

AMENDED IN SENATE JUNE 16, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2

**Introduced by Assembly Members Alejo and Eduardo Garcia
(Coauthors: Assembly Members Brown, Chiu, Cristina Garcia,
Holden, McCarty, Mullin, Perea, and Ting)**

December 1, 2014

An act to add Division 4 (commencing with Section 62000) to Title 6 of the Government Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 2, as amended, Alejo. Community revitalization authority.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined by means of redevelopment projects financed by the issuance of bonds serviced by tax increment revenues derived from the project area. Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies to wind down the affairs of the dissolved agencies and to fulfill the enforceable obligations of those agencies. Existing law also provides for various economic development programs that foster community sustainability and community and economic development initiatives throughout the state.

This bill would authorize certain local agencies to form a community revitalization authority (authority) within a community revitalization and investment area, as defined, to carry out provisions of the Community Redevelopment Law in that area for purposes related to,

among other things, infrastructure, affordable housing, and economic revitalization. The bill would provide for the financing of these activities by, among other things, the issuance of bonds serviced by tax increment revenues, and would require the authority to adopt a community revitalization plan for the community revitalization and investment area that includes elements describing and governing revitalization activities. The bill would also provide for periodic audits by the Controller. The bill would also require the Department of Housing and Community Development, advised by an advisory committee appointed by the Director of Housing and Community Development, to periodically review the calculation of surplus housing under these provisions. The bill would require certain funds allocated to the authority to be deposited into a separate Low and Moderate Income Housing Fund and used by the authority for the purposes of increasing, improving, and preserving the community's supply, as specified. The bill would, if an authority failed to expend or encumber surplus *funds* in the Low and Moderate Income Housing Fund, require those funds to be disbursed towards housing needs. The bill would require an authority to make relocation provisions for persons displaced by a plan and replace certain dwelling units that are destroyed or removed as part of a plan. The bill would authorize an authority to acquire interests in real property and exercise the power of eminent domain, as specified.

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

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

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Certain areas of the state are generally characterized by
- 4 buildings in which it is unsafe or unhealthy for persons to live or
- 5 work, conditions that make the viable use of buildings or lots
- 6 difficult, high business vacancies and lack of employment
- 7 opportunities, and inadequate public improvements, water, or sewer
- 8 utilities. It is the intent of the Legislature to create a planning and
- 9 financing tool to support the revitalization of these communities.
- 10 (b) It is in the interest of the state to support the economic
- 11 revitalization of these communities through tax increment
- 12 financing.

1 (c) It is the intent of the Legislature to authorize the creation of
2 Community Revitalization and Investment Authorities to invest
3 property tax increment revenue to relieve conditions of
4 unemployment, reduce high crime rates, repair deteriorated or
5 inadequate infrastructure, promote affordable housing, and improve
6 conditions leading to increased employment opportunities.

7 SEC. 2. Division 4 (commencing with Section 62000) is added
8 to Title 6 of the Government Code, to read:

9
10 DIVISION 4. COMMUNITY REVITALIZATION AND
11 INVESTMENT AUTHORITIES

12
13 PART 1. GENERAL PROVISIONS

14
15 62000. As used in this division, the following terms have the
16 following meanings:

17 (a) "Authority" means the Community Revitalization and
18 Investment Authority created pursuant to this division.

19 (b) "Plan" means a community revitalization plan and shall be
20 deemed to be the plan described in Section 16 of Article XVI of
21 the California Constitution.

22 (c) "Plan area" means territory included within a community
23 revitalization and investment area.

24 (d) "Revitalization project" means a physical improvement to
25 real property funded by the authority.

26 62001. (a) A community revitalization and investment
27 authority is a public body, corporate and politic, with jurisdiction
28 to carry out a community revitalization plan within a community
29 revitalization and investment area. The authority shall be deemed
30 to be the "agency" described in subdivision (b) of Section 16 of
31 Article XVI of the California Constitution for purposes of receiving
32 tax increment revenues. The authority shall have only those powers
33 and duties specifically set forth in Section 62002.

34 (b) (1) An authority may be created in any one of the following
35 ways:

36 (A) A city, county, or city and county may adopt a resolution
37 creating an authority. The composition of the governing board
38 shall be comprised as set forth in subdivision (c).

39 (B) A city, county, city and county, and special district, as
40 special district is defined in subdivision (m) of Section 95 of the

1 Revenue and Taxation Code, or any combination thereof, may
2 create an authority by entering into a joint powers agreement
3 pursuant to Chapter 5 (commencing with Section 6500) of Division
4 7 of Title 1.

5 (2) (A) A school entity, as defined in subdivision (f) of Section
6 95 of the Revenue and Taxation Code, may not participate in an
7 authority created pursuant to this part.

8 (B) A successor agency, as defined in subdivision (j) of Section
9 34171 of the Health and Safety Code, may not participate in an
10 authority created pursuant to this part, and an entity created
11 pursuant to this part shall not receive any portion of the property
12 tax revenues or other moneys distributed pursuant to Section 34188
13 of the Health and Safety Code.

14 (3) An authority formed by a city or county that created a
15 redevelopment agency that was dissolved pursuant to Part 1.85
16 (commencing with Section 34170) of Division 24 of the Health
17 and Safety Code shall not become effective until the successor
18 agency or designated local authority for the former redevelopment
19 agency has adopted findings of fact stating all of the following:

20 (A) The agency has received a finding of completion from the
21 Department of Finance pursuant to Section 34179.7 of the Health
22 and Safety Code.

23 (B) No former redevelopment agency assets which are the
24 subject of litigation against the state, where the city or county or
25 its successor agency or designated local authority are a named
26 plaintiff, have been or will be used to benefit any efforts of an
27 authority formed under this part unless the litigation, has been
28 resolved by entry of a final judgment by any court of competent
29 jurisdiction and any appeals have been exhausted.

30 (C) The agency has complied with all orders of the Controller
31 pursuant to Section 34167.5 of the Health and Safety Code.

32 (c) (1) The governing board of an authority created pursuant
33 to subparagraph (A) of paragraph (1) of subdivision (b) shall be
34 appointed by the legislative body of the city, county, or city and
35 county that created the authority and shall include three members
36 of the legislative body of the city, county, or city and county that
37 created the authority and two public members. The appointment
38 of the two public members shall be subject to the provisions of
39 Section 54974. The two public members shall live or work within
40 the community revitalization and investment area.

1 (2) The governing body of the authority created pursuant to
2 subparagraph (B) of paragraph (1) of subdivision (b) shall be
3 comprised of a majority of members from the legislative bodies
4 of the public agencies that created the authority and a minimum
5 of two public members who live or work within the community
6 revitalization and investment area. The majority of the board shall
7 appoint the public members to the governing body. The
8 appointment of the public members shall be subject to the
9 provisions of Section 54974.

10 (d) An authority may carry out a community revitalization plan
11 within a community revitalization and investment area. Not less
12 than 80 percent of the land calculated by census tracts, or census
13 block groups, as defined by the United States Census Bureau,
14 within the area shall be characterized by both of the following
15 conditions:

16 (1) An annual median household income that is less than 80
17 percent of the statewide annual median income.

18 (2) Three of the following four conditions:

19 (A) Nonseasonal unemployment that is at least 3 percent higher
20 than statewide median unemployment, as defined by the report on
21 labor market information published by the Employment
22 Development Department in January of the year in which the
23 community revitalization plan is prepared.

24 (B) Crime rates that are 5 percent higher than the statewide
25 median crime rate, as defined by the most recent annual report of
26 the Criminal Justice Statistics Center within the Department of
27 Justice, when data is available on the California Attorney General's
28 Internet Web site.

29 (C) Deteriorated or inadequate infrastructure such as streets,
30 sidewalks, water supply, sewer treatment or processing, and parks.

31 (D) Deteriorated commercial or residential structures.

32 (e) As an alternative to subdivision (d), an authority may also
33 carry out a community revitalization plan within a community
34 revitalization and investment area established within a former
35 military base that is principally characterized by deteriorated or
36 inadequate infrastructure and structures. Notwithstanding
37 subdivision (c), the governing board of an authority established
38 within a former military base shall include a member of the military
39 base closure commission as a public member.

(f) An authority created pursuant to this part shall be a local public agency subject to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5), the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000)).

(g) (1) At any time after the authority is authorized to transact business and exercise its powers, the legislative body or bodies of the local government or governments that created the authority may appropriate the amounts the legislative body or bodies deem necessary for the administrative expenses and overhead of the authority.

(2) The money appropriated may be paid to the authority as a grant to defray the expenses and overhead, or as a loan to be repaid upon the terms and conditions as the legislative body may provide. If appropriated as a loan, the property owners within the plan area shall be made third-party beneficiaries of the repayment of the loan. In addition to the common understanding and usual interpretation of the term, “administrative expense” includes, but is not limited to, expenses of planning and dissemination of information.

62002. An authority may do all of the following:

(a) Provide funding to rehabilitate, repair, upgrade, or construct infrastructure.

(b) Provide for low- and moderate-income housing.

(c) Remedy or remove a release of hazardous substances pursuant to the Polanco Redevelopment Act (Article 12.5 (commencing with Section 33459) of Part 1 of Chapter 4 of Division 24) or Chapter 6.10 (commencing with Section 25403) of Division 20 of the Health and Safety Code.

(d) Provide for seismic retrofits of existing buildings in accordance with all applicable laws and regulations.

(e) Acquire and transfer real property in accordance with Part 3 (commencing with Section 62200). The authority shall retain controls and establish restrictions or covenants running with the land sold or leased for private use for such periods of time and under such conditions as are provided in the plan. The establishment of such controls is a public purpose under the provisions of this part.

1 (f) Issue bonds in conformity with Article 4.5 (commencing
2 with Section 53506) and Article 5 (commencing with Section
3 53510) of Chapter 3 of Part 1 of Division 2 of Title 5.

4 (g) Borrow money, receive grants, or accept financial or other
5 assistance or investment from the state or the federal government
6 or any other public agency or private lending institution for any
7 project or within its area of operation, and may comply with any
8 conditions of the loan or grant. An authority may qualify for
9 funding as a disadvantaged community pursuant to Section 79505.5
10 of the Water Code or as defined by Section 56033.5. An authority
11 may also enter into an agreement with a qualified community
12 development entity, as defined by Section 45D(c) of the Internal
13 Revenue Code, to coordinate investments of funds derived from
14 the New Markets Tax Credit with those of the authority in instances
15 where coordination offers opportunities for greater efficiency of
16 investments to improve conditions described in subdivisions (d)
17 and (e) within the territorial jurisdiction of the authority.

18 (h) Adopt a community revitalization and investment plan
19 pursuant to Sections 62003 and 62004.

20 (i) Make loans or grants for owners or tenants to improve,
21 rehabilitate, or retrofit buildings or structures within the plan area.

