

AMENDED IN SENATE APRIL 26, 1999

AMENDED IN SENATE APRIL 8, 1999

SENATE BILL

No. 1190

Introduced by Senator Solis

February 26, 1999

An act to amend Section 33334.2 of the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1190, as amended, Solis. Redevelopment: low- and moderate-income housing funds.

The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities to address the effects of blight, as defined, in areas of those communities known as project areas. Existing law requires that not less than 20% of tax-increment funds that are allocated to the agency be used by the agency for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost to persons and families of low or moderate income and very low income households, unless a finding is made by the legislative body of the community, as specified. Existing law restricts the use of those funds for onsite and offsite improvements of building sites to improvements made as part of the construction or rehabilitation of affordable housing units.

This bill would revise those restrictions to additionally authorize improvements relating to the preservation of

affordable housing units, and to require the agency to require those units to remain affordable for a specified period of time.

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

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

1 SECTION 1. Section 33334.2 of the Health and Safety
2 Code is amended to read:

3 33334.2. (a) Not less than 20 percent of all taxes
4 which are allocated to the agency pursuant to Section
5 33670 shall be used by the agency for the purposes of
6 increasing, improving, and preserving the community's
7 supply of low- and moderate-income housing available at
8 affordable housing cost, as defined by Section 50052.5, to
9 persons and families of low or moderate income, as
10 defined in Section 50093, and very low income
11 households, as defined in Section 50105, unless one of the
12 following findings is made annually by resolution:

13 (1) (A) That no need exists in the community to
14 improve, increase, or preserve the supply of low- and
15 moderate-income housing, including housing for very
16 low income households in a manner which would benefit
17 the project area and that this finding is consistent with the
18 housing element of the community's general plan
19 required by Article 10.6 (commencing with Section
20 65580) of Chapter 3 of Division 1 of Title 7 of the
21 Government Code, including its share of the regional
22 housing needs of very low income households and persons
23 and families of low or moderate income.

24 (B) This finding shall only be made if the housing
25 element of the community's general plan demonstrates
26 that the community does not have a need to improve,
27 increase, or preserve the supply of low- and
28 moderate-income housing available at affordable housing
29 cost to persons and families of low or moderate income
30 and to very low income households. This finding shall only
31 be made if it is consistent with the planning agency's
32 annual report to the legislative body on implementation
33 of the housing element required by subdivision (b) of



1 Section 65400 of the Government Code. No agency of a
2 charter city shall make this finding unless the planning
3 agency submits the report pursuant to subdivision (b) of
4 Section 65400 of the Government Code. This finding shall
5 not take effect until the agency has complied with
6 subdivision (b) of this section.

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

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

34 (C) For purposes of making the findings specified in
35 this paragraph and paragraph (1), the housing element
36 of the general plan of a city or county shall be current,
37 shall have been submitted to the Department of Housing
38 and Community Development within the applicable
39 time period, and shall be in compliance with Article 10.6



1 (commencing with Section 65580) of Chapter 3 of
2 Division 1 of Title 7 of the Government Code.

3 (3) (A) That the community is making a substantial
4 effort to meet its existing and projected housing needs,
5 including its share of the regional housing needs, with
6 respect to persons and families of low and moderate
7 income, particularly very low income households, as
8 identified in the housing element of the community's
9 general plan required by Article 10.6 (commencing with
10 Section 65580) of Chapter 3 of Division 1 of Title 7 of the
11 Government Code, and that this effort, consisting of
12 direct financial contributions of local funds used to
13 increase and improve the supply of housing affordable to
14 persons and families of low or moderate income and very
15 low income households, is equivalent in impact to the
16 funds otherwise required to be set aside pursuant to this
17 section. In addition to any other local funds, these direct
18 financial contributions may include federal or state grants
19 paid directly to a community and which the community
20 has the discretion of using for the purposes for which
21 moneys in the Low and Moderate Income Housing Fund
22 may be used. The legislative body shall consider the need
23 which can be reasonably foreseen because of
24 displacement of persons and families of low or moderate
25 income or very low income households from within, or
26 adjacent to, the project area, because of increased
27 employment opportunities, or because of any other direct
28 or indirect result of implementation of the
29 redevelopment plan. No finding under this subdivision
30 may be made until the community has provided or
31 ensured the availability of replacement dwelling units as
32 defined in Section 33411.2 and until it has complied with
33 the provisions of Article 9 (commencing with Section
34 33410).

