

1987

Selected Legislation on Redevelopment

Assembly Committee on Housing and Community Development

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Assembly Committee on Housing and Community Development

DAN HAUSER, Chairman

SELECTED LEGISLATION ON
REDEVELOPMENT

DEPOSITORY

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California Legislature

Assembly Committee

on

Housing and Community Development

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MEMORANDUM

TO: Members of the Legislature
Interested Parties

FROM: Dan Hauser, Chairman
Assembly Committee on Housing & Community Development

RE: Redevelopment Legislation

As Chairman of the Housing and Community Development Committee, it is my pleasure to inform you of the significant actions taken in the area of redevelopment this past session.

The Housing and Community Development Committee has addressed several significant issues including expanding a redevelopment agency's authority outside the project area, provisions for child-care within project areas, examining expenditures in the Low & Moderate Income Housing Fund, and several innovative financing options for the construction of multi-family rental units.

This report lists significant bills which have been signed and vetoed. I hope this information will be of interest to you and your staff.

DH:TS:js

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REDEVELOPMENT

Since the passage of Proposition 13 in 1978, local governments have had limited funding sources for community development. Many cities and counties have had a tendency to reduce residential zoning in favor of the larger tax base generated by commercial and industrial developments. Redevelopment agencies, because of their ability to issue bonds against future tax-increment without approval of the electorate, are starting to become the dominant source of financing for public facilities and other infrastructure improvements. Additionally, insufficient residential zoning has increased the per unit cost of housing due to the higher cost of land.

Under current state and federal administrations, housing moneys have been drastically reduced over the last eight years. The federal government, at one time the largest producer of affordable housing, has cut housing moneys by 77 percent and has shifted funding from programs for new construction to programs which subsidize existing units.

Through all of these changes redevelopment agencies have remained one of the few sources of financing for profit and nonprofit developers of low and moderate-income housing. Legislation in this last session has placed a greater responsibility on the agencies to finance the local jurisdictions' "fair share" of affordable housing (AB 1735, AB 4238, AB 4566 and AB 4567).

Over the last ten years, redevelopment plans have contained more community objectives including economic development and transportation planning. This increased dependence on tax-increment bond financing has caused agencies to become more creative in their approach to meeting these new challenges. This past session, the committee heard several measures which would have expanded the agencies' authority outside the individual project area (AB 2178 and AB 2181), and outside the territorial jurisdiction of the agency (SB 1719).

Additionally, the statewide association of redevelopment agencies sought authorization to finance infrastructure improvements for commercial and industrial developments on nonblighted vacant land (AB 4281). Although the measure failed, the question remains as to where the money will come from to pay for the development and redevelopment of California's growing communities.

AB 466 (Polanco): Multifamily Rental Housing Outside Project Area

Extends the sunset date on authorization for redevelopment agencies which operate within jurisdictions with populations over 600,000 to provide financing for residential construction of multifamily rental units outside the project areas.

Status: Chapter 324, Statutes of 1987.

AB 1735 (Isenberg): Replacement Housing

Makes changes in several sections of redevelopment law regarding the redevelopment agency's responsibility to provide low-income and moderate-income housing, including tightening the reporting requirements to HCD and increasing an agency's replacement housing obligations for low- and moderate-income housing units removed through redevelopment.

Status: Chapter 1111, Statutes of 1987.

AB 2178 (Polanco): Revenue Bond Financing Outside Project Area

Authorized all redevelopment agencies to provide financing for construction and rehabilitation of residential structures, including certain mixed-use residential/commercial structures, outside the project area.

Status: Referred to Interim Study.

AB 2179 (Polanco): Disposal of Small Residential Developments

Existing law prohibits the sale or lease of property purchased with tax increment monies until the local legislative body has held a public hearing and determined that the sale of the property is to the benefit of the redevelopment project area. This measure would allow the legislative body to authorize the agency to hold the public hearing instead if the housing project consists of four units or less.

Status: Chapter 935, Statutes of 1987.

AB 2181 (Polanco): Eminent Domain Outside the Project Area

Specifically authorized redevelopment agencies to acquire property outside a project area through the use of eminent domain for the purpose of providing affordable housing to persons and families of low and moderate-income.

Status: Died in Assembly Housing and Community Development

AB 2182 (Polanco): Early Retirement of Redevelopment Bonds

Authorizes a redevelopment agency to repurchase its bonds for cancellation at a price exceeding the principal amount of the bonds, any accrued interest, and the redemption premium if the agency determines the repurchase is to the financial advantage of the agency.

Status: Chapter 365, Statutes of 1987.

AB 3358 (Roos) - Child Care Facilities

Authorized the use of Low and Moderate Income Housing Fund moneys for child care facilities, upon a specified finding by the legislative body that no additional funding is required for housing within the jurisdiction of the agency.

Additionally, the measure required every redevelopment plan adopted or amended on or after January 1, 1989, to make adequate provisions for child care facilities, unless the plan contains a finding that low- and moderate-income persons will not live or work within the project area.

Status: Vetoed

AB 4138 (Polanco) - Project Area Committee Formation

Requires the legislative body to adopt a prescribed procedure for the formation of a project area committee (PAC), including sending written notices to residential and business tenants and holding a minimum of one informational meeting prior to the selection of the PAC.

Status: Chapter 1401, Statutes of 1988

AB 4235 (Isenberg) - Reporting Requirements

Under existing law, a legislative body which wishes to receive a tax-increment allocation for its redevelopment agency by the county auditor-controller is required to adopt a prescribed ordinance which states a debt limit under which the agency will complete its redevelopment plan. The county auditor-controller is not authorized to allocate moneys to an agency above the set debt limit.

Under certain specified circumstances, a redevelopment agency with project areas established prior to 1977 may defer until 1996 allocating 20 percent of tax-increment moneys into its Low and Moderate Income Housing Fund (Fund). Due to the enactment of legislation passed last year, AB 1735 (Chapter 1111, Statutes of 1987), these agencies must account for this lack of allocation as an indebtedness of the Fund.

Provisions of this bill specify that this new indebtedness should not be counted toward the debt limit and directs the agency to amend its debt limit to include the new Fund debt. The legislative body is not required to go through the normal plan amendment process, but is authorized to simply adopt an amended ordinance with an increased debt limit amount at a duly noticed public hearing.

An agency is protected under the provisions of this measure by language which directs a court to sustain the actions of the legislative body in any challenge to the amended debt limit ordinance unless the court finds that the legislative body's actions were arbitrary or capricious.

Additionally, the measure specifically authorizes a city or county to acquire property for the purpose of providing low- and moderate-income housing, revises the income requirements for future residents of these properties, and requires that the units remain affordable for the longest feasible time but not less than 30 years.

The measure also revises various reporting requirements for the agency's annual report including subcategories for elderly and families of low and moderate income. The Department of Housing and Community Development (HCD) is required under the provisions of this measure to transmit a copy of this report to all redevelopment agencies, as specified.

Finally, the measure specifies that in any proceeding questioning the actions of an agency in regard to the validity of an expenditure from moneys designated for programs and projects which specifically benefit persons and families of low and moderate income that the party raising the issue transmit a copy of the party's complaint to the director of HCD within 10 days of filing the complaint with the court. The measure prohibits the court from providing any relief action until this requirement has been met.

Status: Chapter 1604, Statutes of 1988

AB 4281 (Cortese): Redevelopment of Nonblighted Vacant Land

Created a new type redevelopment project area, called a development district and authorizes the use of tax-increment bonds to finance public improvements and facilities within these districts. A development district is defined as an area which does not meet the requirements of a redevelopment project area and which cannot be developed privately.

Status: Sent to Interim Study.