22 (j) Construct foundations, platforms, and other like structural
23 forms necessary for the provision or utilization of air rights sites
24 for buildings to be used for residential, commercial industrial, or
25 other uses contemplated by the revitalization plan.

26 (k) Provide direct assistance to businesses within the plan area
27 in connection with new or existing facilities for industrial or
28 manufacturing uses, except as specified in this division.

29 62003. An authority shall adopt a community revitalization
30 and investment plan that may include a provision for the receipt
31 of tax increment funds generated within the area according to
32 Section 62005, provided the plan includes each of the following
33 elements:

34 (a) A statement of the principal goals and objectives of the plan
35 including territory to be covered by the plan.

36 (b) A description of the deteriorated or inadequate infrastructure
37 within the area and a program for construction of adequate
38 infrastructure or repair or upgrading of existing infrastructure.

39 (c) A housing program that complies with Part 2 (commencing
40 with Section 62100).

1 (d) A program to remedy or remove a release of hazardous
2 substances, if applicable.

3 (e) A program to provide funding for or otherwise facilitate the
4 economic revitalization of the area.

5 (f) A fiscal analysis setting forth the projected receipt of revenue
6 and projected expenses over a five-year planning horizon, including
7 the potential issuance of bonds backed by tax increment during
8 the term of the plan. Bonds shall be issued in conformity with
9 Article 4.5 (commencing with Section 53506) and Article 5
10 (commencing with Section 53510) of Chapter 3 of Part 1 of
11 Division 2 of Title 5.

12 (g) Time limits that may not exceed the following:

13 (1) Thirty years for establishing loans, advances and
14 indebtedness.

15 (2) Forty-five years for the repayment of all of the authority's
16 debts and obligations, and fulfilling all of the authority's housing
17 obligations. The plan shall specify that an authority shall dissolve
18 as a legal entity in no more than 45 years, and no further taxes
19 shall be allocated to the authority pursuant to Section ~~62006~~ 62005.
20 Nothing in this paragraph shall be interpreted to prohibit an
21 authority from refinancing outstanding debt solely to reduce interest
22 costs.

23 (h) A determination that the community revitalization investment
24 area complies with the conditions described in subdivision (d) or
25 (e) of Section 62001.

26 62004. (a) The authority shall consider adoption of the plan
27 at three public hearings that shall take place at least 30 days apart.
28 At the first public hearing, the authority shall hear all written and
29 oral comments but take no action. At the second public hearing,
30 the authority shall consider all written and oral comments and take
31 action to modify or reject the plan. If the plan is not rejected at the
32 second public hearing, then the authority shall conduct a protest
33 proceeding at the third public hearing to consider whether the
34 property owners and residents within the plan area wish to present
35 oral or written protests against the creation of the authority.

36 (b) The draft plan shall be made available to the public and to
37 each property owner within the area at a meeting held at least 30
38 days prior to the notice given for the first public hearing. The
39 purposes of the meeting shall be to allow the staff of the authority

1 to present the draft plan, answer questions about the plan, and
2 consider comments about the plan.

3 (c) Notice of the first public hearing shall be given by
4 publication not less than once a week for four successive weeks
5 in a newspaper of general circulation published in the county in
6 which the area lies and shall be mailed to each property owner
7 within the proposed area of the plan. Notice of the second public
8 hearing shall be given by publication not less than 10 days prior
9 to the date of the second public hearing in a newspaper of general
10 circulation published in the county in which the area lies and shall
11 be mailed to each property owner within the proposed area of the
12 plan. The notice shall do all of the following, as applicable:

13 (1) Describe specifically the boundaries of the proposed area.

14 (2) Describe the purpose of the plan.

15 (3) State the day, hour, and place when and where any and all
16 persons having any comments on the proposed plan may appear
17 to provide written or oral comments to the authority.

18 (4) Notice of second public hearing shall include a summary of
19 the changes made to the plan as a result of the oral and written
20 testimony received at or before the public hearing and shall identify
21 a location accessible to the public where the plan to be presented
22 at the second public hearing can be reviewed.

23 (5) Notice of the third public hearing to consider any written or
24 oral protests shall contain a copy of the final plan adopted pursuant
25 to subdivision (a), and shall inform the property owner and resident
26 of his or her right to submit an oral or written protest before the
27 close of the public hearing. The protest may state that the property
28 owner or resident objects to the authority taking action to
29 implement the plan.

30 (d) At the third public hearing, the authority shall consider all
31 written and oral protests received prior to the close of the public
32 hearing and shall terminate the proceedings or adopt the plan
33 subject to confirmation by the voters at an election called for that
34 purpose. The authority shall terminate the proceedings if there is
35 a majority protest. A majority protest exists if protests have been
36 filed representing over 50 percent of the combined number of
37 property owners and residents in the area who are at least 18 years
38 of age. An election shall be called if between 25 percent and 50
39 percent of the combined number of property owners and residents
40 in the area who are at least 18 years of age file a protest.

1 (e) An election required pursuant to subdivision (d) shall be
2 held within 90 days of the public hearing and may be held by
3 mail-in ballot. The authority shall adopt, at a duly noticed public
4 hearing, procedures for this election.

5 (f) If a majority of the property owners and residents vote against
6 the plan, then the authority shall not take any further action to
7 implement the proposed plan. The authority shall not propose a
8 new or revised plan to the affected property owners and residents
9 for at least one year following the date of an election in which the
10 plan was rejected.

11 (g) The authority may provide notice of the public hearings to
12 tenants of properties within the proposed area of the plan in a
13 manner of its choosing.

14 (h) At the hour set in the notice required by subdivision (a), the
15 authority shall consider all written and oral comments.

16 (i) ~~If a majority protest does not exist,~~ *less than 25 percent of*
17 *the combined number of property owners and residents in the area*
18 *who are at least 18 years of age file a protest,* the authority may
19 adopt the plan at the conclusion of the third public hearing by
20 ordinance. The ordinance adopting the plan shall be subject to
21 referendum as prescribed by law.

22 (j) For the purposes of Section 62005, the plan shall be the plan
23 adopted pursuant to this section.

24 (k) The authority shall consider and adopt an amendment or
25 amendments to a plan in accordance with the provisions of this
26 section.

27 62005. (a) (1) The plan adopted pursuant to Section 62004
28 may include a provision that taxes levied and collected upon
29 taxable property in the area included within the territory each year
30 by or for the benefit the taxing agencies that have adopted a
31 resolution pursuant to subdivision (d), shall be divided as follows:

32 (A) That portion of the taxes that would have been produced
33 by the rate upon which the tax is levied each year by or for each
34 of the consenting local agencies upon the total sum of the assessed
35 value of the taxable property in the territory as shown upon the
36 assessment roll used in connection with the taxation of the property
37 by the consenting local agency, last equalized prior to the effective
38 date of the certification of completion, and that portion of taxes
39 by or for each school entity, shall be allocated to, and when
40 collected shall be paid to, the respective consenting local agencies

1 and school entities as taxes by or for the consenting local agencies
2 and school entities on all property are paid.

3 (B) That portion of the levied taxes each year specified in the
4 community revitalization plan adopted pursuant to Section 62004
5 for each consenting local agency that has agreed to participate
6 pursuant a resolution adopted pursuant to subdivision (d), in excess
7 of the amount specified in subparagraph (A), shall be allocated to,
8 and when collected shall be paid into a special fund of—a the
9 authority to finance the improvements specified in the community
10 revitalization plan.

11 (2) A consenting local agency may advance funds to the
12 authority. The authority shall use those advanced funds solely for
13 the purposes specified in the community revitalization plan and
14 shall repay the consenting local agency with revenue from the
15 taxes received pursuant to this subdivision.

16 (b) For purposes of this section, the following definitions apply:

17 (1) “Taxing agency” means a local agency as defined by
18 subdivision (a) of Section 95 of the Revenue and Taxation Code,
19 and does not include any school entity as defined in subdivision
20 (f) of Section 95 of the Revenue and Taxation Code.

21 (2) “Consenting local agency” means a local agency that has
22 adopted a resolution of its governing body consenting to the
23 annexation development plan.

24 (3) “Territory” means the land that is contained within the
25 community revitalization plan.

26 (c) The provision for the receipt of tax increment funds shall
27 become effective in the tax year that begins after the December 1
28 first following the adoption of the plan.

29 (d) At any time prior to or after adoption of the plan, any city,
30 county, or special district, other than a school entity as defined in
31 subdivision (n) of Section 95 of the Revenue and Taxation Code
32 or a successor agency as defined in subdivision (j) of Section
33 34171, that receives ad valorem property taxes from property
34 located within an area may adopt a resolution directing the county
35 auditor-controller to allocate its share of tax increment funds within
36 the area covered by the plan according to subdivision (a) to the
37 authority. The resolution adopted pursuant to this subdivision may
38 direct the county auditor-controller to allocate less than the full
39 amount of the tax increment, establish a maximum amount of time
40 in years that the allocation takes place, or limit the use of the funds

1 by the authority for specific purposes or programs. A resolution
2 adopted pursuant to this subdivision may be repealed and be of no
3 further effect by giving the county auditor-controller 60 days'
4 notice; provided, however, that the county auditor-controller shall
5 continue to allocate to the authority the taxing entity's share of ad
6 valorem property taxes that have been pledged to the repayment
7 of debt issued by the authority until the debt has been fully repaid.
8 Prior to adopting a resolution pursuant to this ~~subdivision~~
9 *subdivision*, a city, county, or special district shall approve a
10 memorandum of understanding with the authority governing the
11 authority's use of tax increment funds for administrative and
12 overhead expenses pursuant to subdivision (g) of Section 62001.

13 (e) Upon adoption of a plan that includes a provision for the
14 receipt of tax increment funds according to subdivision (a), the
15 county auditor-controller shall allocate tax increment revenue to
16 the authority as follows:

17 (1) If the authority was formed pursuant to subparagraph (A)
18 of paragraph (1) of subdivision (b) of Section 62001, the authority
19 shall be allocated each year specified in the plan that portion of
20 the taxes levied for each city, county, city and county, and special
21 district that has adopted a resolution pursuant to subdivision (d),
22 in excess of the amount specified in paragraph (1) of subdivision
23 (a).

24 (2) If the authority was formed pursuant to subparagraph (B)
25 of paragraph (1) of subdivision (b) of Section 62001, the authority
26 shall be allocated each year specified in the plan that portion of
27 the taxes levied for each jurisdiction as provided in the joint powers
28 agreement in excess of the amount specified in paragraph (1) of
29 subdivision (a).

