

File No. 151013

Committee Item No. 3

Board Item No. \_\_\_\_\_

# COMMITTEE/BOARD OF SUPERVISORS

## AGENDA PACKET CONTENTS LIST

Committee: Land Use and Transportation

Date February 29, 2016

Board of Supervisors Meeting

Date \_\_\_\_\_

### Cmte Board

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|-------------------------------------|--------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/> | Motion                                       |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Resolution                                   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Ordinance                                    |
| <input type="checkbox"/>            | <input type="checkbox"/> | Legislative Digest                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Budget and Legislative Analyst Report        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Youth Commission Report                      |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Introduction Form                            |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/>            | <input type="checkbox"/> | Memorandum of Understanding (MOU)            |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Subcontract Budget                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Contract/Agreement                           |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 126 - Ethics Commission                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Award Letter                                 |
| <input type="checkbox"/>            | <input type="checkbox"/> | Application                                  |
| <input type="checkbox"/>            | <input type="checkbox"/> | Form 700                                     |
| <input type="checkbox"/>            | <input type="checkbox"/> | Vacancy Notice                               |
| <input type="checkbox"/>            | <input type="checkbox"/> | Information Sheet                            |
| <input type="checkbox"/>            | <input type="checkbox"/> | Public Correspondence                        |

### OTHER (Use back side if additional space is needed)

- |                                     |                          |                            |
|-------------------------------------|--------------------------|----------------------------|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | <u>Assembly Bill No. 2</u> |
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Completed by: Alisa Somera Date February 26, 2016

Completed by: \_\_\_\_\_ Date \_\_\_\_\_

1 [Urging the Board and Director of the Treasure Island Development Authority to Develop  
2 Recommendations to Establish 40% Affordable Housing on Treasure Island]

3 **Resolution urging the Board and Director of the Treasure Island Development Authority**  
4 **to develop a series of recommendations on how the City can utilize the formation of a**  
5 **Community Revitalization and Investment Authority, newly authorized by California**  
6 **State Assembly Bill 2, to increase the affordability of housing on Treasure Island to**  
7 **40%.**

8  
9 WHEREAS, The Brookings Institution recently found the income disparity in San  
10 Francisco to be growing faster than in any other city in the nation; and

11 WHEREAS, Data from the San Francisco Human Services Agency further underscores  
12 the swiftly widening gap, with census figures showing that for every 1,000 persons over age  
13 25 in San Francisco, 7.3 are worth more than \$30,000,000, a number that outstrips other  
14 wealthy urban centers, including New York, Los Angeles, and Washington, DC; and

15 WHEREAS, Over only the last five years, the number of San Franciscans living in  
16 poverty has increased every year, with a 5% increase in the number of residents living in  
17 poverty from 2007 to 2012; and

18 WHEREAS, The wealth disparity is also illuminated by the rapidly shrinking middle  
19 class--those earning between 50 and 150% of San Francisco's median household income of  
20 \$72,500--from 45% of the City's population in 1990 to 34% in 2012; and

21 WHEREAS, The same census figures accentuate the virtual disappearance of families  
22 with children, with less than 14% of the City's residents being comprised of children younger  
23 than 18, which is the smallest percentage of any city in the entire United States; and  
24  
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1           WHEREAS, Many San Francisco families are surviving only by living doubled-up with  
2 other families in a single unit, with 42.4% of Latino families living in this manner, 37.4% Asian  
3 families, 25% African American families, and 18% of white families living in this way; and

4           WHEREAS, Compared to the 2001 census, the recently released 2015 SRO Families  
5 Report found that compared to the 2001 census, there was an increase of 55% for families  
6 living in single-room-occupancy hotels (SROs) even though 88% of these families were  
7 working; and

8           WHEREAS, San Francisco's strength, well-being, and vibrancy has long-dependended  
9 upon the rich diversity of its people and its communities, diversity which is at risk due to the  
10 economic inequities outlined herein; and

11           WHEREAS, Redevelopment Authorities (RDAs) were used extensively in the City and  
12 County of San Francisco, and throughout the State of California, to invest in disadvantaged  
13 communities that suffer from high rates of poverty, crime and unemployment, and that have  
14 deteriorated infrastructure and buildings; and

15           WHEREAS, As part of the 2011 Budget Act, the California State Legislature approved  
16 the dissolution of the State's over 400 RDAs; and

17           WHEREAS, The passage of California Assembly Bill 2 (AB2), authored by  
18 Assemblyman Luis Alejo and Assemblyman Eduardo Garcia and signed by Governor Jerry  
19 Brown on September 22, 2015, permits the formation of new public bodies known as  
20 "Community Revitalization and Investment Authorities" (CRIAs) that have the authority to  
21 adopt investment plans for a specified area; and

22           WHEREAS, AB2 offers an opportunity to provide directed financing, including tax  
23 increment funds, towards the development, improvement and preservation of low- and  
24 moderate-income housing; now, therefore, be it

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RESOLVED, That the Board and Director of the Treasure Island Development Authority shall convene a work group within 30 days to develop recommendations to establish 40% affordable housing on Treasure Island; and, be it

FURTHER RESOLVED, That the work group will present a report that includes a series of recommendations and action items to the Board of Supervisor within 120 days from its first meeting.