AB 4566 (Polanco & Ferguson) - Timely Expenditures From The Low and Moderate Income Housing Fund

Requires the expenditure of all excess surplus in an agency's Low and Moderate Income Housing Fund within five years. If at the end of the designated five-year period any of the surplus is left in the fund, these moneys shall be transferred to a county or local housing authority for expenditure within the territorial jurisdiction of the agency. Excess surplus is defined as the greater of: (a) \$500,000 or (b) the aggregate of five years' of deposits.

Status: Chapter 1565, Statutes of 1988

AB 4567 (Ferguson & Polanco) - Lawful Expenditures from the Low and Moderate Income Housing Fund

Restricts the use of Fund moneys to on-site and off-site improvements which directly and specifically improves or increases the community's supply of low- or moderate-income housing.

Additionally, the measure authorizes the use of Low and Moderate Income Housing Fund money for insurance premiums that may be required during the construction or rehabilitation of residential property and specifies that an agency may credit its Low and Moderate Income Housing Fund an amount equal to the loss of revenue due to below market sale of specified residential property.

Status: Chapter 1564, Statutes of 1988

SB 444 (Bergeson): Definition of a Project Area

Makes technical and nonsubstantive changes in the definition of a project area. The purpose of this bill is to clarify that blight caused by poor planning and inappropriate subdivisions may be corrected through redevelopment.

Status: Chapter 403, Statutes of 1987.

SB 481 (Russell): Pasadena Redevelopment

Validates an agreement between the Redevelopment Commission of Pasadena and the City of Pasadena dated July 7, 1986, including any amendments adopted before July 13, 1987.

Status: Chapter 1010, Statutes of 1987.

SB 851 (McCorquodale): Financial Responsibility of Agencies to Fire Departments

Authorizes fire protection districts to request additional moneys from redevelopment agencies to help alleviate any financial burdens to the districts brought on by the implementation of the redevelopment plans. This measure applies to redevelopment plans adopted prior to January 1, 1977.

Status: Chapter 622, Statutes of 1987.

SB 1719 (Presley) - Exportation of Low and Moderate Income Fund Moneys to Counties

Under existing law, a redevelopment agency is required to expend all redevelopment tax-increment moneys within the territorial jurisdiction of the agency.

This measure would have authorized the City of Indian Wells to finance the construction of new housing in the County of Riverside with property tax increment moneys in the agency's Low and Moderate Income Housing Fund.

Status: Vetoed

SB 2520 (Mello) - Artist Living/Work Space

Specifically authorized a redevelopment agency to provide specified financial and technical assistance to eligible applicants regarding the acquisition and rehabilitation of living and work spaces for qualified artists.

Additionally, the measure recommends cities and counties to adopt alternative building regulations for the conversion of underutilized commercial and industrial buildings to joint living and work space for qualified artists.

Status: Vetoed

SB 2740 (Kopp) - Adoption of a Redevelopment Plan

This measure makes the following revisions regarding the adoption of a redevelopment plan:

- (1) Extends the sunset date on the definition of financial detriment to January 1, 1991.
- (2) Requires a redevelopment agency to provide copies of all written information it has concerning ongoing and planned development in the proposed redevelopment project area to members of the fiscal review committee. Documents which contain trade secrets or the financial condition of contractors are exempted from this requirement.
- (3) Requires the legislative body to make a prescribed written response to written objections of an affected property owner or affected taxing agency.
- (4) Requires a legislative body to hold a subsequent public hearing prior to the adoption of the redevelopment plan if written objections have been presented to the legislative body.

Status: Chapter 1510, Statutes of 1988

APPENDIX 1

Assembly Bill 1735 (Isenberg)

Status: Chapter 1111, Statutes of 1987

Assembly Bill No. 1735

CHAPTER 1111

An act to amend Sections 33080.6, 33334.2, 33334.3, 33334.6, and 33413 of, to amend, repeal, and add Section 33080.4 of, and to add Section 33011.2 to, the Health and Safety Code, relating to housing.

[Approved by Governor September 24, 1987. Filed with Secretary of State September 25, 1987.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1735, Isenberg. Redevelopment: housing.

(1) Existing law requires, with certain exceptions, that when a redevelopment project destroys or otherwise removes dwelling units from the low- and moderate-income housing market that the units be replaced, as specified. Existing law also requires the Department of Housing and Community Development to annually report on redevelopment activities.

This bill would require the annual report of the Department of Housing and Community Development until January 1, 1991, to include a listing of redevelopment projects without these replacement-housing obligations, reports of redevelopment agency findings respecting low- and moderate-income housing obligations, and reports of project area mergers.

(2) Existing law requires, with respect to redevelopment projects begun and areas added to redevelopment project areas on or after January 1, 1977, that 20% of any taxes allocated for redevelopment under a redevelopment plan providing for so-called tax-increment financing, be used for low- and moderate-income housing, unless the agency makes certain findings.

This bill would revise the requirements for these findings and require the findings to be made annually. The bill would, with certain exceptions, require low- and moderate-income housing units developed or assisted with these moneys, pursuant to agreements approved by redevelopment agencies on or after January 1, 1988, to remain affordable, as specified, for the longest feasible time, but not less than 15 years in the case of rental housing and 10 years in the case of owner-occupied units. The bill would require the redevelopment agency to provide for enforcement through recorded covenants or restrictions enforceable by the agency and the city or county. The bill would also require protection of the agency's investment in owner-occupied units of this housing during the 10-year restriction pursuant to an adopted program that would include allocation to the agency of a prescribed portion of the proceeds of sales during the 10-year period. Insofar as these requirements would apply to redevelopment projects commenced prior to the bill's effective date, the bill would impose a state-mandated local program.

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(3) Under existing law, a redevelopment agency may defer the above housing obligations for prescribed reasons.

This bill would declare any deficit created thereby to be an indebtedness of the redevelopment project and would eliminate an existing requirement for an agency resolution.

(4) Under existing law, a redevelopment agency is required to replace low- and moderate-income housing destroyed or removed from that housing market by redevelopment in redevelopment projects for which the final plan is adopted on or after January 1, 1976, and in areas added to pre-1976 redevelopment projects on or after that date. Existing law additionally requires specified percentages of housing developed or rehabilitated in a redevelopment project to be low- or moderate-income housing, as specified. Existing law requires this housing to be committed to for this occupancy for at least the duration of land use controls in the redevelopment plan.

This bill would require the above housing to be committed to this occupancy, but for not less than the duration of the redevelopment land use controls, as specified. This bill would delete general applicability of the replacement-housing obligations to areas added to pre-1976 redevelopment projects on and after January 1, 1976, and would, instead make the requirements for replacement housing applicable to pre-1976 redevelopment projects as to dwelling units destroyed or removed from the low- and moderate-income housing market on or after January 1, 1996. Insofar as these requirements would apply to redevelopment projects commenced prior to the bill's effective date, the bill would impose a state-mandated local program.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that no reimbursement shall be made from the State Mandates Claims Fund for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

(6) This bill would incorporate additional changes in Section 33334.2 of the Health and Safety Code, proposed by SB 1218, to be operative only if SB 1218 and this bill are both chaptered and become effective on or before January 1, 1988, and this bill is chaptered last.

The people of the State of California do enact as follows:

SECTION 1. The Legislature reaffirms its finding and declaration, stated in Section 33334.6 of the Health and Safety Code,

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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 of low and moderate income, as defined by Section 50093 of that code, 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, and 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 of that code is of statewide benefit and of particular benefit and assistance to all local governmental agencies where the housing is provided.

SEC. 2. Section 33011.2 is added to the Health and Safety Code, to read:

33011.2. "Director" means the Director of Housing and Community Development.

SEC. 3. Section 33080.4 of the Health and Safety Code is amended to read:

33080.4. 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:

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

(b) Pursuant to Section 33413.5, the total number of households, including separate subtotals of the numbers of households for persons and families of low or moderate income and very low income households, 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.

(c) The total number of dwelling units housing persons and families of low and moderate income and very low income households, 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.