30 (f) If an area includes, in whole or in part, land formerly or
31 currently designated as a part of a redevelopment project area, as
32 defined in Section 33320.1 of the Health and Safety Code, any
33 plan adopted pursuant to this part that includes a provision for the
34 receipt of tax increment revenues according to subdivision (a) shall
35 include a provision that tax increment amounts collected and
36 received by an authority are subject and subordinate to any
37 preexisting enforceable obligation as that term is defined by Section
38 34171 of the Health and Safety Code.

39 62006. (a) The authority shall review the plan at least annually
40 and make any amendments that are necessary and appropriate in

1 accordance with the procedures set forth in Section 62004 and
2 shall require the preparation of an annual independent financial
3 audit paid for from revenues of the authority.

4 (b) An authority shall adopt an annual report on or before June
5 30 of each year after holding a public hearing. Written copies of
6 the draft report shall be made available to the public 30 days prior
7 to the public hearing. The authority shall cause the draft report to
8 be posted in an easily identifiable and accessible location on the
9 authority's Internet Web site and shall mail a written notice of the
10 availability of the draft report on the Internet Web site to each
11 owner of land and each resident within the area covered by the
12 plan and to each taxing entity that has adopted a resolution pursuant
13 to subdivision (d) of Section 62005. The notice shall be mailed by
14 first-class mail, but may be addressed to "occupant."

15 (c) The annual report shall contain all of the following:

16 (1) A description of the projects undertaken in the fiscal year,
17 including any rehabilitation of structures, and a comparison of the
18 progress expected to be made on those projects compared to the
19 actual progress.

20 (2) A chart comparing the actual revenues and expenses,
21 including administrative costs, of the authority to the budgeted
22 revenues and expenses.

23 (3) The amount of tax increment revenues received.

24 (4) The amount of revenues expended for low- and
25 moderate-income housing.

26 (5) An assessment of the status regarding completion of the
27 authority's projects.

28 (6) The amount of revenues expended to assist private
29 businesses.

30 (d) If the authority fails to provide the annual report required
31 by subdivision (a), the authority shall not spend any funds received
32 pursuant to a resolution adopted pursuant to subdivision (d) of
33 Section 62005.

34 (e) Every 10 years, at the public hearing held pursuant to
35 subdivision (b), the authority shall conduct a protest proceeding
36 to consider whether the property owners and residents within the
37 plan area wish to present oral or written protests against the
38 authority. Notice of this protest proceeding shall be included in
39 the written notice of the hearing on the annual report and shall
40 inform the property owner and resident of his or her right to submit

1 an oral or written protest before the close of the public hearing.
2 The protest may state that the property owner or resident objects
3 to the authority taking action to implement the plan on and after
4 the date of the election described in subdivision (f). The authority
5 shall consider all written and oral protests received prior to the
6 close of the public hearing.

7 (f) If there is a majority protest, the authority shall not take any
8 further action to implement the plan on and after the date the
9 existence of a majority protest is determined. If between 25 percent
10 and 50 percent of the property owners and residents file protests,
11 then the authority shall call an election of the property owners and
12 residents in the area covered by the plan, and shall not initiate or
13 authorize any new projects until the election is held. A majority
14 protest exists if protests have been filed representing over 50
15 percent of the combined number of property owners and residents,
16 at least 18 years of age or older, in the area.

17 (g) An election required pursuant to subdivision (f) shall be held
18 within 90 days of the public hearing and may be held by mail-in
19 ballot. The authority shall adopt, at a duly noticed public hearing,
20 procedures for holding this election.

21 (h) If a majority of the property owners and residents vote
22 against the authority, then the authority shall not take any further
23 action to implement the plan on and after the date of the election
24 held pursuant to subdivision (e). This section shall not prevent the
25 authority from taking any and all actions and appropriating and
26 expending funds, including, but not limited to, any and all
27 payments on bonded or contractual indebtedness, to carry out and
28 complete projects for which expenditures of any kind had been
29 made prior to the date of the election.

30 62007. (a) Every five years, beginning in the calendar year in
31 which the authority has allocated a cumulative total of more than
32 one million dollars (\$1,000,000) in tax increment revenues,
33 including any proceeds of a debt issuance, for the purposes of
34 subdivision (c) or Section 62003, the authority shall contract for
35 an independent audit to determine compliance with the affordable
36 housing set-aside, maintenance and replacement requirements of
37 Chapter 1 (commencing with Section 62100) and Chapter 2
38 (commencing with Section 62115) of Part 2, including provisions
39 to ensure that the requirements are met within each five-year period
40 covered by the audit. The audit shall be conducted according to

1 guidelines established by the Controller, which shall be established
2 on or before December 31, 2021. A copy of the completed audit
3 shall be provided to the Controller. The Controller shall not be
4 required to review and approve the completed audits.

5 (b) Where the audit demonstrates a failure to comply with the
6 requirements of Chapter 1 (commencing with Section 62100) and
7 Chapter 2 (commencing with Section 62115) of Part 2, the
8 authority shall adopt and submit to the Controller, as part of the
9 audit, a plan to achieve compliance with those provisions as soon
10 as feasible, but in not less than two years following the audit
11 findings. The Controller shall review and approve the plan, and
12 require the plan to stay in effect until compliance is achieved. The
13 Controller shall ensure that the plan includes one or more of the
14 following means of achieving compliance:

15 (1) The expenditure of an additional 10 percent of gross tax
16 increment revenue on increasing, preserving, and improving the
17 supply of low-income housing.

18 (2) An increase in the production, by an additional 10 percent,
19 of housing for very low income households as required by
20 paragraph (2) of subdivision (b) of Section 62120.

21 (3) The targeting of expenditures pursuant to Section 62100
22 exclusively to rental housing affordable to, and occupied by,
23 persons of very low and extremely low income.

24 (c) If an authority is required to conduct an audit pursuant to
25 subdivision (a) in advance of the issuance of the Controller's
26 guidelines, then it shall prepare an updated audit pursuant to the
27 Controller's guidelines on or before January 1, 2023.

28 62008. (a) If an authority fails to provide a copy of the
29 completed audit to the Controller as required by paragraph (2) of
30 subdivision (c) within 20 days following receipt of a written notice
31 of the failure from the Controller, the authority shall forfeit to the
32 state:

33 (1) Two thousand five hundred dollars (\$2,500) in the case of
34 an authority with a total revenue, in the prior year, of less than one
35 hundred thousand dollars (\$100,000), as reported in the Controller's
36 annual financial reports.

37 (2) Five thousand five hundred dollars (\$5,500) in the case of
38 an authority with a total revenue, in the prior year, of at least one
39 hundred thousand dollars (\$100,000) but less than two hundred

1 fifty thousand dollars (\$250,000), as reported in the Controller's
2 annual financial reports.

3 (3) Ten thousand dollars (\$10,000) in the case of an authority
4 with a total revenue, in the prior year, of at least two hundred fifty
5 thousand dollars (\$250,000), as reported in the Controller's annual
6 financial reports.

7 (b) If an authority fails to provide a copy of the completed audit
8 to the Controller as required by paragraph (2) of subdivision (c)
9 within 20 days after receipt of a written notice pursuant to
10 subdivision (a) for two consecutive years, the authority shall forfeit
11 an amount that is double the amount of the forfeiture assessed
12 pursuant to subdivision (a).

13 (c) (1) If an authority fails to provide a copy of the completed
14 audit to the Controller as required by paragraph (2) of subdivision
15 (c) within 20 days after receipt of a written notice pursuant to
16 subdivision (a) for three or more consecutive years, the authority
17 shall forfeit an amount that is triple the amount of the forfeiture
18 assessed pursuant to subdivision (a).

19 (2) The Controller shall conduct, or cause to be conducted, an
20 independent financial audit report.

21 (3) The authority shall reimburse the Controller for the cost of
22 complying with this subdivision.

23 (d) Upon the request of the Controller, the Attorney General
24 shall bring an action for the forfeiture in the name of the people
25 of the State of California.

26 (e) Upon satisfactory showing of good cause, the Controller
27 shall waive the forfeiture requirements of this section.

28 29 PART 2. HOUSING

30 31 CHAPTER 1. HOUSING FOR PERSONS OF LOW AND MODERATE 32 INCOME

33
34 62100. (a) Not less than 25 percent of all taxes that are
35 allocated to the authority pursuant to Section-62006 62005 shall
36 be deposited into a separate Low and Moderate Income Housing
37 Fund pursuant to Section 62101 and used by the authority for the
38 purposes of increasing, improving, and preserving the community's
39 supply of low- and moderate-income housing available at
40 affordable housing cost, as defined by the following sections of

1 the Health and Safety Code: Section 50052.5, to persons and
2 families of low or moderate income, as defined in Section 50093,
3 lower income households, as defined by Section 50079.5, very
4 low income households, as defined in Section 50105, and extremely
5 low income households, as defined by Section 50106, that is
6 occupied by these persons and families unless the authority makes
7 a finding that combining funding received under this program with
8 other funding for the same purpose shall reduce administrative
9 costs or expedite the construction of affordable housing. If the
10 authority makes such a finding, then (1) an authority may transfer
11 funding from the program adopted pursuant to subdivision (c) of
12 Section 62003 to the housing authority within the territorial
13 jurisdiction of the local jurisdiction that created the authority or
14 to the entity that received the housing assets of the former
15 redevelopment agency pursuant to Section 34176 of the Health
16 and Safety Code, and (2) Section 34176.1 of the Health and Safety
17 Code shall not apply to funds transferred. Funding shall be spent
18 within the project area in which the funds were generated. Any
19 recipient of funds transferred pursuant to this subdivision shall
20 comply with all applicable provisions of this part.

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

26 (1) Acquire real property or building sites subject to Section
27 62112.

28 (2) (A) Improve real property or building sites with onsite or
29 offsite improvements, but only if both (i) the improvements are
30 part of the new construction or rehabilitation of affordable housing
31 units for low- or moderate-income persons that are directly
32 benefited by the improvements, and are a reasonable and
33 fundamental component of the housing units, and (ii) the authority
34 requires that the units remain available at affordable housing cost
35 to, and occupied by, persons and families of extremely low, very
36 low, low, or moderate income for the same time period and in the
37 same manner as provided in subdivision (c) and paragraph (2) of
38 subdivision (f) of Section 62101.

39 (B) If the newly constructed or rehabilitated housing units are
40 part of a larger project and the agency improves or pays for onsite

1 or offsite improvements pursuant to the authority in this
2 subdivision, the authority shall pay only a portion of the total cost
3 of the onsite or offsite improvement. The maximum percentage
4 of the total cost of the improvement paid for by the authority shall
5 be determined by dividing the number of housing units that are
6 affordable to low- or moderate-income persons by the total number
7 of housing units, if the project is a housing project, or by dividing
8 the cost of the affordable housing units by the total cost of the
9 project, if the project is not a housing project.

