1995, eff. 1/1/96 |
| 34008 | *Repealed and Added by AB 189, ch. 186, stats. 1995, eff. 1/1/96 |
| 34009 | *Repealed and Added by AB 189, ch. 186, stats. 1995, eff. 1/1/96 |

**1997**

| | |
|---|---|
| 33492.17 | Repealed by AB 2736, ch. 221, stats. 1996, eff. 7/22/96 |
| 33492.19 | Repealed by AB 2736, ch. 221, stats. 1996, eff. 7/22/96 |
| 33492.21 | Repealed by AB 2736, ch. 221, stats. 1996, eff. 7/22/96 |
| 33492.23 | Repealed by AB 2736, ch. 221, stats. 1996, eff. 7/22/96 |
| 33492.25 | Repealed by AB 2736, ch. 221, stats. 1996, eff. 7/22/96 |
| 33492.27 | Repealed by AB 2736, ch. 221, stats. 1996, eff. 7/22/96 |
| 33030.5 | Repealed by SB 1748, ch. 799, stats. 1996, eff. 1/1/97 |
| 33450 | Repealed by SB 1748, ch. 799, stats. 1996, eff. 1/1/97 |
| 33251 | Repealed by SB 1748, ch. 799, stats. 1996, eff. 1/1/97 |

**1997 Continued**

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| 33252 | Repealed by SB 1748, ch. 799, stats. 1996, eff. 1/1/97 |
| 33253 | Repealed by SB 1748, ch. 799, stats. 1996, eff. 1/1/97 |
| 33254 | Repealed by SB 1748, ch. 799, stats. 1996, eff. 1/1/97 |
| 33298 | Repealed by SB 1748, ch. 799, stats. 1996, eff. 1/1/97 |

**1998**

| | |
|---|---|
| 33320.6 | Repealed by SB 320, ch. 580, stats. 1997, eff. 1/1/98 |
| 33334.18 | Repealed by SB 320, ch. 580, stats. 1997, eff. 1/1/98 |
| 33492.114 | Repealed by AB 320, ch. 580, stats. 1997, eff. 1/1/98 |

**1999**

| | |
|---|---|
| 33334.27 | *Repealed and Added by AB 639, ch. 951, stats 1998, eff. 9/29/98 |
| 33670.95 | *Repealed and Added by AB 2699, ch. 724, stats 1998, eff. 1/1/99 |

**2000**

| | |
|---|---|
| 33426.7 | *Repealed and Added by AB 178, ch. 462, stats. 1999, eff. 1/1/00 |

**2001**

| | |
|---|---|
| 33460 | Repealed by AB 2008, ch. 471, stats. 2000, eff. 1/1/01 |
| 33461 | Repealed by AB 2008, ch. 471, stats. 2000, eff. 1/1/01 |
| 33462 | Repealed by AB 2008, ch. 471, stats. 2000, eff. 1/1/01 |
| 33463 | Repealed by AB 2008, ch. 471, stats. 2000, eff. 1/1/01 |
| 33464 | Repealed by AB 2008, ch. 471, stats. 2000, eff. 1/1/01 |
| 33465 | Repealed by AB 2008, ch. 471, stats. 2000, eff. 1/1/01 |
| 33466 | Repealed by AB 2008, ch. 471, stats. 2000, eff. 1/1/01 |
| 33492.50 | Repealed by AB 774, ch. 290, stats. 2000, eff. 1/1/01 |
| 33492.51 | Repealed by AB 774, ch. 290, stats. 2000, eff. 1/1/01 |
| 33492.52 | Repealed by AB 774, ch. 290, stats. 2000, eff. 1/1/01 |
| 33492.53 | Repealed by AB 774, ch. 290, stats. 2000, eff. 1/1/01 |
| 33492.60 | Repealed by AB 2008, ch. 471, stats. 2000, eff. 1/1/01 |
| 33492.61 | Repealed by AB 2008, ch. 471, stats. 2000, eff. 1/1/01 |
| 33492.62 | Repealed by AB 2008, ch. 471, stats. 2000, eff. 1/1/01 |
| 33492.63 | Repealed by AB 2008, ch. 471, stats. 2000, eff. 1/1/01 |
| 33492.64 | Repealed by AB 2008, ch. 471, stats. 2000, eff. 1/1/01 |
| 33492.65 | Repealed by AB 2008, ch. 471, stats. 2000, eff. 1/1/01 |
| 33492.66 | Repealed by AB 2008, ch. 471, stats. 2000, eff. 1/1/01 |
| 33492.67 | Repealed by AB 2008, ch. 471, stats. 2000, eff. 1/1/01 |

* Repealed statutes and added new language.

**2002**

| | |
|---|---|
| 33334.17 | Repealed by AB. 661, ch. 626, stats. 2001, eff. 1/1/02 |
| 34009 | Repealed by SB 53, ch. 9, stats. 2001, eff. 1/1/02 |

**2003**

| | |
|---|---|
| 33331.5 | Repealed by AB 3034, ch. 664, stats. 2002, eff. 1/1/03 |
| 33333.13 | Repealed by SB 701, ch. 782, stats. 2002, eff. 1/1/03 |
| 33334.28 | *Repealed and Added by SB 701, ch. 782, stats. 2002, eff. 1/1/03 |
| 33411.5 | Repealed by SB 701, ch. 782, , stats. 2002, eff. 1/1/03 |
| 33413.18 | *Repealed and Added by SB 701, ch. 782, stats. 2002, eff. 1/1/03 |
| 33459.2 | Repealed by SB 1684, ch. 1004, stats. 2002, eff. 1/1/03 |
| 33459.7 | Repealed by SB 1684, ch. 1004, stats. 2002, eff. 1/1/03 |

**2004**

None

**2005**

| | |
|---|---|
| 33672.7 | Repealed by AB138, Ch. 72, Stats. 2005, eff. 7/19/05 |

**2006**

| | |
|---|---|
| 33334.20 | Repealed by SB253, Ch. 595, Stats. 2005, eff. 1/1/06 |
| 33456 | *Repealed and added by ch.603, stats.2006, eff. 1/1/06 |

**2007**

None

**2008**

| | |
|---|---|
| 33701 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33702 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33703 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33704 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33705 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33706 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33707 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33708 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33709 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33710 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33711 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |

* Repealed statutes and added new language.

**2008 Continued**

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|---|---|
| 33712 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33713 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33714 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33715 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33716 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33717 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33718 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33719 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33720 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33724 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33725 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33726 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33727 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33728 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33729 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33730 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33731 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33732 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33733 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33734 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33735 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33736 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33737 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33737.5 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33737.6 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |
| 33738 | Repealed by AB 382, Ch. 596 stats. 2007, eff. 1/1/08 |

**2009**

None

**2010**

| | |
|---|---|
| 33007.5 | Repealed by AB 1246, Ch. 520 stats. 2009, eff. 1/1/10 |

* Repealed statutes and added new language.