## Assembly Bill No. 2

### CHAPTER 319

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

[Approved by Governor September 22, 2015. Filed with Secretary of State September 22, 2015.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2, 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 and investment 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.

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Certain areas of the state are generally characterized by buildings in which it is unsafe or unhealthy for persons to live or work, conditions that make the viable use of buildings or lots difficult, high business vacancies and lack of employment opportunities, and inadequate public improvements, water, or sewer utilities. It is the intent of the Legislature to create a planning and financing tool to support the revitalization of these communities.

(b) It is in the interest of the state to support the economic revitalization of these communities through tax increment financing.

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

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

#### DIVISION 4. COMMUNITY REVITALIZATION AND INVESTMENT AUTHORITIES

##### PART 1. GENERAL PROVISIONS

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

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

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

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

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

62001. (a) A community revitalization and investment authority is a public body, corporate and politic, with jurisdiction to carry out a community revitalization plan within a community revitalization and investment area. The authority shall be deemed to be the "agency" described in subdivision (b) of Section 16 of Article XVI of the California Constitution for purposes

of receiving tax increment revenues. The authority shall have only those powers and duties specifically set forth in Section 62002.

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

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

(B) A city, county, city and county, and special district, as special district is defined in subdivision (m) of Section 95 of the Revenue and Taxation Code, or any combination thereof, may create an authority by entering into a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1.

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

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

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

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

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

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

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

(2) The governing body of the authority created pursuant to subparagraph (B) of paragraph (1) of subdivision (b) shall be comprised of a majority of members from the legislative bodies of the public agencies that created the authority and a minimum of two public members who live or work within

the community revitalization and investment area. The majority of the board shall appoint the public members to the governing body. The appointment of the public members shall be subject to the provisions of Section 54974.

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

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

(2) Three of the following four conditions:

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

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

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

(D) Deteriorated commercial or residential structures.

(e) As an alternative to subdivision (d), an authority may also carry out a community revitalization plan within a community revitalization and investment area established within a former military base that is principally characterized by deteriorated or inadequate infrastructure and structures. Notwithstanding subdivision (c), the governing board of an authority established within a former military base shall include a member of the military 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 and residents 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 in accordance with Part 2 (commencing with Section 62100).

(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.

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

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

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

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

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

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

62003. An authority shall adopt a community revitalization and investment plan that may include a provision for the receipt of tax increment

funds generated within the area according to Section 62005, provided the plan includes each of the following elements:

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

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

(c) A housing program that describes how the authority will comply with Part 2 (commencing with Section 62100). The program shall include the following information:

(1) The amount available in the Low and Moderate Income Housing Fund and the estimated amounts that will be deposited in the fund during each of the next five years.

(2) Estimates of the number of new, rehabilitated, or price restricted residential units to be assisted during each of the five years and estimates of the expenditures of moneys from the Low and Moderate Income Housing Fund during each of the five years.

(3) A description of how the program will implement the requirements for expenditures of funds in the Low and Moderate Income Housing Fund over a 10-year period for various groups as required by Chapter 2 (commencing with Section 62115) of Part 2.

(4) Estimates of the number of units, if any, developed by the authority for very low, low-, and moderate-income households during the next five years.

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

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

(f) A fiscal analysis setting forth the projected receipt of revenue and projected expenses over a five-year planning horizon, including the potential issuance of bonds backed by tax increment during the term of the plan. Bonds shall be issued in conformity with Article 4.5 (commencing with Section 53506) and Article 5 (commencing with Section 53510) of Chapter 3 of Part 1 of Division 2 of Title 5. An authority shall not spend revenue for any purpose that is not identified as part of a program described in subdivisions (b), (c), (d), and (e).

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

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

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

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

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

(b) The draft plan shall be made available to the public and to each property owner within the area at a meeting held at least 30 days prior to the notice given for the first public hearing. The purposes of the meeting shall be to allow the staff of the authority to present the draft plan, answer questions about the plan, and consider comments about the plan.

(c) (1) Notice of the meeting required by subdivision (b) and the public hearings required by this subdivision shall be given in accordance with subdivision (k). The notice shall do all of the following, as applicable:

(A) Describe specifically the boundaries of the proposed area.

(B) Describe the purpose of the plan.

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

(D) Notice of second public hearing shall include a summary of the changes made to the plan as a result of the oral and written testimony received at or before the public hearing and shall identify a location accessible to the public where the plan proposed to be presented and adopted at the second public hearing can be reviewed.