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

11 (4) Finance insurance premiums necessary for the provision of
12 insurance during the construction or rehabilitation of properties
13 that are administered by governmental entities or nonprofit
14 organizations to provide housing for lower income households, as
15 defined in Section 50079.5 of the Health and Safety Code,
16 including rental properties, emergency shelters, transitional
17 housing, or special residential care facilities.

18 (5) Construct buildings or structures.

19 (6) Acquire buildings or structures.

20 (7) Rehabilitate buildings or structures.

21 (8) Provide subsidies to, or for the benefit of, extremely low
22 income households, as defined by Section 50106 of the Health and
23 Safety Code, very low income households, as defined by Section
24 50105 of the Health and Safety Code, lower income households,
25 as defined by Section 50079.5 of the Health and Safety Code, or
26 persons and families of low or moderate income, as defined by
27 Section 50093 of the Health and Safety Code, to the extent those
28 households cannot obtain housing at affordable costs on the open
29 market. Housing units available on the open market are those units
30 developed without direct government subsidies.

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

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

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

39 (c) The authority may use these funds to meet, in whole or in
40 part, the replacement housing provisions in Section 62120.

1 However, this section shall not be construed as limiting in any way
2 the requirements of that section.

3 (d) The authority may use these funds inside or outside the plan
4 area. The authority may only use these funds outside the plan area
5 upon a resolution of the authority that the use will be of benefit to
6 the plan. The determination by the authority shall be final and
7 conclusive as to the issue of benefit to the plan area. The
8 Legislature finds and declares that the provision of replacement
9 housing pursuant to Section 62120 is always of benefit to a plan.
10 Unless the authority finds, before the plan is adopted, that the
11 provision of low- and moderate-income housing outside the plan
12 area will be of benefit to the plan, the plan area shall include
13 property suitable for low- and moderate-income housing.

14 (e) (1) (A) An action to compel compliance with the
15 requirement of this section to deposit not less than 25 percent of
16 all taxes that are allocated to the authority pursuant to Section
17 62005 in the Low and Moderate Income Housing Fund shall be
18 commenced within 10 years of the alleged violation. A cause of
19 action for a violation accrues on the last day of the fiscal year in
20 which the funds were required to be deposited in the Low and
21 Moderate Income Housing Fund.

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

30 (C) An agency found to have deposited less into the Low and
31 Moderate Income Housing Fund than mandated by Section 62101
32 or to have spent money from the Low and Moderate Income
33 Housing Fund for purposes other than increasing, improving, and
34 preserving the community's supply of low- and moderate-income
35 housing, as mandated by this section, shall repay the funds with
36 interest in one lump sum pursuant to Section 970.4 or 970.5 or
37 may do either of the following:

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

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

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

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

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

(5) This subdivision applies to actions filed on and after January 1, 2016.

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

62101. (a) The funds that are required by Section 62100 or 62103 to be used for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing shall be held in a separate Low and Moderate Income Housing Fund until used.

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

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

(d) It is the intent of the Legislature that the Low and Moderate Income Housing Fund be used to the maximum extent possible to defray the costs of production, improvement, and preservation of low- and moderate-income housing and that the amount of money

1 spent for planning and general administrative activities associated
2 with the development, improvement, and preservation of that
3 housing not be disproportionate to the amount actually spent for
4 the costs of production, improvement, or preservation of that
5 housing. The authority shall determine annually that the planning
6 and administrative expenses are necessary for the production,
7 improvement, or preservation of low- and moderate-income
8 housing.

9 (e) (1) Planning and general administrative costs which may
10 be paid with moneys from the Low and Moderate Income Housing
11 Fund are those expenses incurred by the authority which are
12 directly related to the programs and activities authorized under
13 subdivision (e) of Section 62100 and are limited to the following:

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

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

20 (2) Legal, architectural, and engineering costs and other salaries,
21 wages, and costs directly related to the planning and execution of
22 a specific project that are authorized under subdivision (e) of
23 Section 62100 and that are incurred by a nonprofit housing sponsor
24 are not planning and administrative costs for the purposes of this
25 section, but are instead project costs.

26 (f) (1) The requirements of this subdivision apply to all new or
27 substantially rehabilitated housing units developed or otherwise
28 assisted with moneys from the Low and Moderate Income Housing
29 Fund. Except to the extent that a longer period of time may be
30 required by other provisions of law, the authority shall require that
31 housing units subject to this subdivision shall remain available at
32 affordable housing cost to, and occupied by, persons and families
33 of low or moderate income and very low income and extremely
34 low income households for the longest feasible time, but for not
35 less than the following periods of time:

36 (A) Fifty-five years for rental units. However, the authority may
37 replace rental units with equally affordable and comparable rental
38 units in another location within the community if (i) the
39 replacement units are available for occupancy prior to the
40 displacement of any persons and families of low or moderate

1 income residing in the units to be replaced, and (ii) the comparable
2 replacement units are not developed with moneys from the Low
3 and Moderate Income Housing Fund.

4 (B) Forty-five years for owner-occupied units. However, the
5 authority may permit sales of owner-occupied units prior to the
6 expiration of the 45-year period for a price in excess of that
7 otherwise permitted under this subdivision pursuant to an adopted
8 program which protects the agency's investment of moneys from
9 the Low and Moderate Income Housing Fund, including, but not
10 limited to, an equity sharing program which establishes a schedule
11 of equity sharing that permits retention by the seller of a portion
12 of those excess proceeds based on the length of occupancy. The
13 remainder of the excess proceeds of the sale shall be allocated to
14 the authority and deposited in the Low and Moderate Income
15 Housing Fund. Only the units originally assisted by the authority
16 shall be counted towards the agency's obligations under Section
17 62102.

18 (C) Fifteen years for mutual self-help housing units that are
19 occupied by and affordable to very low and low-income
20 households. However, the authority may permit sales of mutual
21 self-help housing units prior to expiration of the 15-year period
22 for a price in excess of that otherwise permitted under this
23 subdivision pursuant to an adopted program that (i) protects the
24 agency's investment of moneys from the Low and Moderate
25 Income Housing Fund, including, but not limited to, an equity
26 sharing program that establishes a schedule of equity sharing that
27 permits retention by the seller of a portion of those excess proceeds
28 based on the length of occupancy, and (ii) ensures through a
29 recorded regulatory agreement, deed of trust, or similar recorded
30 instrument that if a mutual self-help housing unit is sold at any
31 time after expiration of the 15-year period and prior to 45 years
32 after the date of recording of the covenants or restrictions required
33 pursuant to paragraph (2), the authority recovers, at a minimum,
34 its original principal from the Low and Moderate Income Housing
35 Fund from the proceeds of the sale and deposits those funds into
36 the Low and Moderate Income Housing Fund. The remainder of
37 the excess proceeds of the sale not retained by the seller shall be
38 allocated to the agency and deposited in the Low and Moderate
39 Income Housing Fund. For the purposes of this subparagraph,
40 "mutual self-help housing unit" means an owner-occupied housing

1 unit for which persons and families of very low and low income
2 contribute no fewer than 500 hours of their own labor in individual
3 or group efforts to provide a decent, safe, and sanitary ownership
4 housing unit for themselves, their families, and others authorized
5 to occupy that unit. This subparagraph shall not preclude the
6 authority and the developer of the mutual self-help housing units
7 from agreeing to 45-year deed restrictions.

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

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

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

18 (B) For all new or substantially rehabilitated units developed
19 or otherwise assisted with moneys from the Low and Moderate
20 Income Housing Fund, a separate document called "Notice of
21 Affordability Restrictions on Transfer of Property," set forth in
22 14-point type or larger. This document shall contain all of the
23 following information:

24 (i) A recitation of the affordability covenants or restrictions. If
25 the document recorded under this subparagraph is recorded
26 concurrently with the covenants or restrictions recorded under
27 subparagraph (A), the recitation of the affordability covenants or
28 restrictions shall also reference the concurrently recorded
29 document. If the document recorded under this subparagraph is
30 not recorded concurrently with the covenants or restrictions
31 recorded under subparagraph (A), the recitation of the affordability
32 covenants or restrictions shall also reference the recorder's
33 identification number of the document recorded under subparagraph
34 (A).

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

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

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

40 (v) The legal description of the property.

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

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

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

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

16 (A) The authority.

17 (B) The city or county that established the authority.

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

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

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

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

26 (i) Is of low or moderate income, as defined in Section 50093
27 of the Health and Safety Code.

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

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

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

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

39 (9) Failure to comply with the requirements of subparagraph
40 (B) of paragraph (3) shall not invalidate any covenants or

1 restrictions recorded pursuant to subparagraph (A) of paragraph
2 (3).

3 (g) “Housing,” as used in this section, includes residential hotels,
4 as defined in subdivision (k) of Section 37912 of the Health and
5 Safety Code. The definitions of “lower income households,” “very
6 low income households,” and “extremely low income households”
7 in Sections 50079.5, 50105, and 50106 of the Health and Safety
8 Code shall apply to this section. “Longest feasible time,” as used
9 in this section, includes, but is not limited to, unlimited duration.

10 (h) “Increasing, improving, and preserving the community’s
11 supply of low- and moderate-income housing,” as used in this
12 section and in Section 62100, includes the preservation of rental
13 housing units assisted by federal, state, or local government on the
14 condition that units remain affordable to, and occupied by, low-
15 and moderate-income households, including extremely low and
16 very low income households, for the longest feasible time, but not
17 less than 55 years, beyond the date the subsidies and use restrictions
18 could be terminated and the assisted housing units converted to
19 market rate rentals. In preserving these units the authority shall
20 require that the units remain affordable to, and occupied by, persons
21 and families of low- and moderate-income and extremely low and
22 very low income households for the longest feasible time, but not
23 less than 55 years. However, the authority may replace rental units
24 with equally affordable and comparable rental units in another
25 location within the community if (1) the replacement units in
26 another location are available for occupancy prior to the
27 displacement of any persons and families of low or moderate
28 income residing in the units to be replaced and (2) the comparable
29 replacement units are not developed with moneys from the Low
30 and Moderate Income Housing Fund.

31 (i) Funds from the Low and Moderate Income Housing Fund
32 shall not be used to the extent that other reasonable means of
33 private or commercial financing of the new or substantially
34 rehabilitated units at the same level of affordability and quantity
35 are reasonably available to the agency or to the owner of the units.
36 Prior to the expenditure of funds from the Low and Moderate
37 Income Housing Fund for new or substantially rehabilitated
38 housing units, where those funds will exceed 50 percent of the
39 cost of producing the units, the authority shall find, based on
40 substantial evidence, that the use of the funds is necessary because

1 the authority or owner of the units has made a good faith attempt
2 but has been unable to obtain commercial or private means of
3 financing the units at the same level of affordability and quantity.