(d) 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 persons and families of low and moderate income and very low income households, respectively.

(e) The status and use of the Low and Moderate Income Housing Fund created pursuant to Section 33334.3, including information on

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the use of this fund for very low income households, lower income households and households for persons and families of low or moderate income.

(f) 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.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

SEC. 3.5. Section 33080.4 is added to the Health and Safety Code, to read:

33080.4. For the purposes of compliance with paragraph (e) of Section 33080.1, the description of the agency's activities shall contain the following information irrespective of whether or not each activity is funded exclusively by the state or federal government:

(a) The total number of households that were displaced or moved from their dwelling units as part of a redevelopment project of the agency during the previous fiscal year.

(b) The total number of households 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.

(c) The total number of dwelling units housing persons and families of low and moderate income 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.

(d) The total number of dwelling units which the agency has caused to be constructed, rehabilitated, or developed during the previous fiscal year for occupancy at an affordable housing cost by persons and families of low and moderate income.

This section shall become operative January 1, 1991.

SEC. 4. Section 33080.6 of the Health and Safety Code is amended to read:

33080.6. On or before April 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.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

SEC. 5. Section 33334.2 of the Health and Safety Code is amended to read:

33334.2. (a) Not less than 20 percent of all taxes which are allocated to the agency pursuant to Section 33670 shall be used by the agency for the purposes of increasing and improving 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, and very low income households, as defined in Section 50105, unless one of the following findings is made annually by resolution:

(1) That no need exists in the community to improve or increase the supply of low- and moderate-income housing in a manner which 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.

(2) That some stated percentage less than 20 percent of the taxes which are allocated to the agency pursuant to Section 33670 is sufficient to meet the housing needs of the community 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.

(3) 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 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 which 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 which 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 the provisions of Article 9 (commencing with Section 33410).

(b) Within 10 days following the making of a finding under 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.

(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.

(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 purpose of this section, the agency may exercise any or all of its powers, including the following:

(1) Acquire land or building sites.

(2) Improve land or building sites with onsite or offsite improvements.

(3) Donate land to private or public persons or entities.

(4) Construct buildings or structures.

(5) Acquire buildings or structures.

(6) Rehabilitate buildings or structures.

(7) Provide subsidies to, or for the benefit of, 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.

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

(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) 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 such 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.

(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) The requirements of 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 which 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) 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:

(A) Statewide median household income.

(B) Countywide median household income.

(C) 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.

(2) 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.

(3) 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.

(4) 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.

SEC. 5.5. Section 33334.2 of the Health and Safety Code, as amended by Section 1 of SB 1218, is amended to read:

33334.2. (a) Not less than 20 percent of all taxes which are allocated to the agency pursuant to Section 33670 shall be used by the agency for the purposes of increasing and improving 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, and very low income households, as defined in Section 50105, unless one of the following findings is made annually by resolution:

(1) That no need exists in the community to improve or increase the supply of low- and moderate-income housing in a manner which 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.

(2) That some stated percentage less than 20 percent of the taxes which are allocated to the agency pursuant to Section 33670 is sufficient to meet the housing needs of the community 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.

(3) 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 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 which 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 which 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 the provisions of Article 9 (commencing with Section 33410).

(b) Within 10 days following the making of a finding under 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.

(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.

(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 purpose of this section, the agency may exercise any or all of its powers, including the following:

- (1) Acquire land or building sites.
- (2) Improve land or building sites with onsite or offsite improvements.
- (3) Donate land to private or public persons or entities.
- (4) Construct buildings or structures.
- (5) Acquire buildings or structures.
- (6) Rehabilitate buildings or structures.
- (7) Provide subsidies to, or for the benefit of, 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.
- (8) Develop plans, pay principal and interest on bonds, loans, advances, or other indebtedness, or pay financing or carrying charges.

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

(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) 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 such 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.

(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) The requirements of 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 which 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) 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:

(A) Statewide median household income.

(B) Countywide median household income.

(C) 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.

(2) 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.

(3) 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.

(4) 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.

SEC. 6. Section 33334.3 of the Health and Safety Code is amended to read:

33334.3. (a) The funds which are required by Section 33334.2 or 33334.6 to be used for the purposes of increasing and improving 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 shall accrue to the fund and may only be used in the manner prescribed in Section 33334.2.

(c) The moneys in the Low and Moderate Income Housing Fund shall be used to increase and improve 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 and improvement of low- and moderate-income housing and that the amount of money spent for planning and general administrative activities associated with the development or improvement of that housing not be disproportionate to the amount actually spent for the costs of production and improvement of that housing.

(e) 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 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 costs to persons and families of low or moderate income and very low income households for the longest feasible time, but for not less than the following periods of time, except as provided in paragraph (3) of subdivision (j) of Section 33334.2:

(1) Fifteen 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 (A) 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 (B) the comparable replacement units are not developed with moneys from the Low and Moderate Income Housing Fund.

(2) Ten years for owner-occupied units. However, the agency 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 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.

The agency shall require the recording in the office of the county recorder of covenants or restrictions implementing this subdivision for each parcel or unit of real property subject to this subdivision. Notwithstanding any other provision of law, the covenants or restrictions shall run with the land and shall be enforceable, against the original owner and successors in interest, by the agency or the community.

(f) "Housing," as used in this section, includes residential hotels, as defined in subdivision (k) of Section 37912.

SEC. 7. Section 33334.6 of the Health and Safety Code is amended to read:

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

(b) This section is applicable to all project areas, or portions of project areas, which are not subject to Section 33334.2, except that a project area, or portion of a project area, for which a resolution was adopted pursuant to subdivision (i) of Section 33334.2 is subject to this section. Project areas subject to this section which are merged prior to, or on or after, January 1, 1986, 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. 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 any 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 an indebtedness 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.

SEC. 8. Section 33413 of the Health and Safety Code is amended to read:

33413. (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, 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 at affordable housing cost within the territorial jurisdiction of the agency.

(b) (1) At least 30 percent of all new or rehabilitated dwelling units developed by an agency shall be available at affordable housing cost to 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 persons and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low income households.

(2) At least 15 percent of all new or rehabilitated dwelling units developed within the project area by public or private entities or persons other than the agency shall be available at affordable housing cost to 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 persons and families of low or moderate income shall be available at affordable housing cost to very low income households.

(3) The requirements of this subdivision shall apply independently of the requirements of subdivision (a) and 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.

(c) The agency shall require that the aggregate number of replacement dwelling units and other dwelling units rehabilitated, developed, or constructed pursuant to subdivision (a) or (b) remain available at affordable housing cost to persons and families of low income, moderate income, and very low income households, respectively, but for not less than the period of the land use controls established in the redevelopment plan, except to the extent a longer period of time may be required by other provisions of law. 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 the previous sentence. These requirements shall be made enforceable in the same manner as provided in subdivision (e) 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 which 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.

(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 two 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 equal or exceed 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 the same income level of households as the destroyed or removed units.

SEC. 9. Section 5.5 of this bill incorporates amendments to Section 33334.2 of the Health and Safety Code proposed by both this bill and SB 1218. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1988, (2) each bill amends Section 33334.2 of the Health and Safety Code, and (3) this bill is enacted after SB 1218, in which case Section 33334.2 of the Health and Safety Code, as amended by SB 1218, shall remain operative only until the operative date of this bill, at which time Section 5.5 of this bill shall become operative, and Section 5 of this bill shall not become operative.

SEC. 10. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized,

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however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

APPENDIX 2

Assembly Bill 4235 (Isenberg)

Status: Chapter 1604, Statutes of 1988

Assembly Bill No. 4235

CHAPTER 1604

An act to amend Sections 25539.4 and 37364 of the Government Code, and to amend Sections 33080.4, 33080.6, 33333.4, 33334.3, 33334.6, and 33413 of, and to add Sections 33418 and 33501.5 to, the Health and Safety Code, relating to housing.

