

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 136

Session of  
1987INTRODUCED BY RHOADES, SINGEL, CORMAN, WENGER AND STOUT,  
JANUARY 15, 1987

SENATOR PECORA, LOCAL GOVERNMENT, AS AMENDED, APRIL 29, 1987

## AN ACT

1 Empowering the Department of Community Affairs to declare  
2 certain municipalities as financially distressed; providing  
3 for the restructuring of debt of financially distressed  
4 municipalities; limiting the ability of financially  
5 distressed municipalities to obtain government funding;  
6 authorizing municipalities to participate in Federal debt  
7 ~~readjustment~~ ADJUSTMENT actions and bankruptcy actions under <—  
8 certain circumstances; and providing for consolidation or  
9 merger of contiguous municipalities to relieve financial  
10 distress.

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24 The General Assembly of the Commonwealth of Pennsylvania  
25 hereby enacts as follows:

26 CHAPTER 1  
27 GENERAL PROVISIONS  
28 SUBCHAPTER A  
29 PRELIMINARY PROVISIONS  
30 Section 101. Short title.

1 This act shall be known and may be cited as the Financially  
2 Distressed Municipalities Act.

3 Section 102. Purpose and legislative intent.

4 (a) Policy.--It is hereby declared to be a public policy of  
5 the Commonwealth to foster fiscal integrity of municipalities so  
6 that they provide for the health, safety and welfare of their  
7 citizens; pay due principal and interest on their debt  
8 obligations when due; meet financial obligations to their  
9 employees, vendors and suppliers; and provide for proper  
10 financial accounting procedures, budgeting and taxing practices.  
11 The failure of a municipality to do so is hereby determined to  
12 affect adversely the health, safety and welfare not only of the  
13 citizens of the municipality but also of other citizens in this  
14 Commonwealth.

15 (b) Legislative intent.--

16 (1) It is the intent of the General Assembly to:

17 (i) Enact procedures and provide powers and  
18 guidelines to ensure fiscal integrity of municipalities  
19 while leaving principal responsibility for conducting the  
20 governmental affairs of a municipality, including  
21 choosing the priorities for and manner of expenditures  
22 based on available revenues, to the charge of its elected  
23 officials, consistent with the public policy set forth in  
24 this section.

25 (ii) Enact procedures for the adjustment of  
26 municipal debt by negotiated agreement with creditors.

27 (2) The General Assembly further recognizes that  
28 changing and deteriorating economic conditions, developing  
29 technologies and attendant unemployment erode local tax bases  
30 and threaten essential municipal services. Under such

1 circumstances, the General Assembly believes that such  
2 distressed governmental units may no longer be viable and  
3 that the citizens of those communities should be granted the  
4 opportunity to voluntarily consolidate or merge their  
5 municipalities with other municipalities in an effort to  
6 allow municipal boundaries to reflect the geographic and  
7 economic realities of a distressed area, to merge a common  
8 community of interest, to take advantage of economies of  
9 scale in providing services, and to create an expanded  
10 revenue base to provide necessary public services to the  
11 citizens of financially distressed municipalities.

12 Section 103. Definitions.

13 The following words and phrases when used in this act shall  
14 have the meanings given to them in this section unless the  
15 context clearly indicates otherwise:

16 "BASIS OF ACCOUNTING." REVENUES AND EXPENDITURES MAY BE  
17 RECOGNIZED ON THE CASH, MODIFIED ACCRUAL OR FULL ACCRUAL BASIS  
18 OF ACCOUNTING, PROVIDED THAT BASIS IS APPLIED CONSISTENTLY  
19 THROUGHOUT THE FISCAL PERIODS REPORTED FOR EVALUATION PURPOSES.

20 "Chief executive officer." Mayor in a mayor-council form of  
21 government or manager in a council-manager form of government of  
22 a city operating under an optional form of government pursuant  
23 to the act of July 15, 1957 (P.L.901, No.399), known as the  
24 Optional Third Class City Charter Law; a mayor of a city of the  
25 first class; or an individual serving in such capacity as  
26 designated by a home rule charter or optional plan pursuant to  
27 the act of April 13, 1972 (P.L.184, No.62), known as the Home  
28 Rule Charter and Optional Plans Law.