4 62102. (a) Except as specified in subdivision (d), each
5 authority shall expend over each 10-year period of the community
6 revitalization plan the moneys in the Low and Moderate Income
7 Housing Fund to assist housing for persons of low income and
8 housing for persons of very low income in at least the same
9 proportion as the total number of housing units needed that each
10 of those income groups bears to the total number of units needed
11 for persons of moderate, low, and very low income within the
12 community, as those needs have been determined for the
13 community pursuant to Section 65584. In determining compliance
14 with this obligation, the authority may adjust the proportion by
15 subtracting from the need identified for each income category, the
16 number of units for persons of that income category that are newly
17 constructed over the duration of the implementation plan with
18 other locally controlled government assistance and without agency
19 assistance and that are required to be affordable to, and occupied
20 by, persons of the income category for at least 55 years for rental
21 housing and 45 years for ownership housing, except that in making
22 an adjustment the agency may not subtract units developed
23 pursuant to a replacement housing obligation under state or federal
24 law.

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

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

38 (d) For the purposes of this section, “locally controlled” means
39 government assistance where the city or county that created the
40 authority or other local government entity has the discretion and

1 the authority to determine the recipient and the amount of the
2 assistance, whether or not the source of the funds or other
3 assistance is from the state or federal government. Examples of
4 locally controlled government assistance include, but are not
5 limited to, the Community Development Block Grant Program
6 (42 U.S.C. Sec. 5301 et seq.) funds allocated to a city or county,
7 the Home Investment Partnership Program (42 U.S.C. Sec. 12721
8 et seq.) funds allocated to a city or county, fees or funds received
9 by a city or county pursuant to a city or county authorized program,
10 and the waiver or deferral of city or other charges.

11 62103. Every community revitalization plan shall contain a
12 provision that whenever dwelling units housing persons and
13 families of low or moderate income are destroyed or removed from
14 the low- and moderate-income housing market as part of a
15 revitalization project the authority shall, within two years of such
16 destruction or removal, rehabilitate, develop, or construct, or cause
17 to be rehabilitated, developed, or constructed, for rental or sale to
18 persons and families of low or moderate income an equal number
19 of replacement dwelling units at affordable housing costs, as
20 defined by Section 50052.5 of the Health and Safety Code, within
21 the territorial jurisdiction of the authority, in accordance with all
22 of the provisions of Sections 62120 and 62120.5.

23 62104. Programs to assist or develop low- and
24 moderate-income housing pursuant to this part shall be entitled to
25 priority consideration for assistance in housing programs
26 administered by the California Housing Finance Agency, the
27 Department of Housing and Community Development, and other
28 state agencies and departments, if those agencies or departments
29 determine that the housing is otherwise eligible for assistance under
30 a particular program.

31 62105. The same notice requirements as specified in Section
32 65863.10 shall apply to multifamily rental housing that receives
33 financial assistance pursuant to Sections 62100 and 62101.

34 62106. Notwithstanding Sections 62100 and 62101, assistance
35 provided by an authority to preserve the availability to lower
36 income households of affordable housing units which are assisted
37 or subsidized by public entities and which are threatened with
38 imminent conversion to market rates may be credited and offset
39 against an agency's obligations under Section 62100.

62107. (a) Except as otherwise provided in this subdivision, not later than six months following the close of any fiscal year of an authority in which excess surplus accumulates in the authority's Low and Moderate Income Housing Fund, the authority may adopt a plan pursuant to this section for expenditure of all moneys in the Low and Moderate Income Housing Fund within five years from the end of that fiscal year. The plan may be general and need not be site-specific, but shall include objectives respecting the number and type of housing to be assisted, identification of the entities, which will administer the plan, alternative means of ensuring the affordability of housing units for the longest feasible time, as specified in subdivision (e) of Section 62101 the income groups to be assisted, and a schedule by fiscal year for expenditure of the excess surplus.

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

(c) If the authority develops a plan for expenditure of excess surplus or other moneys in the Low and Moderate Income Housing Fund, a copy of that plan and any amendments to that plan shall be included in the authority's annual report pursuant to Section 62006.

62108. (a) (1) Upon failure of the authority to expend or encumber excess surplus in the Low and Moderate Income Housing Fund within one year from the date the moneys become excess surplus, as defined in paragraph (1) of subdivision (g), the authority shall do either of the following:

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

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

(2) If an authority, after three years has elapsed from the date that the moneys become excess surplus, has not expended or encumbered its excess surplus, the authority shall be subject to sanctions pursuant to subdivision (e), until the authority has expended or encumbered its excess surplus plus an additional amount, equal to 50 percent of the amount of the excess surplus that remains at the end of the three-year period. The additional

1 expenditure shall not be from the authority's Low and Moderate
2 Income Housing Fund, but shall be used in a manner that meets
3 all requirements for expenditures from that fund.

4 (b) The housing authority or other public agency to which the
5 money is transferred shall utilize the moneys for the purposes of,
6 and subject to the same restrictions that are applicable to, the
7 authority under this part, and for that purpose may exercise all of
8 the powers of a housing authority under Part 2 (commencing with
9 Section 34200) of Division 24 of the Health and Safety Code to
10 an extent not inconsistent with these limitations.

11 (c) Notwithstanding Section 34209 of the Health and Safety
12 Code or any other law, for the purpose of accepting a transfer of,
13 and using, moneys pursuant to this section, the housing authority
14 of a county or other public agency may exercise its powers within
15 the territorial jurisdiction of an authority located in that county.

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

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

33 (A) Bonds, notes, interim certificates, debentures, or other
34 obligations issued by an authority, whether funded, refunded,
35 assumed, or otherwise, pursuant to subdivision (f) of Section
36 62003.

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

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

3 (D) Indebtedness incurred pursuant to Section 62100 or 62104.

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

7 (2) This subdivision shall not be construed to prohibit the
8 expenditure of excess surplus funds or other funds to meet the
9 requirement in paragraph (2) of subdivision (a) that the agency
10 spend or encumber excess surplus funds, plus an amount equal to
11 50 percent of excess surplus, prior to spending or encumbering
12 funds for any other purpose.

13 (f) This section shall not be construed to limit any authority an
14 authority may have under other provisions of this part to contract
15 with a housing authority for increasing or improving the
16 community's supply of low- and moderate-income housing.

17 (g) For purposes of this section:

18 (1) "Excess surplus" means any unexpended and unencumbered
19 amount in an authority's Low and Moderate Income Housing Fund
20 that exceeds the greater of one million dollars (\$1,000,000) or the
21 aggregate amount deposited into the Low and Moderate Income
22 Housing Fund pursuant to Sections 62100 and 62104 during the
23 authority's preceding four fiscal years. The first fiscal year to be
24 included in this computation is the 2016–17 fiscal year, and the
25 first date on which an excess surplus may exist is July 1, 2021.

26 (2) Moneys shall be deemed encumbered if committed pursuant
27 to a legally enforceable contract or agreement for expenditure for
28 purposes specified in Sections 62100 and 62101.

29 (3) (A) For purposes of determining whether an excess surplus
30 exists, it is the intent of the Legislature to give credit to authorities
31 which convey land for less than fair market value, on which low-
32 and moderate-income housing is built or is to be built if at least
33 49 percent of the units developed on the land are available at an
34 affordable housing cost to lower income households for at least
35 the time specified in subdivision (e) of Section 62101, and
36 otherwise comply with all of the provisions of this division
37 applicable to expenditures of moneys from a low- and
38 moderate-income housing fund established pursuant to Section
39 62101. Therefore, for the sole purpose of determining the amount,
40 if any, of an excess surplus, an authority may make the following

1 calculation: if an authority sells, leases, or grants land acquired
2 with moneys from the Low and Moderate Income Housing Fund,
3 established pursuant to Section 62101, for an amount which is
4 below fair market value, and if at least 49 percent of the units
5 constructed or rehabilitated on the land are affordable to lower
6 income households, as defined in Section 50079.5 of the Health
7 and Safety Code, the difference between the fair market value of
8 the land and the amount the authority receives may be subtracted
9 from the amount of moneys in an agency's Low and Moderate
10 Income Housing Fund.

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

20 (C) This subdivision shall not be construed to restrict the
21 authority of an authority provided in any other provision of this
22 part to expend funds from the Low and Moderate Income Housing
23 Fund.

24 (D) The Department of Housing and Community Development
25 shall develop and periodically revise the methodology to be used
26 in the calculation of excess surplus as required by this section. The
27 director shall appoint an advisory committee to advise in the
28 development of this methodology. The advisory committee shall
29 include department staff, affordable housing advocates, and
30 representatives of the League of California Cities, the California
31 Society of Certified Public Accountants, the Controller, and any
32 other authorities or persons interested in the field that the director
33 deems necessary and appropriate.

34 (h) Communities in which an agency has disbursed excess
35 surplus funds pursuant to this section shall not disapprove a low-
36 or moderate-income housing project funded in whole or in part by
37 the excess surplus funds if the project is consistent with applicable
38 building codes and the land use designation specified in any
39 element of the general plan as it existed on the date the application
40 was deemed complete. A local agency may require compliance

1 with local development standards and policies appropriate to and
2 consistent with meeting the quantified objectives relative to the
3 development of housing, as required in housing elements of the
4 community pursuant to subdivision (b) of Section 65583.

5 62109. (a) Notwithstanding Sections 50079.5, 50093, and
6 50105 of the Health and Safety Code, for purposes of providing
7 assistance to mortgagors participating in a homeownership
8 residential mortgage revenue bond program pursuant to Section
9 33750 of the Health and Safety Code, or a home financing program
10 pursuant to Section 52020 of the Health and Safety Code, or a
11 California Housing Finance Agency home financing program,
12 “area median income” means the highest of the following:

13 (1) Statewide median household income.

14 (2) Countywide median household income.

15 (3) Median family income for the area, as determined by the
16 United States Department of Housing and Urban Development
17 with respect to either a standard metropolitan statistical area or an
18 area outside of a standard metropolitan statistical area.

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

23 (b) To the extent that any portion of the Low and Moderate
24 Income Housing Fund is expended to provide assistance to
25 mortgagors participating in programs whose income exceeds that
26 of persons and families of low or moderate income, as defined in
27 Section 50093 of the Health and Safety Code, the authority shall,
28 within two years, expend or enter into a legally enforceable
29 agreement to expend twice that sum exclusively to increase and
30 improve the community’s supply of housing available at an
31 affordable housing cost, as defined in Section 50052.5, to lower
32 income households, as defined in Section 50079.5 of the Health
33 and Safety Code, of which at least 50 percent shall be very low
34 income households, as defined in Section 50105 of the Health and
35 Safety Code.

36 (c) In addition to the requirements of subdivision (c) of Section
37 33413 of the Health and Safety Code, the authority shall require
38 that the lower and very low income dwelling units developed
39 pursuant to this subdivision remain available at an affordable
40 housing cost to lower and very low income households for at least

1 30 years, except as to dwelling units developed with the assistance
2 of federal or state subsidy programs which terminate in a shorter
3 period and cannot be extended or renewed.