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

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

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

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

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

(g) If less than 25 percent of the combined number of property owners and residents in the area who are at least 18 years of age file a protest, the authority may adopt the plan at the conclusion of the third public hearing by ordinance. The ordinance adopting the plan shall be subject to referendum as prescribed by law.

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

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

(j) The authority shall post notice of each meeting or public hearing required by this section in an easily identifiable and accessible location on the authority's Internet Web site and shall mail a written notice of the meeting or public hearing to each owner of land and each resident at least 10 days prior to the meeting or public hearing.

(1) Notice of the first public hearing shall also be published not less than once a week for four successive weeks prior to the first public hearing in a newspaper of general circulation published in the county in which the area lies.

(2) Notice of the second public hearing shall also be published not less than 10 days prior to the second public hearing in a newspaper of general circulation in the county in which the area lies.

(3) Notice of the third public hearing shall also be published not less than 10 days prior to the third public hearing in a newspaper of general circulation in the county in which the area lies.

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

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

shall be paid to, the respective consenting local agencies and school entities as taxes by or for the consenting local agencies and school entities on all property are paid.

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

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

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

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

(2) "Consenting local agency" means a local agency that has adopted a resolution of its governing body consenting to the community revitalization and investment plan.

(3) "Territory" means the land that is contained within the community revitalization plan.

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

(d) At any time prior to or after adoption of the plan, any city, county, or special district, other than a school entity as defined in subdivision (n) of Section 95 of the Revenue and Taxation Code or a successor agency as defined in subdivision (j) of Section 34171, that receives ad valorem property taxes from property located within an area may adopt a resolution directing the county auditor-controller to allocate its share of tax increment funds within the area covered by the plan according to subdivision (a) to the authority. The resolution adopted pursuant to this subdivision may direct the county auditor-controller to allocate less than the full amount of the tax increment, establish a maximum amount of time in years that the allocation takes place, or limit the use of the funds by the authority for specific purposes or programs, provided that 25 percent of the amount of tax increment designated shall be allocated for affordable housing pursuant to Section 62100. A resolution adopted pursuant to this subdivision may be repealed and be of no further effect by giving the county auditor-controller 60 days' notice; provided, however, that the county auditor-controller shall continue to allocate to the authority the taxing entity's share of ad valorem property taxes that have been pledged to the repayment of debt issued by the authority until the debt has been fully repaid. Prior to adopting a resolution pursuant to this subdivision, a city, county, or special district shall approve a

memorandum of understanding with the authority governing the authority's use of tax increment funds for administrative and overhead expenses pursuant to subdivision (g) of Section 62001.

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

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

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

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

62006. (a) The authority shall review the plan at least annually and make any amendments that are necessary and appropriate in accordance with the procedures set forth in Section 62004 and shall require the preparation of an annual independent financial audit paid for from revenues of the authority.

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

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

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

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

(3) The amount of tax increment revenues received.  
(4) The amount of revenues expended for low- and moderate-income housing.

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

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

(d) If the authority fails to provide the annual report required by subdivision (a), the authority shall not spend any funds received pursuant to a resolution adopted pursuant to subdivision (d) of Section 62005 until the authority has provided the report, except for funds necessary to carry out its obligation under Part 2 (commencing with Section 62100).

(e) Every 10 years, at the public hearing held pursuant to subdivision (b), the authority shall conduct a protest proceeding to consider whether the property owners and residents within the plan area wish to present oral or written protests against the authority. Notice of this protest proceeding shall be included in the written notice of the hearing on the annual report and shall inform the property owner and resident of his or her right to submit an oral or written protest before the close of the public hearing. The protest may state that the property owner or resident objects to the authority taking action to implement the plan on and after the date of the election described in subdivision (f). The authority shall consider all written and oral protests received prior to the close of the public hearing.

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

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

(h) If a majority of the property owners and residents vote against the plan, then the authority shall not take any further action to implement the plan on and after the date of the election held pursuant to subdivision (e). This section shall not prevent the authority from taking any and all actions and appropriating and expending funds, including, but not limited to, any and all payments on bonded or contractual indebtedness, to carry out and complete projects for which expenditures of any kind had been made prior to the date of the election and any expenditures for obligations required by Part 2 (commencing with Section 62100) that were incurred prior to the date of the election.

62007. (a) Every five years, beginning in the calendar year in which the authority has allocated a cumulative total of more than one million

dollars (\$1,000,000) in tax increment revenues, including any proceeds of a debt issuance, for the purposes of subdivision (c) of Section 62003, the authority shall contract for an independent audit to determine compliance with the affordable housing requirements of Chapter 1 (commencing with Section 62100) and Chapter 2 (commencing with Section 62115) of Part 2, including provisions to ensure that the requirements are met within each five-year period covered by the audit and completed no later than the time limit established pursuant to subdivision (g) of Section 62003. The audit shall be conducted according to guidelines established by the Controller, which shall be established on or before December 31, 2021. A copy of the completed audit shall be provided to the Controller. The Controller shall not be required to review and approve the completed audits.