[Approved by Governor September 30, 1988. Filed with Secretary of State September 30, 1988.]

LEGISLATIVE COUNSEL'S DIGEST

AB 4235, Isenberg. Housing: cities, counties, and redevelopment agencies.

(1) Under existing law, a city or county may dispose of surplus property for less than fair market value in order to provide low- and moderate-income housing meeting prescribed criteria.

This bill would authorize counties and cities to additionally acquire property, for this purpose. The bill would declare that this does not constitute a change in existing law. The bill would revise the applicable criteria and requirements for housing assisted under these provisions.

(2) Under existing law, redevelopment agencies are required to include prescribed data on their housing activities in their annual reports. These annual reports are the basis for a compilation and annual report required by existing law to be published by the Department of Housing and Community Development.

This bill would impose a state-mandated local program by requiring these redevelopment agency reports to contain additional prescribed information on the agency's housing activities. The bill would require the department to send a copy of its compilation and annual report to redevelopment agencies.

(3) Under existing law, city and county legislative bodies were required by December 31, 1986, to establish specified limitations with respect to the use of tax-increment financing for redevelopment plans adopted before October 1, 1976.

This bill would specify that these limitations may not be applied in derogation of the redevelopment agency's obligations under existing law requiring allocation of specified tax-increment revenues for housing. The bill would impose a state-mandated local program by requiring a city or county to amend conflicting limitations to conform to this change. The bill would require the courts to sustain these limitations unless found to be arbitrary or capricious.

(4) Under existing law, a redevelopment agency is required to replace low- and moderate-income housing destroyed or taken out of that housing market by redevelopment. Existing law requires that the redevelopment agency assure prescribed affordability of this

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replacement housing for not less than the period of land use controls established in the redevelopment plan or for a longer period as required by law.

This bill would add to this duration requirement to require that the redevelopment agency ensure affordability for the longest feasible time.

(5) The bill would impose a state-mandated local program by requiring redevelopment agencies to monitor low- and moderate-income housing and report thereon, as prescribed. The bill would authorize redevelopment agencies to charge affected property owners for these costs and changes in other related reporting requirements specified in (2) above, and would require affected property owners and managers to provide necessary information.

(6) Existing law specifies so-called validating actions as the method for judicially determining the validity of redevelopment plans, proceedings, and bonds.

This bill would specify that whenever, in a validating action, there is put in issue the validity of actions taken by the redevelopment agency under provisions requiring use of a portion of redevelopment tax-increment revenues to increase or improve the community's supply of low- and moderate-income housing, the party raising the issue shall serve the Director of Housing and Community Development with a copy of the party's complaint or answer within 10 days after its filing with the court. The bill would prohibit the court from providing any relief in the action until there is compliance with this requirement.

(7) This bill would incorporate additional changes in Section 33334.3 of the Health and Safety Code, proposed by AB 3358, to be operative only if AB 3358 and this bill are both chaptered and become effective January 1, 1989, and this bill is chaptered last.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 25539.4 of the Government Code is amended to read:

25539.4. (a) The Legislature recognizes that real property of counties can be utilized, in accordance with a county's best interests, to provide housing affordable to persons or families of low or moderate income. Therefore, notwithstanding any other provision of law, whenever the board of supervisors determines that any real property or interest therein owned, or to be purchased, by the

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county can be used to provide housing affordable to persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code or as defined by the United States Department of Housing and Urban Development or its successors, and that this use is in the county's best interests, the county may sell, lease, exchange, quitclaim, convey, or otherwise dispose of the real property or interest therein at less than fair market value, or purchase an interest in the real property, to provide that affordable housing without complying with other provisions of this article.

(b) Not less than 80 percent of the area of any parcel of property disposed of pursuant to the provisions of this section shall be used for the development of housing.

(c) Not less than 40 percent of the total number of those housing units developed on any parcel pursuant to this section shall be affordable to households whose incomes are equal to or less than 75 percent of the maximum income of lower income households, and at least half of which shall be affordable to very low income households.

(d) Dwelling units produced for persons and families of low or moderate income under this section shall be restricted by regulatory agreement to remain continually affordable to those persons and families for the longest feasible time, but not less than 30 years, pursuant to a method prescribed by the county.

(e) The regulatory agreement shall contain a provision making the covenants and conditions of the agreement binding upon successors in interest of the housing sponsor. The regulatory agreement shall be recorded in the office of the county recorder of the county in which the 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 county as grantee.

(f) The definitions of "persons and families of low and moderate income," "lower income households," and "very low income households" set forth in Sections 50079.5, 50093, and 50105 of the Health and Safety Code shall apply to this section.

SEC. 2. Section 37364 of the Government Code is amended to read:

37364. (a) The Legislature reaffirms its finding that the provision of housing for all Californians is a concern of vital statewide importance. The Legislature recognizes that real property of cities can be utilized, in accordance with a city's best interests, to provide housing affordable to persons and families of low or moderate income. Therefore, notwithstanding any provision of a city's charter, or any other provision of law, whenever the legislative body of a city determines that any real property or interest therein owned or to be purchased by the city can be used to provide housing affordable to persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code or as defined by the United States Department of Housing and Urban Development or its

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successors, and that this use is in the city's best interests, the city may sell, lease, exchange, quitclaim, convey, or otherwise dispose of the real property or interest therein at less than fair market value, or purchase an interest in the real property, to provide that affordable housing under whatever terms and conditions the city deems best suited to the provision of such housing.

(b) Not less than 80 percent of the area of any parcel of property disposed of pursuant to this section shall be used for development of housing.

(c) Not less than 40 percent of the total number of those housing units developed on any parcel pursuant to this section shall be affordable to households whose incomes are equal to, or less than, 75 percent of the maximum income of lower income households, and at least half of which shall be affordable to very low income households.

(d) Dwelling units produced for persons and families of low or moderate income under this section shall be restricted by regulatory agreement to remain continually affordable to those persons and families for the longest feasible time, but not less than 30 years, pursuant to a method prescribed by the city. The regulatory agreement shall contain a provision making the covenants and conditions of the agreement binding upon successors in interest of the housing sponsor. The regulatory agreement shall be recorded in the office of the county recorder of the county in which the 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 city as grantee.

(e) The provisions of this section shall apply to all cities, including charter cities.

(f) The definitions of "persons and families of low and moderate income," "lower income households," and "very low income households" set forth in Sections 50079, 50093, and 50105 of the Health and Safety Code shall apply to this section.

SEC. 2.5. Section 33080.6 of the Health and Safety Code is amended to read:

33080.6. On or before April 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 its report to each redevelopment agency for which information was reported pursuant to Section 33080.1 for the fiscal year covered by the report.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

SEC. 3. Section 33080.4 of the Health and Safety Code, as amended by Section 3 of Chapter 1111 of the Statutes of 1987, is amended to read:

33080.4. 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:

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

(b) Pursuant to Section 33413.5, the total number of family and elderly households, including separate subtotals of the numbers of households for persons and families of low or moderate income and very low income households, 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.

(c) The total number of dwelling units housing persons and families of low and moderate income and very low income households, 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.

(d) 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 persons and families of low or moderate income and very low income households, 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.

(e) 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 persons and families of low or moderate income and very low income households, respectively, and the length of time these units are required to remain available at affordable costs.

(f) 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, lower income households, and persons and families of low or 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.

(g) 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 low or moderate income, lower income households, and very low income households, respectively, as those terms are defined in Division 31 (commencing with Section 50000), and identification of projects in violation of law or any agreements in relation to affordable units.

(h) 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.

"Elderly," as used in this section, has the same meaning as specified in Section 50067.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

SEC. 4. Section 33333.4 of the Health and Safety Code is amended to read:

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

(1) A limitation on the number of dollars of taxes which may be divided and allocated to the redevelopment agency pursuant to the plan. Taxes shall not be divided and shall not be allocated to the redevelopment agency beyond that limitation.