4 (d) The authority shall include within the report required by
5 Section 62008 information with respect to compliance by the
6 agency with the requirements of this subdivision.

7 62110. The covenants or restrictions imposed by the authority
8 pursuant to subdivision (f) of Section 62101 may be subordinated
9 under any of the following alternatives:

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

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

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

32 (d) To a lien, encumbrance, or regulatory agreement of a lender
33 other than the authority or from a bond issuance providing
34 financing, refinancing, or other assistance of rental units or parcels
35 where the agency makes a finding that an economically feasible
36 alternative method of financing, refinancing, or assisting the units
37 or parcels on substantially comparable terms and conditions, but
38 without subordination, is not reasonably available, and where the
39 agency obtains written commitments reasonably designed to protect

1 the agency's investment in the event of default, including, but not
2 limited to, any of the following:

3 (1) A right of the authority to cure a default on the loan.

4 (2) A right of the authority to negotiate with the lender after
5 notice of default from the lender.

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

10 (4) A right of the authority to purchase property from the owner
11 at any time after a default on the loan.

12 62111. Subsidies provided pursuant to subdivision (e) of
13 Section 62100 may include payment of a portion of the principal
14 and interest on bonds issued by a public agency to finance housing
15 for persons and families specified in that paragraph if the authority
16 ensures by contract that the benefit of the subsidy will be passed
17 on to those persons and families in the form of lower housing costs.

18 62112. For each interest in real property acquired using moneys
19 from the Low and Moderate Income Housing Fund, the authority
20 shall, within five years from the date it first acquires the property
21 interest for the development of housing affordable to persons and
22 families of low and moderate income, initiate activities consistent
23 with the development of the property for that purpose. These
24 activities may include, but are not limited to, zoning changes or
25 agreements entered into for the development and disposition of
26 the property. If these activities have not been initiated within this
27 period, the city or county that created the authority may, by
28 resolution, extend the period during which the authority may retain
29 the property for one additional period not to exceed five years.
30 The resolution of extension shall affirm the intention of the city
31 or county that the property be used for the development of housing
32 affordable to persons and families of low and moderate income.
33 In the event that physical development of the property for this
34 purpose has not begun by the end of the extended period, or if the
35 authority does not comply with this requirement, the property shall
36 be sold and the moneys from the sale, less reimbursement to the
37 agency for the cost of the sale, shall be deposited in the agency's
38 Low and Moderate Income Housing Fund.

CHAPTER 2. REPLACEMENT AND LOCATION

62115. The authority shall prepare a feasible method or plan for relocation of all of the following:

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

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

62116. The city, county, or city and county that created the authority shall insure that the method or plan of the authority for the relocation of families or single persons to be displaced by a revitalization project shall provide that no persons or families of low and moderate income shall be displaced unless and until there is a suitable housing unit available and ready for occupancy by the displaced person or family at rents comparable to those at the time of their displacement. The housing units shall be suitable to the needs of those displaced persons or families and must be decent, safe, sanitary, and otherwise standard dwellings. The authority shall not displace the person or family until the housing units are available and ready for occupancy.

62117. Whenever all or any portion of a revitalization project is developed with low- or moderate-income housing units and whenever any low- or moderate-income housing units are developed with any authority assistance or pursuant to Section 62120, the authority shall require by contract or other appropriate means that the housing be made available for rent or purchase to the persons and families of low or moderate income displaced by the revitalization project. Those persons and families shall be given priority in renting or buying that housing. However, failure to give that priority shall not affect the validity of title to real property. The authority shall keep a list of persons and families of low and moderate income displaced by the revitalization project who are to be given priority, and may establish reasonable rules for determining the order or priority on the list.

62118. If insufficient suitable housing units are available in the community for low- and moderate-income persons and families to be displaced from a community revitalization area, the city council or board of supervisors that created the authority shall assure that sufficient land be made available for suitable housing

1 for rental or purchase by low- and moderate-income persons and
2 families. If insufficient suitable housing units are available in the
3 community for use by persons and families of low and moderate
4 income displaced by the revitalization project, the authority may,
5 to the extent of that deficiency, direct or cause the development,
6 rehabilitation, or construction of housing units within the
7 community, both inside and outside of revitalization project areas.

8 62119. Permanent housing facilities shall be made available
9 within two years from the time occupants are displaced and that
10 pending the development of such facilities there will be available
11 to such displaced occupants adequate temporary housing facilities
12 at rents comparable to those in the community at the time of their
13 displacement.

14 62120. (a) Whenever dwelling units housing persons and
15 families of low or moderate income are destroyed or removed from
16 the low- and moderate-income housing market as part of a
17 revitalization project that is subject to a written agreement with
18 the authority or where financial assistance has been provided by
19 the authority, the authority shall, within two years of the destruction
20 or removal, rehabilitate, develop, or construct, or cause to be
21 rehabilitated, developed, or constructed, for rental or sale to persons
22 and families of low or moderate income, an equal number of
23 replacement dwelling units that have an equal or greater number
24 of bedrooms as those destroyed or removed units at affordable
25 housing costs within the territorial jurisdiction of the agency. One
26 hundred percent of the replacement dwelling units shall be
27 available at an affordable housing cost to persons in the same or
28 a lower income category (low, very low, or moderate), as the
29 persons displaced from those destroyed or removed units.

30 (b) (1) Prior to the time limit on the effectiveness of the
31 community revitalization plan established pursuant to subdivision
32 (f) of Section 62004 at least 30 percent of all new and substantially
33 rehabilitated dwelling units developed by an authority shall be
34 available at affordable housing cost to, and occupied by, persons
35 and families of low or moderate income. Not less than 50 percent
36 of the dwelling units required to be available at affordable housing
37 cost to, and occupied by, persons and families of low or moderate
38 income shall be available at affordable housing cost to, and
39 occupied by, very low income households.

1 (2) (A) (i) Prior to the time limit on the effectiveness of the
2 revitalization plan established pursuant to subdivision (f) of Section
3 62003 at least 15 percent of all new and substantially rehabilitated
4 dwelling units developed within a plan area under the jurisdiction
5 of an authority by public or private entities or persons other than
6 the agency shall be available at affordable housing cost to, and
7 occupied by, persons and families of low or moderate income. Not
8 less than 40 percent of the dwelling units required to be available
9 at affordable housing cost to, and occupied by, persons and families
10 of low or moderate income shall be available at affordable housing
11 cost to, and occupied by, very low income households.

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

19 (iii) “Substantially rehabilitated dwelling units” means all units
20 substantially rehabilitated, with authority assistance.

21 (iv) As used in this paragraph and in paragraph (1), “substantial
22 rehabilitation” means rehabilitation, the value of which constitutes
23 25 percent of the after rehabilitation value of the dwelling, inclusive
24 of the land value.

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

30 (B) To satisfy the requirements of paragraph (1) and
31 subparagraph (A), the authority may purchase, or otherwise acquire
32 or cause by regulation or agreement the purchase or other
33 acquisition of, long-term affordability covenants on multifamily
34 units that restrict the cost of renting or purchasing those units that
35 either: (i) are not presently available at affordable housing cost to
36 persons and families of low- or very low income households, as
37 applicable; or (ii) are units that are presently available at affordable
38 housing cost to this same group of persons or families, but are
39 units that the authority finds, based upon substantial evidence,

1 after a public hearing, cannot reasonably be expected to remain
2 affordable to this same group of persons or families.

3 (C) To satisfy the requirements of paragraph (1) and
4 subparagraph (A), the long-term affordability covenants purchased
5 or otherwise acquired pursuant to subparagraph (B) shall be
6 required to be maintained on dwelling units at affordable housing
7 cost to, and occupied by, persons and families of low or very low
8 income, for the longest feasible time but not less than 55 years for
9 rental units and 45 years for owner-occupied units. Not more than
10 50 percent of the units made available pursuant to paragraph (1)
11 and subparagraph (A) may be assisted through the purchase or
12 acquisition of long-term affordability covenants pursuant to
13 subparagraph (B). Not less than 50 percent of the units made
14 available through the purchase or acquisition of long-term
15 affordability covenants pursuant to subparagraph (B) shall be
16 available at affordable housing cost to, and occupied by, very low
17 income households.

18 (D) To satisfy the requirements of paragraph (1) and
19 subparagraph (A), each mutual self-help housing unit, as defined
20 in subparagraph (C) of paragraph (1) of subdivision (f) of Section
21 62101, that is subject to a 15-year deed restriction shall count as
22 one-third of a unit.

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

30 (4) Each authority, as part of the implementation plan required
31 by Section 62003, shall adopt a plan to comply with the
32 requirements of this subdivision. The plan shall be consistent with,
33 and may be included within, the community's housing element.
34 The plan shall be reviewed and, if necessary, amended at least in
35 conjunction with either the housing element cycle or the plan
36 implementation cycle. The plan shall ensure that the requirements
37 of this subdivision are met every 10 years. If the requirements of
38 this subdivision are not met by the end of each 10-year period, the
39 agency shall meet these goals on an annual basis until the
40 requirements for the 10-year period are met. If the agency has

1 exceeded the requirements within the 10-year period, the agency
2 may count the units that exceed the requirement in order to meet
3 the requirements during the next 10-year period.

4 (c) (1) The authority shall require that the aggregate number
5 of replacement dwelling units and other dwelling units
6 rehabilitated, developed, constructed, or price restricted pursuant
7 to subdivision (a) or (b) remain available at affordable housing
8 cost to, and occupied by, persons and families of low-income,
9 moderate-income, and very low income households, respectively,
10 for the longest feasible time, but for not less than 55 years for
11 rental units, 45 years for home ownership units, and 15 years for
12 mutual self-help housing units, as defined in subparagraph (C) of
13 paragraph (1) of subdivision (f) of Section 62101, except as set
14 forth in paragraph (2). Nothing in this paragraph precludes the
15 agency and the developer of the mutual self-help housing units
16 from agreeing to 45-year deed restrictions.

17 (2) Notwithstanding paragraph (1), the authority may permit
18 sales of owner-occupied units prior to the expiration of the 45-year
19 period, and mutual self-help housing units prior to the expiration
20 of the 15-year period, established by the agency for a price in
21 excess of that otherwise permitted under this subdivision pursuant
22 to an adopted program that protects the agency's investment of
23 moneys from the Low and Moderate Income Housing Fund,
24 including, but not limited to, an equity sharing program that
25 establishes a schedule of equity sharing that permits retention by
26 the seller of a portion of those excess proceeds, based on the length
27 of occupancy. The remainder of the excess proceeds of the sale
28 shall be allocated to the agency, and deposited into the Low and
29 Moderate Income Housing Fund. The agency shall, within three
30 years from the date of sale pursuant to this paragraph of each home
31 ownership or mutual self-help housing unit subject to a 45-year
32 deed restriction, and every third mutual self-help housing unit
33 subject to a 15-year deed restriction, expend funds to make
34 affordable an equal number of units at the same or lowest income
35 level as the unit or units sold pursuant to this paragraph, for a
36 period not less than the duration of the original deed restrictions.
37 Only the units originally assisted by the agency shall be counted
38 towards the authority's obligations under Section 62120.