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

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

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

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

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

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

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

(2) Five thousand five hundred dollars (\$5,500) in the case of an authority with a total revenue, in the prior year, of at least one hundred thousand dollars (\$100,000) but less than two hundred fifty thousand dollars (\$250,000), as reported in the Controller's annual financial reports.



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

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

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

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

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

(d) Upon the request of the Controller, the Attorney General shall bring an action for the forfeiture in the name of the people of the State of California. If the Attorney General fails to respond to the request within 90 days of its receipt, then any other available remedies may be exercised. An action filed pursuant to this section to compel an agency to comply with this section is in addition to any other remedy and is not an exclusive means to compel compliance.

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

## PART 2. HOUSING

### CHAPTER 1. HOUSING FOR PERSONS OF LOW AND MODERATE INCOME

62100. (a) Not less than 25 percent of all taxes that are allocated to the authority from any participating entity pursuant to Section 62005 shall be deposited into a separate Low and Moderate Income Housing Fund pursuant to Section 62101 and used by the authority for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at affordable housing cost, as defined by the following sections of the Health and Safety Code: Section 50052.5, to persons and families of low or moderate income, as defined in Section 50093, lower income households, as defined by Section 50079.5, very low income households, as defined in Section 50105, and extremely low income households, as defined by Section 50106, that is occupied by these persons and families unless the authority makes a finding that combining funding received under this program with other funding for the same purpose shall reduce administrative costs or expedite the construction of affordable housing. If the authority makes such a finding, then (1) an authority may

transfer funding from the program adopted pursuant to subdivision (c) of Section 62003 to the housing authority within the territorial jurisdiction of the local jurisdiction that created the authority or to the entity that received the housing assets of the former redevelopment agency pursuant to Section 34176 of the Health and Safety Code or to a private nonprofit housing developer, and (2) Section 34176.1 of the Health and Safety Code shall not apply to funds transferred. Funding shall be spent within the plan area in which the funds were generated. Any recipient of funds transferred pursuant to this subdivision shall comply with all applicable provisions of this part.

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

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

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

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

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

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

(5) Construct buildings or structures.

(6) Acquire buildings or structures.

(7) Rehabilitate buildings or structures.

(8) Provide subsidies to, or for the benefit of, extremely low income households, as defined by Section 50106 of the Health and Safety Code, very low income households, as defined by Section 50105 of the Health

and Safety Code, lower income households, as defined by Section 50079.5 of the Health and Safety Code, or persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code, to the extent those households cannot obtain housing at affordable costs on the open market. Housing units available on the open market are those units developed without direct government subsidies.

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

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

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

(c) The authority may use these funds to meet, in whole or in part, the replacement housing provisions in Section 62120. However, this section shall not be construed as limiting in any way the requirements of that section.

(d) The authority shall use these funds inside the plan area.

(e) The Legislature finds and declares that expenditures or obligations incurred by the authority pursuant to this section shall constitute an indebtedness of the plan area.

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

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

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

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

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

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

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

(4) Except as otherwise provided in this subdivision, Chapter 2 (commencing with Section 970) of Part 5 of Division 3.6 of Title 1 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 spent for planning and general administrative activities associated with the development, improvement, and preservation of that housing not be disproportionate to the amount actually spent for the costs of production, improvement, or preservation of that housing. The authority shall determine annually that the planning and administrative expenses are necessary for the production, improvement, or preservation of low- and moderate-income housing.

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

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

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

(2) Legal, architectural, and engineering costs and other salaries, wages, and costs directly related to the planning and execution of a specific project that are authorized under subdivision (e) of Section 62100 and that are

incurred by a nonprofit housing sponsor are not planning and administrative costs for the purposes of this section, but are instead project costs.

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

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

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

(C) Fifteen years for mutual self-help housing units that are occupied by and affordable to very low and low-income households. However, the authority may permit sales of mutual self-help housing units prior to expiration of the 15-year period for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program that (i) protects the agency's investment of moneys from the Low and Moderate Income Housing Fund, including, but not limited to, an equity sharing program that establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds based on the length of occupancy, and (ii) ensures through a recorded regulatory agreement, deed of trust, or similar recorded instrument that if a mutual self-help housing unit is sold at any time after expiration of the 15-year period and prior to 45 years after the date of recording of the covenants or restrictions required pursuant to paragraph (2), the authority recovers, at a minimum, its original principal from the Low and Moderate Income Housing Fund from the proceeds of the sale and deposits those funds into the Low and Moderate Income Housing Fund. The remainder of the excess proceeds of the sale

not retained by the seller shall be allocated to the agency and deposited in the Low and Moderate Income Housing Fund. For the purposes of this subparagraph, “mutual self-help housing unit” means an owner-occupied housing unit for which persons and families of very low and low income contribute no fewer than 500 hours of their own labor in individual or group efforts to provide a decent, safe, and sanitary ownership housing unit for themselves, their families, and others authorized to occupy that unit. This subparagraph shall not preclude the authority and the developer of the mutual self-help housing units from agreeing to 45-year deed restrictions.