(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.

(3) A time limit, not to exceed 12 years, for commencement of eminent domain proceedings to acquire property within the project area.

(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. In the event of a conflict between these limitations and the obligations under Section 33334.6, the agency 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 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 33334.2, 33334.3, Article 9 (commencing with Section 33410), or any other requirement contained in this part.

SEC. 4.2. Section 33334.3 of the Health and Safety Code is amended to read:

33334.3. (a) The funds which are required by Section 33334.2 or 33334.6 to be used for the purposes of increasing and improving 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 shall accrue to the fund and may only be used in the manner prescribed in Section 33334.2.

(c) The moneys in the Low and Moderate Income Housing Fund shall be used to increase and improve 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 and improvement of low- and moderate-income housing and that the amount of money spent for planning and general administrative activities associated with the development or improvement of that housing not be disproportionate to the amount actually spent for the costs of production and improvement of that housing.

(e) 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 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 costs to persons and families of low or moderate income and very low income households for the longest feasible time, but for not less than the following periods of time, except as provided in paragraph (3) of subdivision (j) of Section 33334.2:

(1) Fifteen 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 (A) 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 (B) the comparable replacement units are not developed with moneys from the Low and Moderate Income Housing Fund.

(2) Ten years for owner-occupied units. However, the agency 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 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.

The agency shall require the recording in the office of the county recorder of covenants or restrictions implementing this subdivision for each parcel or unit of real property subject to this subdivision. Notwithstanding any other provision of law, the covenants or restrictions shall run with the land and shall be enforceable, against the original owner and successors in interest, by the agency or the community.

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

SEC. 4.3. Section 33334.3 of the Health and Safety Code is amended to read:

33334.3. (a) The funds which are required by Section 33334.2 or 33334.6 to be used for the purposes of increasing and improving the community's supply of low- and moderate-income housing or for provision of child-care facilities 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 shall accrue to the fund and may only be used in the manner prescribed in Section 33334.2.

(c) The moneys in the Low and Moderate Income Housing Fund shall be used to increase and improve the supply of low- and moderate-income housing, and for provision of child-care facilities, 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 and improvement of low- and moderate-income housing and for provision of child care facilities and that the amount of money spent for planning and general administrative activities associated with the development or improvement of that housing not be disproportionate to the amount actually spent for the costs of production and improvement of that housing.

(e) 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 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 costs to persons and families of low or moderate income and very low income households for the longest feasible time, but for not less than the following periods of time, except as provided in paragraph (3) of subdivision (j) of Section 33334.2:

(1) Fifteen 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 (A) 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 (B) the comparable replacement units are not developed with moneys from the Low and Moderate Income Housing Fund.

(2) Ten years for owner-occupied units. However, the agency 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 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.

The agency shall require the recording in the office of the county recorder of covenants or restrictions implementing this subdivision for each parcel or unit of real property subject to this subdivision. Notwithstanding any other provision of law, the covenants or restrictions shall run with the land and shall be enforceable, against the original owner and successors in interest, by the agency or the community.

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

SEC. 4.5. Section 33334.6 of the Health and Safety Code is amended to read:

33334.6. (a) The Legislature finds and declares that the provision of housing is itself a fundamental purpose of the Community Redevelopment Law and that a generally inadequate statewide supply of decent, safe, and sanitary housing affordable to persons and families of low or moderate income, as defined by Section 50093, threatens the accomplishment of the primary purposes of the Community Redevelopment Law, including job creation, attracting new private investments, and creating physical, economic, social, and environmental conditions to remove and prevent the recurrence of blight. The Legislature further finds and declares that the provision and improvement of affordable housing, as provided by Section 33334.2, outside of redevelopment project areas can be of direct benefit to those projects in assisting the accomplishment of project objectives whether or not those redevelopment projects provide for housing within the project area.

The Legislature finds and determines that the provision of affordable housing by redevelopment agencies and the use of taxes allocated to the agency pursuant to subdivision (b) of Section 33670 is of statewide benefit and of particular benefit and assistance to all local governmental agencies in the areas where the housing is provided.

(b) This section is applicable to all project areas, or portions of project areas, which are not subject to Section 33334.2, except that a project area, or portion of a project area, for which a resolution was adopted pursuant to subdivision (i) of Section 33334.2 is subject to this section. Project areas subject to this section which are merged prior to, or on or after, January 1, 1986, 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. 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 any 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.

SEC. 5. Section 33413 of the Health and Safety Code is amended to read:

33413. (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, 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 at affordable housing cost within the territorial jurisdiction of the agency.

(b) (1) At least 30 percent of all new or rehabilitated dwelling units developed by an agency shall be available at affordable housing cost to 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 persons and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low income households.

(2) At least 15 percent of all new or rehabilitated dwelling units developed within the project area by public or private entities or persons other than the agency shall be available at affordable housing cost to 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 persons and families of low or moderate income shall be available at affordable housing cost to very low income households.

(3) The requirements of this subdivision shall apply independently of the requirements of subdivision (a) and 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.

(c) The agency shall require that the aggregate number of replacement dwelling units and other dwelling units rehabilitated, developed, or constructed pursuant to subdivision (a) or (b) remain available at affordable housing cost to persons and families of low income, moderate income, and very low income households, respectively, for the longest feasible time, as determined by the agency, but for not less than the period of the land use controls established in the redevelopment plan, except to the extent a longer period of time may be required by other provisions of law. 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 the previous sentence. These requirements shall be made enforceable in the same manner as provided in subdivision (e) 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 which 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.

(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 two 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 equal or exceed 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 the same income level of households as the destroyed or removed units.

SEC. 6. Section 33418 is added to the Health and Safety Code, to read:

33418. (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) 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.

SEC. 7. Section 33501.5 is added to the Health and Safety Code, to read:

33501.5. 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.

SEC. 8. The amendments made by Sections 1 and 2 of this act in

subdivision (a) of Section 25539.4 and subdivision (a) of Section 37364 of the Government Code do not constitute a change in, but are declaratory of, the existing law and reflect the intent of the Legislature that these sections apply to all cases where cities or counties subsidize the development of housing through a direct financial contribution which involves a write-down of land costs.

SEC. 9. Section 4.3 of this bill incorporates amendments to Section 33334.3 of the Health and Safety code proposed by both this bill and AB 3358. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 33334.3 of the Health and Safety Code, and (3) this bill is enacted after AB 3358, in which case Section 4.2 of this bill shall not become operative.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

APPENDIX 3

Assembly Bill 4566 (Polanco/Ferguson)

Status: Chapter 1565, Statutes of 1988

AMENDED IN SENATE AUGUST 25, 1988
 AMENDED IN SENATE AUGUST 2, 1988
 AMENDED IN SENATE JUNE 23, 1988
 AMENDED IN ASSEMBLY MARCH 24, 1988

CALIFORNIA LEGISLATURE—1987-88 REGULAR SESSION

ASSEMBLY BILL

No. 4566

Introduced by Assembly Members Polanco and Ferguson

February 19, 1988

An act to amend Section 34312.5 of, and to add ~~Section 33334.10~~ Sections 33080.7, 33334.10, and 33334.12 to, the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

AB 4566, as amended, Polanco. Redevelopment agencies: housing obligations: housing authorities.

(1) Under existing law, redevelopment agencies, with certain exceptions, are required to deposit 20% of property tax revenues allocated for redevelopment in a Low and Moderate Income Housing Fund, to be used to increase and improve the community's supply of low- and moderate-income housing.