(3) The requirements of this section shall be made enforceable in the same manner as provided in paragraph (7) of subdivision (f) of Section 62101.

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

(5) For each unit counted towards the requirements of subdivisions (a) and (b), the authority shall require the recording in the office of the county recorder of covenants or restrictions that ensure compliance with this subdivision and shall comply with the requirements of paragraphs (3) and (4) of subdivision (f) of Section 62101.

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

(e) Notwithstanding subdivision (a), the authority may replace destroy or remove dwelling units with a fewer number of replacement dwelling units if the replacement dwelling units meet both of the following criteria:

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

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

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

62120.5. Not less than 30 days prior to the execution of an agreement for acquisition of real property, or the execution of an agreement for the disposition and development of property, or the execution of an owner participation agreement, which agreement would lead to the destruction or removal of dwelling units from the low- and moderate-income housing market, the authority shall adopt by resolution a replacement housing plan. For a reasonable time prior to adopting a replacement housing plan by resolution, the authority shall make available a draft of the proposed replacement housing plan for review and comment by property

1 owners and residents within the plan area, any persons who have
2 requested notice of that replacement housing plan, other public
3 agencies, and the general public.

4 The replacement housing plan shall include: (1) the general
5 location of housing to be rehabilitated, developed, or constructed
6 pursuant to Section 62120; (2) an adequate means of financing
7 such as rehabilitation, development, or construction; (3) a finding
8 that the replacement housing does not require the approval of the
9 voters pursuant to Article XXXIV of the California Constitution,
10 or that such approval has been obtained; (4) the number of dwelling
11 units housing persons and families of low or moderate income
12 planned for construction or rehabilitation; and (5) the timetable
13 for meeting the plan's relocation, rehabilitation, and replacement
14 housing objectives. A dwelling unit whose replacement is required
15 by Section 62120 but for which no replacement housing plan has
16 been prepared, shall not be destroyed or removed from the low-
17 and moderate-income housing market until the agency has by
18 resolution adopted a replacement housing plan.

19 Nothing in this section shall prevent an authority from destroying
20 or removing from the low- and moderate-income housing market
21 a dwelling unit which the authority owns and which is an
22 immediate danger to health and safety. The authority shall, as soon
23 as practicable, adopt by resolution a replacement housing plan
24 with respect to that dwelling unit.

25 62120.7. An authority causing the rehabilitation, development,
26 or construction of replacement dwelling units, other than
27 single-family residences, pursuant to Section 62120, or pursuant
28 to a replacement housing plan as required by Section 62120.5, or
29 pursuant to provisions of a revitalization plan required by Section
30 62103, primarily for persons of low income, as defined in Section
31 50093 of the Health and Safety Code, shall give preference to those
32 developments that are proposed to be organized as limited-equity
33 housing cooperatives, when so requested as part of the public
34 review, provided the project is achievable in an efficient and timely
35 manner.

36 The limited-equity housing cooperatives shall, in addition to the
37 provisions of Section 817 of the Civil Code, be organized so that
38 the consideration paid for memberships or shares by the first
39 occupants following construction or acquisition by the corporation,
40 including the principal amount of obligations incurred to finance

1 the share or membership purchase, does not exceed 3 percent of
2 the development cost or acquisition cost, or of the fair market value
3 appraisal by the permanent lender, whichever is greater.

4 62121. An authority shall provide relocation assistance and
5 shall make all of the payments required by Chapter 16
6 (commencing with Section 7260) of Division 7 of Title 1, including
7 the making of those payments financed by the federal government.

8 This section shall not be construed to limit any other authority
9 which an authority may have to make other relocation assistance
10 payments, or to make any relocation assistance payment in an
11 amount which exceeds the maximum amount for that payment
12 authorized by Chapter 16 (commencing with Section 7260) of
13 Division 7 of Title 1.

14 62122. In order to facilitate the rehousing of families and single
15 persons displaced by any governmental action, an authority, at the
16 request of the city council or board of supervisors that created the
17 authority, may dispose of the real property acquired under the
18 provisions of subdivision (b) of section 62201, by sale or long-term
19 lease, for use as, or development of, housing for those displaced
20 persons.

21 62123. (a) An authority shall monitor, on an ongoing basis,
22 any housing affordable to persons and families of low or moderate
23 income developed or otherwise made available pursuant to any
24 provisions of this part. As part of this monitoring, an authority
25 shall require owners or managers of the housing to submit an
26 annual report to the authority. The annual reports shall include for
27 each rental unit the rental rate and the income and family size of
28 the occupants, and for each owner-occupied unit whether there
29 was a change in ownership from the prior year and, if so, the
30 income and family size of the new owners. The income information
31 required by this section shall be supplied by the tenant in a certified
32 statement on a form provided by the agency.

33 (b) The data specified in subdivision (a) shall be obtained by
34 the authority from owners and managers of the housing specified
35 therein and current data shall be included in any reports required
36 by law to be submitted to the Department of Housing and
37 Community Development or the Controller. The information on
38 income and family size that is required to be reported by the owner
39 or manager shall be supplied by the tenant and shall be the only
40 information on income or family size that the owner or manager

1 shall be required to submit on his or her annual report to the
2 agency.

3 (c) (1) The authority shall compile and maintain a database of
4 existing, new, and substantially rehabilitated, housing units
5 developed or otherwise assisted with moneys from the Low and
6 Moderate Income Housing Fund, or otherwise counted towards
7 the requirements of subdivision (a) or (b) of Section 62120. The
8 database shall be made available to the public on the Internet and
9 updated on an annual basis and shall include the date the database
10 was last updated. The database shall require all of the following
11 information for each owner-occupied unit or rental unit, or for
12 each group of units, if more than one unit is subject to the same
13 covenant:

14 (A) The street address and the assessor's parcel number of the
15 property.

16 (B) The size of each unit, measured by the number of bedrooms.

17 (C) The year in which the construction or substantial
18 rehabilitation of the unit was completed.

19 (D) The date of recordation and document number of the
20 affordability covenants or restrictions required under subdivision
21 (f) of Section 33334.3 of the Health and Safety Code.

22 (E) The date on which the covenants or restrictions expire.

23 (F) For owner-occupied units that have changed ownership
24 during the reporting year, as described in subdivision (a), the date
25 and document number of the new affordability covenants or other
26 documents recorded to assure that the affordability restriction is
27 enforceable and continues to run with the land.

28 (G) Whether occupancy in the unit or units is restricted to any
29 special population, including senior citizens.

30 (2) Notwithstanding subparagraphs (A) and (D) of paragraph
31 (1), the database shall omit any property used to confidentially
32 house victims of domestic violence.

33 (3) Upon establishment of a database under this section, the
34 authority shall provide reasonable notice to the community
35 regarding the existence of the database.

36 (d) The authority shall adequately fund its monitoring activities
37 as needed to insure compliance of applicable laws and agreements
38 in relation to affordable units. For purposes of defraying the cost
39 of complying with the requirements of this section and the changes
40 in reporting requirements enacted by the act enacting this section,

1 an authority may establish and impose fees upon owners of
2 properties monitored pursuant to this section.

3
4 PART 3. PROPERTY ACQUISITION
5

6 62200. “Real property” means any of the following:

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

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

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

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

16 62201. Within the plan area or for purposes of revitalization
17 an authority may:

18 (a) Purchase, lease, obtain option upon, acquire by gift, grant,
19 bequest, devise, or otherwise, any real or personal property, any
20 interest in property, and any improvements on it, including
21 repurchase of developed property previously owned by the
22 authority. An authority shall obtain an appraisal from a qualified
23 independent appraiser to determine the fair market value of
24 property before the authority acquires or purchases real property.

25 (b) Accept, at the request of the legislative body of the
26 community, a conveyance of real property (located either within
27 or outside the plan area) owned by a public entity and declared
28 surplus by the public entity, or owned by a private entity. The
29 authority may dispose of that property to private persons or to
30 public or private entities, by sale or long-term lease for
31 development. All or any part of the funds derived from the sale or
32 lease of that property may, at the discretion of the legislative body
33 of the community, be paid to the community, or to the public entity
34 from which any *of* that property was acquired.

35 (c) Sell, lease, grant, or donate real property owned or acquired
36 by the agency in a survey area to a housing authority or to any
37 public agency for public housing projects.

38 (d) Offer for resale property acquired by an authority for
39 rehabilitation and resale within one year after completion of
40 rehabilitation. Properties held by the authority in excess of one-year

1 period shall be listed in the authority's annual report with
2 information conveying the reasons that property remains unsold
3 and indicating plans for its disposition.

4 (e) Acquire real property by eminent domain, provided that
5 authority is exercised within 12 years from the adoption of the
6 plan.

7 (1) Every plan adopted by an authority which contemplates
8 property owner participation in the revitalization of the area shall
9 contain alternative provisions for revitalization of the property if
10 the owners fail to participate in the revitalization as agreed. Prior
11 to the adoption of a plan, each property owner whose property
12 would be subject to acquisition by purchase or condemnation under
13 the plan shall be sent a statement in nontechnical language and in
14 a clear and coherent manner using words with common and
15 everyday meaning to that effect attached to the notice of the
16 hearing. Alternatively, a list or map of all properties which would
17 be subject to acquisition by purchase or condemnation under the
18 plan may be mailed to affected property owners with the notices
19 of hearing pursuant to Section 62004.

20 (2) Without the consent of an owner, an authority shall not
21 acquire any real property on which an existing building is to be
22 continued on its present site and in its present form and use unless
23 that building requires structural alteration, improvement,
24 modernization, or rehabilitation, or the site or lot on which the
25 building is situated requires modification in size, shape, or use, or
26 it is necessary to impose upon that property any of the standards,
27 restrictions, and controls of the plan and the owner fails or refuses
28 to agree to participate in the plan.

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

32 (4) An authority shall not acquire from any of its members or
33 officers any property or interest in property except through eminent
34 domain proceedings.

35 62202. An authority shall not provide any form of direct
36 assistance to:

37 (a) An automobile dealership that will be or is on a parcel of
38 land which has not previously been developed for urban use.

39 (b) A development that will be or is on a parcel of land of five
40 acres or more which has not previously been developed for urban

1 use and that will, when developed, generate sales or use tax
2 pursuant to Part 1.5 (commencing with Section 7200) of Division
3 2 of the Revenue and Taxation Code, unless the principal permitted
4 use of the development is office, hotel, manufacturing, or industrial.
5 For the purposes of this subdivision, a parcel shall include land on
6 an adjacent or nearby parcel on which a use exists that is necessary
7 for the legal development of the parcel.