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

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

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

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

(i) A recitation of the affordability covenants or restrictions. The document recorded under this subparagraph shall be recorded concurrently with the covenants or restrictions recorded under subparagraph (A), the recitation of the affordability covenants or restrictions shall also reference the concurrently recorded document.

(ii) The date the covenants or restrictions expire.

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

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

(v) The legal description of the property.

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

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

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

(7) Notwithstanding any other law, the covenants or restrictions implementing this subdivision shall run with the land and shall be enforceable against any owner who violates a covenant or restriction and

each successor in interest who continues the violation, by any of the following:

- (A) The authority.
- (B) The city or county that established the authority.
- (C) A resident of a unit subject to this subdivision.
- (D) A residents' association with members who reside in units subject to this subdivision.
- (E) A former resident of a unit subject to this subdivision who last resided in that unit.

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

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

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

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

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

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

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

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

(h) "Increasing, improving, and preserving the community's supply of low- and moderate-income housing," as used in this section and in Section 62100, includes the preservation of rental housing units assisted by federal, state, or local government on the condition that units remain affordable to, and occupied by, low- and moderate-income households, including extremely low and very low income households, for the longest feasible time, but not less than 55 years, beyond the date the subsidies and use restrictions could be terminated and the assisted housing units converted to market rate rentals. In preserving these units the authority shall require that the units remain affordable to, and occupied by, persons and families of low- and moderate-income and extremely low and very low income households for the longest feasible time, but not less than 55 years.

(i) Funds from the Low and Moderate Income Housing Fund shall not be used to the extent that other reasonable means of private or commercial

financing of the new or substantially rehabilitated units at the same level of affordability and quantity are reasonably available to the agency or to the owner of the units. Prior to the expenditure of funds from the Low and Moderate Income Housing Fund for new or substantially rehabilitated housing units, where those funds will exceed 50 percent of the cost of producing the units, the authority shall find, based on substantial evidence, that the use of the funds is necessary because the authority or owner of the units has made a good faith attempt but has been unable to obtain commercial or private means of financing the units at the same level of affordability and quantity.

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

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

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

(d) For the purposes of this section, “locally controlled” means government assistance where the city or county that created the authority or other local government entity has the discretion and the authority to determine the recipient and the amount of the assistance, whether or not the source of the funds or other assistance is from the state or federal government. Examples of locally controlled government assistance include, but are not limited to, the Community Development Block Grant Program (42 U.S.C. Sec. 5301 et seq.) funds allocated to a city or county, the Home Investment Partnership Program (42 U.S.C. Sec. 12721 et seq.) funds



allocated to a city or county, fees or funds received by a city or county pursuant to a city or county authorized program, and the waiver or deferral of city or other charges.

62103. Every community revitalization plan shall contain both of the following:

(a) A provision that requires, whenever dwelling units housing persons and families of low or moderate income are destroyed or removed from the low- and moderate-income housing market as part of a revitalization project, the authority to, within two years of such destruction or removal, rehabilitate, develop, or construct, or cause to be rehabilitated, developed, or constructed, for rental or sale to persons and families of low or moderate income an equal number of replacement dwelling units at affordable housing costs, as defined by Section 50052.5 of the Health and Safety Code, within the territorial jurisdiction of the authority, in accordance with all of the provisions of Sections 62120 and 62120.5.

(b) A provision that prohibits the number of housing units occupied by extremely low, very low-, and low-income households, including the number of bedrooms in those units, at the time the plan is adopted, from being reduced in the plan area during the effective period of the plan.

62104. Programs to assist or develop low- and moderate-income housing pursuant to this part shall be entitled to priority consideration after a program implemented by a housing successor pursuant to Section 34176.1 of the Health and Safety Code for assistance in housing programs administered by the California Housing Finance Agency, the Department of Housing and Community Development, and other state agencies and departments, if those agencies or departments determine that the housing is otherwise eligible for assistance under a particular program.

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

62106. Notwithstanding Sections 62100 and 62101, assistance provided by an authority to preserve the availability to lower income households of affordable housing units within the plan area which are assisted or subsidized by public entities and which are threatened with imminent conversion to market rates may be credited and offset against an agency's obligations under Section 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 any excess surplus accumulated each year 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, a private nonprofit housing developer, 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 expenditure shall not be from the authority's Low and Moderate Income Housing Fund, but shall be used in a manner that meets all requirements for expenditures from that fund.