The bill would require redevelopment agencies with defined "excess surplus" in the Low and Moderate Income Housing Fund to ~~adopt and annually review a plan for use of the moneys report thereon and to report any plan to use moneys in its Low and Moderate Income Housing Fund~~, as specified. The bill would require any redevelopment agency which ~~does not adopt or amend a plan as required by the bill or which~~ fails to use the excess surplus within a prescribed period to transfer these moneys to ~~the~~ a housing authority operating within the agency's jurisdiction or another public

AB 4566

— 2 —

agency exercising housing development powers within the territorial jurisdiction of the agency for the uses specified by statute. For this purpose, county housing authorities would be authorized to operate within the jurisdiction of city redevelopment agencies in the county.

The additional duties imposed by the bill on redevelopment agencies and housing authorities would constitute a state-mandated local program.

(2) Under existing law, with certain exceptions, a county housing authority's area of operation is restricted to the unincorporated areas of the county and cities in the county in which the housing authority has not been activated.

This bill would authorize a county housing authority to exercise its power in a city pursuant to a contract with the city's redevelopment agency funded from its Low and Moderate Income Housing Fund for the purpose of increasing or improving the city's supply of low- and moderate-income housing.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$500,000, shall be made from the State Mandates Claims Fund.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be
2 cited as the Polanco-Ferguson Housing Assistance Act.

3 SEC. 2. Section 33080.7 is added to the Health and
4 Safety Code, to read:

5 33080.7. For purposes of compliance with subdivision
6 (c) of Section 33080.1 and in addition to the requirements
7 of Section 33080.4, the description of the agency's
8 activities shall identify the amount of excess surplus, as
9 defined in Section 33334.10, which has accumulated in the
10 agency's Low and Moderate Income Housing Fund. Of
11 the total excess surplus, the description shall also identify
12 the amount that has accrued to the Low and Moderate
13 Income Housing Fund during each fiscal year. This
14 component of the annual report shall also include any
15 plan required to be reported by subdivision (c) of Section
16 33334.10.

17 SEC. 3. Section 33334.10 is added to the Health and
18 Safety Code, to read:

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

35 If an agency has an excess surplus in its Low and
36 Moderate Income Housing Fund at the end of the
37 agency's fiscal year which includes January 1, 1989, the
agency shall adopt a plan for expenditure thereof

1 pursuant to this subdivision within six months following
2 the close of that fiscal year.

3 (b) The agency shall annually review the plan so long
4 as excess surplus remains in the Low and Moderate
5 Income Housing Fund and may amend the plan from
6 time to time as circumstances change and opportunities
7 for assisting housing from the Low and Moderate Income
8 Housing Fund arise. If additional excess surplus accrues
9 in the Low and Moderate Income Housing Fund
10 subsequent to the fiscal year specified in subdivision (a),
11 the plan shall be amended, not later than six months
12 following the close of that fiscal year, to provide for
13 expenditure of that additional excess surplus within five
14 years from the end of the fiscal year in which accrued and
15 goals shall be established therefor in accordance with
16 subdivision (a).

17 (c)

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

21 (d) A copy of the plan, including a schedule by fiscal
22 year of excess surplus held in the Low and Moderate
23 Income Housing Fund, shall be included in the agency's
24 annual report required by Article 6 (commencing with
25 Section 33080).

26 (e) Upon failure of the agency (1) to expend or
27 encumber the excess surplus within the five-year
28 limitation established in the agency's plan or (2) to adopt
29 or amend a plan for expenditure of excess surplus as
30 required by subdivision (a) or (b) within the time
31 specified thereby, the agency shall disburse the excess
32 surplus to the housing authority operating within the

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

39 SEC. 4. Section 33334.12 is added to the Health and
40 Safety Code, to read:

1 33334.12. (a) Upon failure of the agency to expend or
2 encumber excess surplus in the Low and Moderate
3 Income Housing Fund within five years from the date the
4 moneys become excess surplus, within the meaning
5 defined in Section 33334.10, the agency shall disburse that
6 excess surplus to the county housing authority or other
7 housing authority operating within the agency's
8 jurisdiction or another public agency exercising housing
9 development powers within the territorial jurisdiction of
10 the agency in accordance with subdivision ~~(f)~~ (b). The
11 housing authority shall utilize the moneys for the
12 purposes and subject to the same restrictions as
13 applicable to the redevelopment agency under this part,
14 and for that purpose may exercise all of the powers of a
15 housing authority under Part 2 (commencing with
16 Section 34200) to the extent not inconsistent with these
17 limitations.

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

24 ~~(f) The amount of excess surplus which shall be~~
25 ~~transferred to the housing authority because of failure of~~
26 ~~the agency to timely adopt or amend a plan as required~~
27 ~~by subdivision (a) shall be the amount of surplus that~~
28 ~~would have been subject to the plan or plan amendment.~~
29 ~~The~~

30 (c) The amount of excess surplus which shall be
31 transferred to the housing authority because of failure of
32 the agency to expend or encumber excess surplus within
33 five years shall be the amount of the excess surplus that
34 is not so expended or encumbered.

35 ~~(g)~~

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

1 ~~(h)~~

2 (e) For purposes of this section:

3 (1) "Excess surplus" means any unexpended and
4 unencumbered amount in an agency's Low and
5 Moderate Income Housing Fund that exceeds the greater
6 of five hundred thousand dollars (\$500,000) or the
7 aggregate amount deposited into the Low and Moderate
8 Income Housing Fund pursuant to Sections 33334.2 and
9 33334.6 during the agency's preceding five fiscal years.

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

14 ~~SEC. 3.~~

15 ~~SEC. 5.~~ Section 34312.5 of the Health and Safety Code
16 is amended to read:

17 34312.5. (a) An authority may provide leased
18 housing to persons of low income throughout the county
19 in which it operates, except:

20 (1) No commitment to provide leased housing outside
21 the area of operation may be made in advance of
22 construction without approval of the local governing
23 body of the city or, if an unincorporated area, the county
24 with jurisdiction of the site of construction; and

25 (2) Leased housing may not be provided within the
26 area of operation of another authority if the local
27 governing body of the other authority disapproves in
28 advance.

29 (b) An authority may contract with the
30 redevelopment agency of any city within the county to
31 exercise its powers in the city pursuant to a contract with
32 the redevelopment agency funded from the
33 redevelopment agency's Low and Moderate Income
34 Housing Fund for the purpose of increasing or improving
35 the city's supply of low- and moderate-income housing.

36 ~~SEC. 4.~~

37 ~~SEC. 6.~~ Notwithstanding Section 17610 of the
38 Government Code, if the Commission on State Mandates
39 determines that this act contains costs mandated by the
40 state, reimbursement to local agencies and school

1 districts for those costs shall be made pursuant to Part 7
2 (commencing with Section 17500) of Division 4 of Title
3 2 of the Government Code. If the statewide cost of the
4 claim for reimbursement does not exceed five hundred
5 thousand dollars (\$500,000), reimbursement shall be
6 made from the State Mandates Claims Fund.

APPENDIX 4

Assembly Bill 4281 (Cortese)

Status: Held in Senate Local Government Committee for Interim Study

AMENDED IN SENATE JUNE 27, 1988

AMENDED IN ASSEMBLY JUNE 9, 1988

AMENDED IN ASSEMBLY MAY 16, 1988

CALIFORNIA LEGISLATURE—1987-88 REGULAR SESSION

ASSEMBLY BILL

No. 4281

Introduced by Assembly Member Cortese

February 19, 1988

An act to add Chapter 10 (commencing with Section 33900) to Part 1 of Division 24 of the Health and Safety Code, relating to development districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 4281, as amended, Cortese. Alternative redevelopment: development districts.

(1) Under existing law, redevelopment agencies may finance redevelopment of areas meeting prescribed standards of blight through the use of so-called tax-increment financing, pursuant to which increases in tax revenues in a redevelopment project area are allocated to the redevelopment agency to pay the principal and interest on indebtedness incurred to finance or refinance the redevelopment project. This method of financing redevelopment is specifically authorized by Section 16 of Article XVI of the California Constitution.