8 (c) A development or business, either directly or indirectly, for
9 the acquisition, construction, improvement, rehabilitation, or
10 replacement of property that is or would be used for gambling or
11 gaming of any kind whatsoever, including, but not limited to,
12 casinos, gaming clubs, bingo operations, or any facility wherein
13 banked or percentage games, any form of gambling device, or
14 lotteries, other than the California State Lottery, are or will be
15 played.

16 (d) The prohibition in subdivision (c) is not intended to prohibit
17 an authority from acquiring property on or in which an existing
18 gambling enterprise is located, for the purpose of selling or leasing
19 the property for uses other than gambling, provided that the agency
20 acquires the property for fair market value.

21 (e) This section shall not be construed to apply to an authority's
22 assistance in the construction of public improvements that serve
23 all or a portion of a project area and that are not required to be
24 constructed as a condition of approval of a development described
25 in subdivision (a), (b), or (c), or to prohibit assistance in the
26 construction of public improvements that are being constructed
27 for a development that is not described in subdivision (a), (b), or
28 (c).

29 62203. (a) Any covenants, conditions, or restrictions existing
30 on any real property within a plan area prior to the time the
31 authority acquires title to that property, which covenants,
32 conditions, or restrictions restrict or purport to restrict the use of,
33 or building upon, that real property, shall be void and unenforceable
34 as to the authority and any other subsequent owners, tenants,
35 lessees, easement holders, mortgagees, trustees, beneficiaries under
36 a deed of trust, or any other persons or entities acquiring an interest
37 in that real property from that time as title to the real property is
38 acquired by an authority whether acquisition is by gift, purchase,
39 eminent domain, or otherwise.

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

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

9 (2) The authority shall mail notice to holders of those interests
10 if those holders appear of record 60 days prior to the date of
11 acquisition.

12 The authority may accept any release by written instrument from
13 the holder of any interest or may commence action to acquire that
14 interest after the date of acquisition of the real property.

15 (c) This section shall not apply to covenants, conditions, or
16 restrictions imposed by an authority pursuant to a plan. This section
17 also shall not apply to covenants, conditions, or restrictions where
18 an authority in writing expressly acquires or holds property subject
19 to those covenants, conditions, or restrictions.

20 This section shall not limit or preclude any rights of reversion
21 of owners, assignees, or beneficiaries of those covenants,
22 conditions, or restrictions limiting the use of land in gifts of land
23 to cities, counties, or other governmental entities. This section
24 shall not limit or preclude the rights of owners or assignees of any
25 land benefited by any covenants, conditions, or restrictions to
26 recover damages against the agency if under law that owner or
27 assignee has any right to damages. No right to damages shall exist
28 against any purchaser from the authority or his or her successors
29 or assignees, or any other persons or entities.

30 62204. (a) If an authority has adopted a plan but has not
31 commenced an eminent domain proceeding to acquire any
32 particular parcel of property subject to eminent domain thereunder
33 within three years after the date of adoption of the plan, the owner
34 or owners of the entire fee at any time thereafter may offer in
35 writing to sell the property to the authority for its fair market value.
36 If the authority does not, within 18 months from the date of receipt
37 of the original offer, acquire or institute eminent domain
38 proceedings to acquire the property, the property owner or owners
39 may file an action against the authority in inverse condemnation
40 to recover damages from the authority for any interference with

1 the possession and use of the real property resulting from the plan,
2 provided that this section shall not be construed as establishing or
3 creating a presumption to any right to damages or relief solely by
4 reason of the failure of the authority to acquire the property within
5 the time set forth in this section.

6 (b) No claim need be presented against an authority under Part
7 3 (commencing with Section 900) of Division 3.6 of Title 1 as a
8 prerequisite to commencement or maintenance of an action under
9 subdivision (a), but any action shall be commenced within one
10 year and six months after the expiration of the 18 months period.

11 (c) An authority may commence an eminent domain proceeding
12 or designate the property to be exempt from eminent domain under
13 the plan at any time before the property owner commences an
14 action under this section. If the authority commences an eminent
15 domain proceeding or designates the property to be exempt from
16 acquisition by eminent domain before the property owner
17 commences an action under this section, the property owner may
18 not thereafter bring an action under this section.

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

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

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

37 (g) A declaration that *the* property is exempt from acquisition
38 by eminent domain shall be by resolution and shall be recordable.
39 It shall exempt the property from eminent domain under the plan,

1 and the authority shall have no power of eminent domain as to the
2 property.

3 62205. Section 1245.260 of the Code of Civil Procedure shall
4 not apply to any resolution or ordinance adopting, approving, or
5 amending the amendment of plan. Section 1245.260 of the Code
6 of Civil Procedure shall apply to a resolution adopted by an
7 authority pursuant to Section 1245.220 of the Code of Civil
8 Procedure with respect to a particular parcel or parcels of real
9 property.

10 62206. (a) ~~Authorities~~ *The authority* shall obligate lessees and
11 purchasers of real property acquired in revitalization projects
12 undertaken or assisted by the authority and owners of property
13 improved as a part of a revitalization project to refrain from
14 restricting the rental, sale, or lease of the property on any basis
15 listed in subdivision (a) or (d) of Section 12955, as those basis are
16 defined in Sections 12926, 12926.1, subdivision (m) and paragraph
17 (1) of subdivision (p) of Section 12955, and Section 12955.2. All
18 deeds, leases, or contracts for the sale, lease, sublease, or other
19 transfer of any land in a revitalization project shall contain or be
20 subject to the nondiscrimination or nonsegregation clauses hereafter
21 prescribed.

22 (b) Notwithstanding subdivision (a), with respect to familial
23 status, subdivision (a) shall not be construed to apply to housing
24 for older persons, as defined in Section 12955.9. With respect to
25 familial status, nothing in subdivision (a) shall be construed to
26 affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the
27 Civil Code, relating to housing for senior citizens. Subdivision (d)
28 of Section 51, Section 4760, and Section 6714 of the Civil Code,
29 and subdivisions (n), (o), and (p) of Section 12955 shall apply to
30 subdivision (a).

31 62207. Express provisions shall be included in all deeds, leases,
32 and contracts that the authority proposes to enter into with respect
33 to the sale, lease, sublease, transfer, use, occupancy, tenure, or
34 enjoyment of any land in a revitalization project in substantially
35 the following form:

36 (a) (1) In deeds the following language shall appear:

37
38 “The grantee herein covenants by and for himself or herself, his
39 or her heirs, executors, administrators, and assigns, and all persons
40 claiming under or through them, that there shall be no

1 discrimination against or segregation of, any person or group of
2 persons on account of any basis listed in subdivision (a) or (d) of
3 Section 12955 of the Government Code, as those basis are defined
4 in Sections 12926, 12926.1 of, subdivision (m) and paragraph (1)
5 of subdivision (p) of Section 12955 of, and Section 12955.2 of,
6 the Government Code, in the sale, lease, sublease, transfer, use,
7 occupancy, tenure, or enjoyment of the premises herein conveyed,
8 nor shall the grantee or any person claiming under or through him
9 or her, establish or permit any practice or practices of
10 discrimination or segregation with reference to the selection,
11 location, number, use, or occupancy of tenants, lessees, subtenants,
12 sublessees, or vendees in the premises herein conveyed. The
13 foregoing covenants shall run with the land.”

14
15 (2) Notwithstanding paragraph (1), with respect to familial
16 status, paragraph (1) shall not be construed to apply to housing for
17 older persons, as defined in Section 12955.9. With respect to
18 familial status, nothing in paragraph (1) shall be construed to affect
19 Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil
20 Code, relating to housing for senior citizens. Subdivision (d) of
21 Section 51 of, and Sections 4760 and 6714 of, the Civil Code, and
22 subdivisions (n), (o), and (p) of Section 12955 shall apply to
23 paragraph (1).

24 (b) (1) In leases the following language shall appear:

25
26 “The lessee herein covenants by and for himself or herself, his
27 or her heirs, executors, administrators, and assigns, and all persons
28 claiming under or through him or her, and this lease is made and
29 accepted upon and subject to the following conditions:

30 That there shall be no discrimination against or segregation of
31 any person or group of persons, on account of any basis listed in
32 subdivision (a) or (d) of Section 12955 of the Government Code,
33 as those basis are defined in Sections 12926, 12926.1 of,
34 subdivision (m) and paragraph (1) of subdivision (p) of Section
35 12955 of, and Section 12955.2 of, the Government Code, in the
36 leasing, subleasing, transferring, use, occupancy, tenure, or
37 enjoyment of the premises herein leased nor shall the lessee himself
38 or herself, or any person claiming under or through him or her,
39 establish or permit any such practice or practices of discrimination
40 or segregation with reference to the selection, location, number,

1 use, or occupancy, of tenants, lessees, sublessees, subtenants, or
2 vendees in the premises herein leased.”

3
4 (2) Notwithstanding paragraph (1), with respect to familial
5 status, paragraph (1) shall not be construed to apply to housing for
6 older persons, as defined in Section 12955.9. With respect to
7 familial status, nothing in paragraph (1) shall be construed to affect
8 Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil
9 Code, relating to housing for senior citizens. Subdivision (d) of
10 Section 51 of, and Sections 4760 and 6714 of, the Civil Code, and
11 subdivisions (n), (o), and (p) of Section 12955 shall apply to
12 paragraph (1).

13 (c) In contracts entered into by the agency relating to the sale,
14 transfer, or leasing of land or any interest therein acquired by the
15 agency within any survey area or redevelopment project the
16 foregoing provisions in substantially the forms set forth shall be
17 included and the contracts shall further provide that the foregoing
18 provisions shall be binding upon and shall obligate the contracting
19 party or parties and any subcontracting party or parties, or other
20 transferees under the instrument.

21 62208. (a) The authority shall retain controls and establish
22 restrictions or covenants running with land sold or leased for
23 private use for those periods of time and under those conditions
24 as are provided in the plan. The establishment of those controls is
25 a public purpose under this division.

26 (b) An authority shall obligate lessees or purchasers of property
27 acquired in a revitalization project to:

28 (1) Use the property for the purpose designated in the
29 revitalization plans.

30 (2) Begin the revitalization of the project area within a period
31 of time which the authority fixes as reasonable.

32 (3) Comply with the covenants, conditions, or restrictions that
33 the authority deems necessary to prevent speculation or excess
34 profittaking in undeveloped land, including right of reverter to the
35 agency. Covenants, conditions, and restrictions imposed by an
36 authority may provide for the reasonable protection of lenders.

37 (4) Comply with other conditions which the authority deems
38 necessary to carry out the purposes of this part.

O