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

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

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

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

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

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

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

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

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

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

(f) This section shall not be construed to limit any authority that an authority may have under other provisions of this part to contract with a housing authority, private nonprofit housing developer, or other public agency exercising housing developer powers, for increasing or improving the community's supply of low- and moderate-income housing.

(g) For purposes of this section:

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

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

(3) (A) For purposes of determining whether an excess surplus exists, it is the intent of the Legislature to give credit to authorities which convey land for less than fair market value, on which low- and moderate-income housing is built or is to be built if at least 49 percent of the units developed on the land are available at an affordable housing cost to lower income households for at least the time specified in subdivision (e) of Section 62101, and otherwise comply with all of the provisions of this division applicable to expenditures of moneys from a low- and moderate-income housing fund

established pursuant to Section 62101. Therefore, for the sole purpose of determining the amount, if any, of an excess surplus, an authority may make the following calculation: if an authority sells, leases, or grants land acquired with moneys from the Low and Moderate Income Housing Fund, established pursuant to Section 62101, for an amount which is below fair market value, and if at least 49 percent of the units constructed or rehabilitated on the land are affordable to lower income households, as defined in Section 50079.5 of the Health and Safety Code, the difference between the fair market value of the land and the amount the authority receives may be subtracted from the amount of moneys in an agency's Low and Moderate Income Housing Fund.

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

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

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

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

62109. (a) Notwithstanding Sections 50079.5, 50093, and 50105 of the Health and Safety Code, for purposes of providing assistance to mortgagors participating in a homeownership residential mortgage revenue bond program pursuant to Section 33750 of the Health and Safety Code, or a home

financing program pursuant to Section 52020 of the Health and Safety Code, or a California Housing Finance Agency home financing program, "area median income" means the highest of the following:

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

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

(c) In addition to the requirements of subdivision (c) of Section 33413 of the Health and Safety Code, the authority shall require that the lower and very low income dwelling units developed pursuant to this subdivision remain available at an affordable housing cost to lower and very low income households for at least 45 years, except as to dwelling units developed with the assistance of federal or state subsidy programs which terminate in a shorter period and cannot be extended or renewed.

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

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

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

(b) To a lien, encumbrance, or regulatory agreement of a lender other than the authority or from a bond issuance providing financing, refinancing, or other assistance of owner-occupied units or parcels where the authority makes a finding that an economically feasible alternative method of financing, refinancing, or assisting the units or parcels on substantially

comparable terms and conditions, but without subordination, is not reasonably available.

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

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

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

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

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

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

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

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

of the sale, shall be deposited in the authority's 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.

(c) The relocation plan required by this section shall comply with the relocation plan and assistance requirements of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.

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 and that all other requirements of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code are met. 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 plan area 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 in the recorded covenants for those units 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 in advance of marketing the units to the general public. Failure to give that priority shall not affect the validity of title to real property; however, a unit may not be counted as a replacement or production unit in the event of noncompliance with this provision. 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. The list shall be provided to the owner of those properties at or before any certificate of occupancy is issued.

62118. If insufficient suitable housing units are available in the plan area 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 within its territorial jurisdiction for suitable housing for rental or purchase by low- and moderate-income persons and families. If insufficient suitable housing units are available in the community for use by persons and families of low and moderate income displaced by the revitalization project, the authority may, to the extent of that deficiency, direct or cause the development, rehabilitation, or construction of housing units within the community, both inside and outside of revitalization plan areas.

62119. Permanent housing facilities shall be made available within two years from the time occupants are displaced and that pending the development of such facilities there will be available to such displaced occupants adequate temporary housing facilities at rents comparable to the units from which the displaced occupants were displaced.

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

(b) (1) Prior to the time limit on the effectiveness of the community revitalization plan established pursuant to subdivision (g) of Section 62003 at least 30 percent of all new and substantially rehabilitated dwelling units developed by an authority shall be available at affordable housing cost to, and occupied by, persons and families of low or moderate income. Not less than 50 percent of the dwelling units required to be available at affordable housing cost to, and occupied by, persons and families of low or moderate income shall be available at affordable housing cost to, and occupied by, very low income households.

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



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

(iii) "Substantially rehabilitated dwelling units" means all units substantially rehabilitated, with authority assistance.

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

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

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

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

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

(4) Each authority, as part of the community revitalization and investment plan required by Section 62003, shall adopt a plan to comply with the

requirements of this subdivision. The plan shall be consistent with the community's housing element. The plan shall be reviewed and, if necessary, amended at least in conjunction with the plan implementation cycle. The plan shall ensure that the requirements of this subdivision are met every 10 years. If the requirements of this subdivision are not met by the end of each 10-year period, the agency shall meet these goals on an annual basis until the requirements for the 10-year period are met. If the agency has exceeded the requirements within the 10-year period, the agency may count the units that exceed the requirement in order to meet the requirements during the next 10-year period.