This bill would authorize the use of tax-increment financing, in areas ineligible for designation as a redevelopment project under existing law, to finance public improvements and facilities in development districts that would be created and administered in a manner similar to redevelopment projects. The bill would preclude designation of development districts in areas eligible for designation as

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redevelopment projects and would preclude overlapping between redevelopment projects and development districts. The bill would, however, not preclude formation of a redevelopment project in the same territory as a development district upon dissolution thereof and would not preclude assumption of the indebtedness of the development district by the redevelopment project in those cases. The criteria for designation of a development district would be the inability to develop the area with an economically feasible project consistent with the local general plan due to inadequacy of public improvements and facilities in the area, which cannot be remedied by the private sector or by available public programs or funds, including the establishment of a benefit assessment district. The bill would require tax-increment revenues that are not pledged for the development district or to affected taxing agencies, as specified, to be deposited in the redevelopment agency's Low and Moderate Income Housing Fund.

Under the bill affected taxing agencies could, and school and community college districts would be required to, receive that portion of the tax increment resulting from tax rate increases and increases in the base assessment roll due to inflation adjustments permitted under Article XIII A of the California Constitution. Affected taxing agencies, as prescribed, could veto the formation of a development district prior to its formation. Since the allocation of tax revenues for city development districts would be performed by county officials, the bill would impose a state-mandated local program. However, the bill would authorize counties to recoup these costs from development districts.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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The people of the State of California do enact as follows:

SECTION 1. Chapter 10 (commencing with Section 33900) is added to Part 1 of Division 24 of the Health and Safety Code, to read:

CHAPTER 10. DEVELOPMENT DISTRICTS

Article 1. General Provisions

33900. The Legislature finds and declares that Section 16 of Article XVI of the California Constitution authorizes redevelopment plans adopted in accord with the Community Redevelopment Law Act to contain a provision dividing property tax revenues which are derived from the redevelopment project area.

33901. The Legislature further finds and declares that development of certain lands cannot occur because of the lack of public improvements and facilities and because existing governmental assistance together with private investment and assistance are insufficient to cause development which is consistent with the community's general plan economically feasible.

33902. The Legislature further finds and declares that it is equitable and in the public interest to provide alternative procedures for the adoption of redevelopment plans and the establishment of redevelopment projects which distinguish between redevelopment projects which include predominantly urbanized areas and redevelopment projects which include areas which are not primarily urbanized.

33903. The Legislature further finds and declares that, as used in this chapter and for the purposes of Section 16 of Article XVI of the California Constitution, "development plan" means a redevelopment plan and "development district" means a redevelopment project.

33904. Within a development district established by ordinance an agency may exercise all the powers granted to an agency under this part, except the power of eminent domain and except as otherwise specifically

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provided in the development plan.

33905. The boundaries of a development district and project area, as defined in Section 33320.1, shall not overlap. Nothing in this section shall, however, preclude the creation of a project area upon dissolution of a development district or assumption by a redevelopment project of the obligations of a development district upon dissolution thereof, where not inconsistent with other applicable provisions of this part.

A development district shall not be established pursuant to this chapter for any area that meets the criteria for designation as a project area, as defined in Section 33320.1.

33906. *It is the intent of the Legislature that development districts be created only in areas that are substantially undeveloped, and the establishment of a district should not ordinarily lead to the removal of existing dwelling units. If, however, any dwelling units are proposed to be removed or destroyed in the course of private development or public works construction within the area of the district, the legislative body shall, in addition to providing any relocation assistance required by the provisions of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code, within four years of the removal or destruction, cause or require the construction or rehabilitation, for rental or sale to persons or families of low or moderate income, of an equal number of replacement dwelling units at affordable housing cost, as defined in Section 50052.5, within the territory of the district.*

Notwithstanding any other provision of this chapter, a district may finance any work or make any payment required to satisfy the requirements of this section.

Article 2. Definitions

33910. "Affected school entities" means the school entities, as defined in subdivision (f) of Section 95 of the Revenue and Taxation Code, each of which is an affected

1 *taxing entity as defined in Section 33911.*
 2 33911. "Affected taxing entity" means any
 3 governmental taxing agency which levied or had levied
 4 on its behalf a property tax on all or a portion of the
 5 property located in the proposed development district in
 6 the fiscal year prior to the designation of a development
 7 district.

8 ~~33911.~~

9 33912. "Development district" means an area which
 10 does not meet the requirements of a project area as
 11 defined in Section 33320.1 and which cannot be
 12 developed with a project which is both economically
 13 feasible and consistent with the community's general
 14 plan because of inadequate public improvements and
 15 facilities that cannot be remedied either by the private
 16 sector or existing programs or funds of the public sector
 17 including, but not limited to, the establishment of a
 18 benefit assessment district, or any available local, state, or
 19 federal assistance.

20 21 Article 3. Preparation and Adoption of Development 22 Plans 23

24 33920. A legislative body may designate one or more
 25 proposed development districts comprised of all or part
 26 of a survey area which has been established pursuant to
 27 Section 33311. The resolution designating the proposed
 28 development district shall contain all of the following:

29 (a) A map and description of the boundaries of the
 30 proposed development district in sufficient detail to
 31 comply with the provisions of Section 33327.

32 (b) The proposed last equalized assessment roll.

33 (c) Direction to the agency to prepare a plan and a
 34 report pursuant to Section 33923.

35 33921. The legislative body shall send a copy of the
 36 resolution to the agency. The agency shall send copies of
 37 the resolution to the officials enumerated in Section 33327
 38 and to an official of each affected taxing entity.

39 33922. After receipt of a copy of the resolution
 40 transmitted pursuant to Section 33921, the county

1 officials charged with the responsibility of preparing a
 2 report pursuant to Section 33328 shall prepare and
 3 deliver to the agency a report which complies with that
 4 section. For purposes of preparing the report required by
 5 this section, the term "project area," as used in Section
 6 33328, shall mean development district.

7 33923. After receipt of a copy of the resolution
 8 designating a development district, the agency shall
 9 prepare a proposed development plan and a report to the
 10 affected taxing entites.

11 (a) The development plan shall include all of the
 12 following:

13 (1) A map and legal description of the proposed
 14 development district which may include all or a portion
 15 of the development district designated by the legislative
 16 body.

17 (2) A land use map.

18 (3) A description of the development proposed within
 19 the development district including, but not limited to,
 20 the use, intensity, and timing of the development.

21 (4) A description of the total public improvements
 22 and facilities required to serve the development
 23 including those to be provided by the private sector,
 24 those to be provided by governmental entities without
 25 assistance under this chapter, and those public
 26 improvements and facilities requiring assistance from the
 27 proposed development district. The description shall
 28 include the proposed location, timing, and costs of the
 29 public improvements and facilities.

30 (5) A financing section which shall contain all of the
 31 following information:

32 (A) The method of financing of the public
 33 improvements and facilities, including the use of bonds,
 34 if any.

35 (B) A copy of the provisions set forth in Section 33670.

36 (C) A projection of taxes to be received by the agency,
 37 and a description of their proposed use.

38 (D) A limit on the total number of dollars of taxes
 39 which may be divided and allocated to the agency
 40 pursuant to the plan.