29 "Claim." Right to payment, whether or not the right is  
30 reduced to judgment, liquidated, unliquidated, fixed,

1 contingent, matured, unmatured, disputed, undisputed, legal,  
2 equitable, secured or unsecured; or right to an equitable remedy  
3 for breach of performance if the breach gives rise to a right to  
4 payment, whether or not the right to an equitable remedy is  
5 reduced to judgment, fixed, contingent, matured, unmatured,  
6 disputed, undisputed, secured or unsecured.

7 "Commonwealth agency." The Governor and the departments,  
8 boards, commissions, authorities and other officers and agencies  
9 of this Commonwealth, whether or not subject to the policy  
10 supervision and control of the Governor.

11 "Consolidated or merged municipality." A municipal entity  
12 resulting from successful consolidation or merger proceedings  
13 under Subchapter A of Chapter 3.

14 "Consolidation or merger." The combination of two or more  
15 municipalities into one municipality.

16 "Contiguous territory." A territory of which a portion abuts  
17 the boundary of another municipality, including territory  
18 separated from the exact boundary of another municipality by a  
19 street, road, railroad or highway, or by a river or other  
20 natural or artificial stream of water.

21 "Creditor." An individual, partnership, corporation,  
22 association, estate, trust, governmental unit or the governing  
23 board of a pension fund of a municipality that has a claim  
24 against a municipality.

25 "DEFICIT." THE EXCESS OF EXPENDITURES OVER REVENUES, STATED <—  
26 AS A PERCENTAGE OF REVENUE, DURING AN ACCOUNTING PERIOD. THIS  
27 CALCULATION SHALL INCLUDE ALL GOVERNMENTAL FUND TYPES AND ALL  
28 PROPRIETARY FUND TYPES, BUT SHALL EXCLUDE ALL FIDUCIARY FUND  
29 TYPES OF THE MUNICIPALITY.

30 "Department." The Department of Community Affairs of this

1 Commonwealth.

2 "Election officials." The county boards of election, except  
3 in a city of the first class where "election officials" means  
4 the city board of elections.

5 ~~"Expenditures." When accounts are kept on an accrual basis~~ <—  
6 ~~or the modified accrual basis, this term designates the cost of~~  
7 ~~goods delivered or services rendered, whether paid or unpaid,~~  
8 ~~including expenses, provision for debt retirement not reported~~  
9 ~~as a liability of the fund from which retired, and capital~~  
10 ~~outlays, which are presumed to benefit a given fiscal year of a~~  
11 ~~municipality. When accounts are kept on a cash basis, the term~~  
12 ~~designates actual cash disbursements for these purposes.~~

13 "EXPENDITURES." REDUCTIONS IN FUND EQUITY, INCLUDING CURRENT <—  
14 OPERATING EXPENSES THAT REQUIRE THE USE OF FUND EQUITY, DEBT  
15 SERVICE AND CAPITAL OUTLAYS. THE TERM SHALL NOT INCLUDE  
16 INTERFUND TRANSFERS.

17 "FUND EQUITY." EXCESS OF ASSETS OF A FUND OVER ITS  
18 LIABILITIES.

19 "Governing body." The council in cities, boroughs and  
20 incorporated towns; the board of commissioners in counties; the  
21 board of commissioners in townships of the first class; the  
22 board of supervisors in townships of the second class, or the  
23 legislative policy-making body in home rule municipalities.

24 "Initiative." The filing with applicable election officials  
25 of a petition containing a proposal for a referendum to be  
26 placed on the ballot of the next election. The petition shall  
27 be:

28 (1) ~~Filed at least 90 days before the~~ NOT LATER THAN THE <—  
29 13TH TUESDAY PRIOR TO THE NEXT election in which it will  
30 appear on the ballot.

1           (2) Signed by voters comprising 5% of the persons voting  
2       for the office of Governor in the last gubernatorial general  
3       election in the municipality where the proposal will appear  
4       on the ballot.