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

(2) Notwithstanding paragraph (1), the authority may permit sales of owner-occupied units prior to the expiration of the 45-year period, and mutual self-help housing units prior to the expiration of the 15-year period, established by the authority for a price in excess of that otherwise permitted under this subdivision pursuant to an adopted program that protects the authority's investment of moneys from the Low and Moderate Income Housing Fund, including, but not limited to, an equity sharing program that establishes a schedule of equity sharing that permits retention by the seller of a portion of those excess proceeds, based on the length of occupancy. The remainder of the excess proceeds of the sale shall be allocated to the authority, and deposited into the Low and Moderate Income Housing Fund. The authority shall, within three years from the date of sale pursuant to this paragraph of each home ownership or mutual self-help housing unit subject to a 45-year deed restriction, and every third mutual self-help housing unit subject to a 15-year deed restriction, expend funds to make affordable an equal number of units at the same or lowest income level as the unit or units sold pursuant to this paragraph, for a period not less than the duration of the original deed restrictions. Only the units originally assisted by the authority shall be counted 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 authority 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. (a) 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. Not less than 30 days 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 owners and residents within the plan area, any persons who have requested notice of that replacement housing plan, other public agencies, and the general public.

The replacement housing plan shall include all of the following:

(1) A description of the housing to be destroyed or removed, including the address, parcel number, number and size of units, whether the units are occupied, and if so, the income categories of the occupants, if that information is available, whether the units are rental or ownership, the rent levels or sale price of the units, and if the units have existing affordable covenants, the nature and source of the subsidy and duration of the covenants.

(2) A description of the housing to be rehabilitated, developed, or constructed pursuant to Section 62120 to replace the units described in paragraph (1), including the general location of the replacement units, the number and size of the replacement units, the affordability levels of the replacement units, whether the replacement units will be rental or ownership, and duration of the affordability covenants applicable to the units.

(3) An analysis of the cost of producing the replacement units and a description of the source and adequacy of funds or financing, or both, available for the rehabilitation, development, or construction.

(4) A finding that the replacement housing does not require the approval of the voters pursuant to Article XXXIV of the California Constitution, or that such approval has been obtained.

(5) The timetable for meeting the plan's relocation, rehabilitation, and replacement housing objectives. A dwelling unit whose replacement is required by Section 62120 but for which no replacement housing plan has been prepared, shall not be destroyed or removed from the low- and moderate-income housing market until the agency has by resolution adopted a replacement housing plan.

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

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

The limited-equity housing cooperatives shall, in addition to the provisions of Section 817 of the Civil Code, be organized so that the consideration paid for memberships or shares by the first occupants following construction or acquisition by the corporation, including the principal amount of obligations incurred to finance the share or membership purchase, does not exceed 3 percent of the development cost or acquisition cost, or of the fair market value appraisal by the permanent lender, whichever is greater.

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

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

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

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

(b) The data specified in subdivision (a) shall be obtained by the authority from owners and managers of the housing specified therein and current data shall be included in any reports required by law to be submitted to the Department of Housing and Community Development or the Controller. The information on income and family size that is required to be reported by the owner or manager shall be supplied by the tenant and shall be the only information on income or family size that the owner or manager shall be required to submit on his or her annual report to the agency.

(c) (1) The authority shall compile and maintain a database of existing, new, and substantially rehabilitated, housing units developed or otherwise assisted with moneys from the Low and Moderate Income Housing Fund, or otherwise counted towards the requirements of subdivision (a) or (b) of Section 62120. The database shall be posted in an easily identifiable and accessible location on the authority's Internet Web site and updated on an annual basis and shall include the date the database was last updated. The database shall require all of the following information for each owner-occupied unit or rental unit, or for each group of units, if more than one unit is subject to the same covenant:

- (A) The street address and the assessor's parcel number of the property.
- (B) The size of each unit, measured by the number of bedrooms.
- (C) The year in which the construction or substantial rehabilitation of the unit was completed.
- (D) The date of recordation and document number of the affordability covenants or restrictions required under subdivision (f) of Section 33334.3 of the Health and Safety Code.
- (E) The date on which the covenants or restrictions expire.
- (F) For owner-occupied units that have changed ownership during the reporting year, as described in subdivision (a), the date and document number of the new affordability covenants or other documents recorded to assure that the affordability restriction is enforceable and continues to run with the land.
- (G) Whether occupancy in the unit or units is restricted to any special population, including, but not limited to, senior citizens and persons with disabilities.
- (H) Whether occupancy in the unit or units is restricted to an extremely low, very low, low-, or moderate-income household.

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

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

(d) The authority shall adequately fund its monitoring activities as needed to insure compliance of applicable laws and agreements in relation to affordable units. For purposes of defraying the cost of complying with the requirements of this section and the changes in reporting requirements enacted by the act enacting this section, an authority may establish and impose fees upon owners of properties monitored pursuant to this section.