1 (E) A time limit on the establishment of indebtedness.
2 (6) A time limit on the effectiveness of the plan.
3 (7) A feasible method or plan for the relocation of
4 families and persons displaced from the project area, if
5 the development plan may result in the temporary or
6 permanent displacement of any occupants of housing
7 facilities in the development district.
8 (b) The report shall include all of the following
9 information:
10 (1) An analysis of the infrastructure costs and the
11 financing plan which explains in detail why the
12 infrastructure cannot be provided by the private or the
13 public sectors without the assistance of a development
14 district.
15 (2) The projected fiscal impact of the establishment of
16 the development district and the subsequent
17 development upon each affected taxing entity.
18 33924. The development plan and report shall be sent
19 to each affected taxing entity together with any report
20 required by the California Environmental Quality Act,
21 Division 13 (commencing with Section 21000) of the
22 Public Resources Code and shall be made available for
23 public inspection. The report shall also be sent to the
24 planning commission and the legislative body of the
25 community.
26 33925. The agency shall consult with each affected
27 taxing entity, and, at the request of any affected taxing
28 entity, shall meet with representatives of an affected
29 taxing entity. Any affected taxing entity may suggest
30 revisions to the plan or the report to other affected taxing
31 entities.
32 33926. Within 30 days after the development plan and
33 report to the affected taxing entities is submitted to the
34 planning commission for consideration, the planning
35 commission shall make a report and recommendation on
36 the plan to the legislative body which shall include a
37 report on the consistency of the development plan with
38 the community's general plan. If the planning
39 commission does not report upon the development plan
40 within 30 days after its submission by the agency, the

1 planning commission shall be deemed to have waived its
2 report and recommendations concerning the plan and
3 the legislative body may thereafter approve the plan
4 without the report and recommendations of the planning
5 commission.
6 33927. (a) The legislative body shall call a public
7 hearing prior to adopting the proposed development
8 plan. The public hearing shall be called no sooner than 60
9 days after the development plan and the report to the
10 taxing entities have been sent to each affected taxing
11 entity. Notice of the public hearing shall be given by
12 publication not less than once a week for four successive
13 weeks in a newspaper of general circulation published in
14 the community in which the development district lies.
15 The notice shall specifically describe the boundaries of
16 the proposed development district and state the day,
17 hour, and place where any persons having any objections
18 to the proposed development plan, or the regularity of
19 any of the prior proceedings, may appear before the
20 legislative body and object to the adoption of the
21 proposed development plan by the legislative body.
22 (b) Copies of the notice shall be mailed to the last
23 known assessee of each parcel of land in the area
24 designated in the development plan, at the assessee's last
25 known address as shown on the last equalized assessment
26 roll of the county, or to the owner of each parcel of land
27 within those boundaries as ownership is shown on the
28 records of the county recorder 30 days prior to the date
29 the notice is published.
30 33928. At the hour set in the notice required by
31 Section 33927, the legislative body shall proceed to hear
32 and pass upon all written and oral objections. Before
33 adopting the development plan, the legislative body shall
34 consider the report of the agency, the recommendation
35 of the planning commission, the recommendations, if
36 any, of any affected taxing entities, and all evidence and
37 testimony for and against the adoption of the
38 development plan.
39 33929. The legislative body shall not enact an
40 ordinance adopting a development plan if the

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1 development plan has been disapproved by resolution
 2 adopted by either the governing bodies of affected taxing
 3 entities which receive 50 percent or more of the tax
 4 revenues from the area within the development district,
 5 *or the governing bodies of affected school entities which*
 6 *receive 12 percent or more of the tax revenues from the*
 7 *area within the development district,* or the governing
 8 body of ~~a~~ *an* affected taxing entity which receives ~~15~~ 12
 9 percent or more of the tax revenues from the area within
 10 the development district.

11 33930. The agency may enter into an agreement with
 12 any affected taxing entity providing for the use of tax
 13 increment moneys, implementation of the development
 14 plan, or provision of public improvements and facilities,
 15 including an agreement to pay, return, or not receive all
 16 or a portion of a taxing agency's property taxes which
 17 otherwise would be allocated to the agency pursuant to
 18 Section 33670. However, if an agency agrees to pay,
 19 return, or not receive all or a portion of those property
 20 taxes to an affected taxing agency, the agency shall pay
 21 to all affected taxing agencies the same portion of
 22 property taxes which it has agreed to pay, return, or not
 23 receive from that affected taxing agency. An allocation of
 24 tax revenues pursuant to Section 33676 shall not be
 25 deemed an agreement to pay, return, or not receive
 26 property taxes.

27 33930.5. Any taxes specified in subdivision (b) of
 28 Section 33670 that are produced by property in a
 29 development district and are not (a) pledged to pay the
 30 principal of, or interest on, indebtedness incurred to
 31 finance or refinance the development district or (b)
 32 allocated to affected taxing agencies pursuant to Section
 33 33930 or 33941, shall be deposited in the agency's Low and
 34 Moderate Income Housing Fund and shall be used for the
 35 purposes specified by Section 33334.3. The obligation to
 36 deposit these moneys in the Low and Moderate Income
 37 Housing Fund shall continue until expiration of the plan,
 38 subject to the plan's limitation on indebtedness, and is
 39 hereby declared to be an indebtedness of the
 40 development district.

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1 33931. The legislative body, by ordinance, may adopt
 2 a development plan. The ordinance shall contain all of
 3 the following:

4 (a) The development plan incorporated by reference.

5 (b) The findings and determinations of the legislative
 6 body that:

7 (1) The governing bodies of affected taxing entities
 8 who receive 50 percent or more of the tax increment, *or*
 9 *the governing bodies of affected school entities which*
 10 *receive 12 percent or more of the tax increment,* or the
 11 governing body of any taxing entity which receives ~~15~~ 12
 12 percent or more of the tax increment, have not
 13 disapproved the development plan.

14 (2) The development plan is consistent with the
 15 general plan of the community.

16 (3) The development of the area could not occur
 17 consistent with the general plan without the use of
 18 revenues from the development districts.

19 (4) The agency shall not provide or assist in the
 20 provision of streets, sidewalks, utilities, or other
 21 improvements under the development plan which an
 22 owner or developer of the site would otherwise be
 23 obliged to provide.

24 (5) The agency has a feasible method or plan for the
 25 relocation of families and persons displaced from the
 26 development district, if the development plan may result
 27 in the temporary or permanent displacement of any
 28 occupants of housing facilities in the development
 29 district.

30 33932. After the adoption of the ordinance adopting a
 31 development plan, the clerk of the community shall
 32 comply with the requirements of Section 33375.

33 Article 4. Financing

34
 35
 36 33940. The provisions of Sections 33670 to 33679,
 37 inclusive, shall govern the allocation and payment of tax
 38 increment moneys from within the development district
 39 to the agency. For purposes of this chapter, the term
 40 "redevelopment plan," used in Sections 33670 to 33679,

1 inclusive, shall mean development plan and the term
2 "redevelopment project" as used in those sections shall
3 mean development district.

4 33941. Prior to the adoption by the legislative body of
5 a development plan, any affected taxing agency may
6 elect, and every school and community college district
7 shall elect, to be allocated, in addition to the portion of
8 taxes allocated to the affected taxing agency pursuant to
9 subdivision (a) of Section 33670, all or any portion of the
10 tax revenues allocated to the agency pursuant to
11 subdivision (b) of Section 33670 attributable to one or
12 both of the following: (1) increases in the rate of tax
13 imposed for the benefit of the taxing agency which levy
14 occurs after the tax year in which the ordinance adopting
15 the development plan becomes effective; or (2) increases
16 in the assessed value of the taxable property in the
17 development district as such assessed value is established
18 by the assessment roll last equalized prior to the effective
19 date of the ordinance adopting the development plan
20 pursuant to subdivision (a) of Section 33670, which are,
21 or otherwise would be, calculated annually pursuant to
22 subdivision (f) of Section 110.1 of the Revenue and
23 Taxation Code.

24 39942. Counties may charge development districts for
25 allocating tax revenues for purposes of this article as
26 provided in Section 33675.

27 SEC. 2. No reimbursement is required by this act
28 pursuant to Section 6 of Article XIII B of the California
29 Constitution because the local agency or school district
30 has the authority to levy service charges, fees, or
31 assessments sufficient to pay for the program or level of
32 service mandated by this act.