5           (3) Placed on the ballot by election officials in a  
6       manner fairly representing the content of the petition for  
7       decision by referendum at said election.

8           (4) Submitted not more than once in five years.

9       " Matured claim." A claim that has been reduced to judgment  
10     or liquidated in amount by agreement for a period of 90 days  
11     prior to the filing of a petition to commence fiscal distress  
12     proceedings under this act.

13     " Municipal record." A financial record and document of a  
14     municipality or of an authority incorporated by a municipality,  
15     excluding confidential information relating to personnel matters  
16     and matters relating to the initiation and conduct of  
17     investigations of violations of law.

18     " Municipality." Every county, city, borough, incorporated  
19     town, township and home rule municipality.

20     " Referendum." Placement of a question inserted on the  
21     ballot, by initiative or otherwise, by a majority vote of the  
22     electors voting thereon.

23     ~~" Revenues." Moneys received by the municipality in a fiscal~~ <—  
24     ~~year from whatever source except:~~

25           ~~(1) Subsidies or reimbursement from the Federal~~  
26     ~~Government or from the Commonwealth measured by the cost of,~~  
27     ~~or given or paid on account of, a particular project financed~~  
28     ~~by debt.~~

29           ~~(2) Project revenues, rates, receipts, user charges,~~  
30     ~~special assessments and special levies which are or will be~~



~~pledged or budgeted for specific self liquidating debt or for payments under leases, guarantees, subsidy contracts or other forms of agreement which could constitute lease rental debt if the payments are payable solely from such sources; if a portion of the payments are returned to or retained by the municipality, that portion shall not be excluded.~~

~~(3) Interest on moneys in sinking funds, reserves and other funds, which interest is pledged or budgeted for the payment or security of outstanding debt and interest on bond or note proceeds, if similarly pledged.~~

~~(4) Grants and gifts in aid of or measured by the construction or acquisition of specified projects.~~

~~(5) Proceeds from the disposition of capital assets.~~

~~(6) Other nonrecurring items, including bond or note proceeds not considered income under generally accepted municipal accounting principles.~~

"REVENUES." ADDITIONS TO FUND EQUITY OTHER THAN FROM  
INTERFUND TRANSFERS, PROCEEDS OF DEBT AND PROCEEDS OF  
DISPOSITION OF GENERAL FIXED ASSETS.

<—

"Secretary." The Secretary of Community Affairs of the  
Commonwealth.

## SUBCHAPTER B

### ADMINISTRATIVE PROVISIONS

Section 121. Powers and duties of department.

(a) Compile financial data.--

(1) A power and duty of the department shall be to maintain accurate and current information and data on the fiscal status of municipalities to determine if criteria set forth in section 201 exist and, if so, whether the existence of those factors validly indicates fiscal distress.

1 (2) In compiling the information and data, the  
2 department shall mail, before January 1 of each year, a  
3 Survey of Financial Condition form to each municipality  
4 applicable to the municipality's prior fiscal year.

5 (i) The survey shall seek information necessary to  
6 determine the fiscal status of a municipality, shall be  
7 concise to facilitate prompt response and shall contain  
8 an attestation clause to be signed by the ~~municipality's~~ <—  
9 ~~chief executive officer.~~ PRESIDING OFFICER OF THE <—  
10 MUNICIPALITY'S GOVERNING BODY.

11 (ii) The survey shall be a supplement to and shall  
12 be included with the annual audit reports submitted to  
13 the department in accordance with law.

14 (iii) The survey shall include information based on  
15 the criteria specified in section 201.

16 (IV) THE SURVEY SHALL INCLUDE INFORMATION RELATING <—  
17 TO THE BASIS OF ACCOUNTING UTILIZED BY MUNICIPALITIES.