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



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

12 (b) Within 10 days following the making of a finding
13 under either paragraph (1) or (2) of subdivision (a), the
14 agency shall send the Department of Housing and
15 Community Development a copy of the finding,
16 including the factual information supporting the finding
17 and other factual information in the housing element that
18 demonstrates that either (1) the community does not
19 need to increase, improve, or preserve the supply of
20 housing for low- and moderate-income households,
21 including very low income households, or (2) a
22 percentage less than 20 percent will be sufficient to meet
23 the community's need to improve, increase, and preserve
24 the supply of housing for low- and moderate-income
25 households, including very low income households.
26 Within 10 days following the making of a finding under
27 paragraph (3) of subdivision (a), the agency shall send
28 the Department of Housing and Community
29 Development a copy of the finding, including the factual
30 information supporting the finding that the community
31 is making a substantial effort to meet its existing and
32 projected housing needs. Agencies which make this
33 finding after June 30, 1993, shall also submit evidence to
34 the department of its contractual obligations with
35 bondholders or private entities incurred prior to May 1,
36 1991, and made in reliance on this finding.

37 (c) In any litigation to challenge or attack a finding
38 made under paragraph (1), (2), or (3) of subdivision (a),
39 the burden shall be upon the agency to establish that the
40 finding is supported by substantial evidence in light of the



1 entire record before the agency. If an agency is
2 determined by a court to have knowingly misrepresented
3 any material facts regarding the community's share of its
4 regional housing need for low- and moderate-income
5 housing, including very low income households, or the
6 community's production record in meeting its share of
7 the regional housing need pursuant to the report
8 required by subdivision (b) of Section 65400 of the
9 Government Code, the agency shall be liable for all court
10 costs and plaintiff's attorney's fees, and shall be required
11 to allocate not less than 25 percent of the agency's tax
12 increment revenues to its Low and Moderate Income
13 Housing Fund in each year thereafter.

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

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

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

26 (2) Improve real property or building sites with onsite
27 or offsite improvements, but only if (A) the
28 improvements are necessary for and part of the new
29 construction, preservation, or rehabilitation of affordable
30 housing units for very low, low-, or moderate-income
31 persons or families, and (B) the agency requires that the
32 units constructed, rehabilitated, or preserved in
33 conjunction with the improvements remain available at
34 affordable housing cost to persons and families of very
35 ~~low, low, or moderate income for the longest feasible~~
36 ~~time, but no less than the period of time that the land use~~
37 ~~controls established in the redevelopment plan are in~~
38 ~~effect, or 30 years, whichever is greater, which low, low,~~
39 ~~or moderate income in accordance with paragraph (1) of~~
40 ~~subdivision (f) of Section 33334.3, which restrictions shall~~



1 be enforceable in the same manner as provided in
2 paragraph (2) of subdivision (f) of Section 33334.3.

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

5 (4) Finance insurance premiums pursuant to Section
6 33136.

7 (5) Construct buildings or structures.

8 (6) Acquire buildings or structures.

9 (7) Rehabilitate buildings or structures.

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

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

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

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

29 (f) The agency may use these funds to meet, in whole
30 or in part, the replacement housing provisions in Section
31 33413. However, nothing in this section shall be construed
32 as limiting in any way the requirements of that section.

33 (g) The agency may use these funds inside or outside
34 the project area. The agency may only use these funds
35 outside the project area upon a resolution of the agency
36 and the legislative body that the use will be of benefit to
37 the project. The determination by the agency and the
38 legislative body shall be final and conclusive as to the issue
39 of benefit to the project area. The Legislature finds and
40 declares that the provision of replacement housing



1 pursuant to Section 33413 is always of benefit to a project.
2 Unless the legislative body finds, before the
3 redevelopment plan is adopted, that the provision of low-
4 and moderate-income housing outside the project area
5 will be of benefit to the project, the project area shall
6 include property suitable for low- and moderate-income
7 housing.

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

12 (i) The requirements of this section shall only apply to
13 taxes allocated to a redevelopment agency for which a
14 final redevelopment plan is adopted on or after January
15 1, 1977, or for any area which is added to a project by an
16 amendment to a redevelopment plan, which amendment
17 is adopted on or after the effective date of this section. An
18 agency may, by resolution, elect to make all or part of the
19 requirements of this section applicable to any
20 redevelopment project for which a redevelopment plan
21 was adopted prior to January 1, 1977, subject to any
22 indebtedness incurred prior to the election.