### PART 3. PROPERTY ACQUISITION

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

- (a) Land, including land under water and waterfront property.
- (b) Buildings, structures, fixtures, and improvements on the land.
- (c) Any property appurtenant to or used in connection with the land.
- (d) Every estate, interest, privilege, easement, franchise, and right in land, including rights-of-way, terms for years, and liens, charges, or encumbrances by way of judgment, mortgage, or otherwise and the indebtedness secured by those liens.

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

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

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

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

(d) Offer for resale property acquired by an authority for rehabilitation and resale within one year after completion of rehabilitation. Properties held by the authority in excess of a one-year period shall be listed in the

authority's annual report with information conveying the reasons that property remains unsold and indicating plans for its disposition.

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

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

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

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

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

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

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

(b) A development that will be or is on a parcel of land of five acres or more which has not previously been developed for urban use and that will, when developed, generate sales or use tax pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code, unless the principal permitted use of the development is office, hotel, manufacturing, or industrial. For the purposes of this subdivision, a parcel shall include land on an adjacent or nearby parcel on which a use exists that is necessary for the legal development of the parcel.

(c) A development or business, either directly or indirectly, for the acquisition, construction, improvement, rehabilitation, or replacement of property that is or would be used for gambling or gaming of any kind whatsoever, including, but not limited to, casinos, gaming clubs, bingo operations, or any facility wherein banked or percentage games, any form

of gambling device, or lotteries, other than the California State Lottery, are or will be played.

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

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

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

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

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

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

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

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

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



any purchaser from the authority or his or her successors or assignees, or any other persons or entities.

62204. (a) If an authority has adopted a plan but has not commenced an eminent domain proceeding to acquire any particular parcel of property subject to eminent domain thereunder within three years after the date of adoption of the plan, the owner or owners of the entire fee at any time thereafter may offer in writing to sell the property to the authority for its fair market value. If the authority does not, within 18 months from the date of receipt of the original offer, acquire or institute eminent domain proceedings to acquire the property, the property owner or owners may file an action against the authority in inverse condemnation to recover damages from the authority for any interference with the possession and use of the real property resulting from the plan, provided that this section shall not be construed as establishing or creating a presumption to any right to damages or relief solely by reason of the failure of the authority to acquire the property within the time set forth in this section.

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

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

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

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

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

(g) A declaration that the property is exempt from acquisition by eminent domain shall be by resolution and shall be recordable. It shall exempt the property from eminent domain under the plan, and the authority shall have no power of eminent domain as to the property.

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

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

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

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

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

“The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those basis are defined in Sections 12926, 12926.1 of, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 of, and Section 12955.2 of, the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons,

as defined in Section 12955.9. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 of, and Sections 4760 and 6714 of, the Civil Code, and subdivisions (n), (o), and (p) of Section 12955 shall apply to paragraph (1).

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

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

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

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

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

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

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

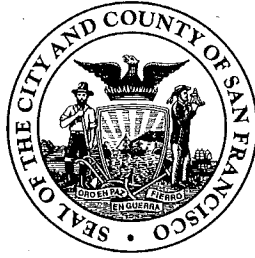
(1) Use the property for the purpose designated in the revitalization plans.

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

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

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

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

TO: Robert P. Beck, Treasure Island Director, Treasure Island Development Authority  
Olson Lee, Director, Mayor's Office of Housing and Community Development  
Tiffany Bohee, Executive Director, Office of Community Investment and Infrastructure

FROM: Alisa Somera, Assistant Clerk, Board of Supervisors

DATE: October 13, 2015

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Land Use and Transportation Committee has received the following legislation, introduced by Supervisor Kim on October 6, 2015:

**File No. 151013**

**Resolution urging the Board and Director of the Treasure Island Development Authority to develop a series of recommendations on how the City can utilize the formation of a Community Revitalization and Investment Authority, newly authorized by California State Assembly Bill 2, to increase the affordability of housing on Treasure Island to 40%.**

If you have any additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

cc: Kate Austin, Treasure Island Development Authority  
Nikki Ivey, Treasure Island Development Authority  
Eugene Flannery, Mayor's Office of Housing and Community Development  
Sophie Hayward, Mayor's Office of Housing and Community Development  
Claudia Guerra, Office of Community Investment and Infrastructure  
Natasha Jones, Office of Community Investment and Infrastructure

Print Form

REC'D IN BOARD  
Time stamp or meeting date

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.**

**Sponsor(s):**

Supervisor Kim

**Subject:**

Urging the Board and Director of the Treasure Island Development Authority to Develop Recommendations to Establish 40% Affordable Housing on Treasure Island

**The text is listed below or attached:**

[ ]

Signature of Sponsoring Supervisor: 

**For Clerk's Use Only:**