18 (b) Assess data.--A power and duty of the department shall  
19 be to apply the criteria of section 201 to data and information  
20 on the fiscal status of municipalities to assess the validity  
21 and applicability of an indication of municipal financial  
22 distress. In ~~determining~~ ASSESSING validity and applicability, <—  
23 the department shall undertake a review process including, but  
24 not limited to, consultation, correspondence and visits with a  
25 municipality which appears to be financially distressed, <—  
26 NOTWITHSTANDING THE PROVISIONS OF SECTION 2501-C(E) AND (F) OF  
27 THE ACT OF APRIL 9, 1929 (P.L.177, NO.175), KNOWN AS THE  
28 ADMINISTRATIVE CODE OF 1929, WHICH LIMITS DEPARTMENT  
29 INTERVENTION TO INCIDENCES WHEN SUCH IS REQUESTED BY THE  
30 MUNICIPALITY. If the department ~~determines~~ ASSESSES that a <—

1 municipality ~~is not financially distressed but~~ needs assistance <—  
2 to correct minor fiscal problems, the department shall offer  
3 appropriate recommendations. If the municipality adopts those  
4 recommendations, the department need take no further action.

5 ~~(c) Make determination of fiscal distress. A power and duty~~ <—  
6 ~~of the department shall be to make determinations of fiscal~~  
7 ~~distress based upon its review and analysis of various data and~~  
8 ~~information available to it pursuant to this act and their~~  
9 ~~interrelationship with the fiscal distress criteria set forth in~~  
10 ~~section 201 when the department determines a municipality is in~~  
11 ~~a state of distress pursuant to section 203(f).~~

12 ~~(d)~~ (C) Notify agencies of determination.--Upon the making <—  
13 of a determination BY THE SECRETARY that a municipality is <—  
14 distressed PURSUANT TO SECTION 203(F), the department shall <—  
15 immediately notify the heads of all Commonwealth agencies of the  
16 determination.

17 ~~(e)~~ (D) Act as ~~repository~~ ANALYZER of municipal reports.--A <—  
18 power and duty of the department shall be to act as the  
19 Commonwealth ~~repository and~~ analyzer for all RELEVANT reports, <—  
20 data and information required by law to be filed by  
21 municipalities with any Commonwealth agency when such reports,  
22 data and information directly relate to the financial conditions  
23 of municipalities. The department shall, in consultation with  
24 every Commonwealth agency, determine which reports, data and  
25 information relate to the fiscal condition of municipalities.  
26 UPON AN INDICATION OF DISTRESS IN A MUNICIPALITY THROUGH <—  
27 INFORMATION AVAILABLE TO THE DEPARTMENT, THE DEPARTMENT SHALL  
28 REQUEST DATA, REPORTS AND INFORMATION FROM ALL COMMONWEALTH  
29 AGENCIES TO ASSIST THE DEPARTMENT TO SUBSTANTIATE A POSSIBLE  
30 DISTRESS STATUS OF A MUNICIPALITY.

1       ~~(f)~~ (E)   Furnish program data to municipality.--Upon receipt       <—  
2   of information forwarded to the department by each Commonwealth  
3   agency pursuant to section 122(a), the department shall furnish  
4   this information to the distressed municipality coordinator for  
5   possible inclusion of such information into the plan developed  
6   by the coordinator in accordance with Subchapter C of Chapter 2.  
7       ~~(g)~~ (F)   Develop early warning system.--In conjunction with       <—  
8   ~~evaluating~~ ASSESSING a municipality's current fiscal stability       <—  
9   under subsections (a), ~~(b)~~ and ~~(c)~~ AND (B) and section 201, the       <—  
10  department shall develop an early warning system utilizing  
11  necessary fiscal and socioeconomic variables to identify  
12  municipal financial emergencies before they reach crisis  
13  proportions AND TO NOTIFY AN AFFECTED MUNICIPALITY       <—  
14  APPROPRIATELY. The department shall be responsible for testing  
15  the validity and reliability of these variables and shall  
16  continuously monitor them to assure their effectiveness. In  
17  developing an early warning system, the department may employ or  
18  contract with municipal fiscal consultants as deemed necessary  
19  to execute the provisions of this subsection. NOTICE SHALL BE       <—  
20  PUBLISHED IN THE PENNSYLVANIA BULLETIN THAT THE EARLY WARNING  
21  SYSTEM HAS BEEN DEVELOPED AND THE SYSTEM MAY NOT BECOME  
22  OPERATIONAL UNTIL THE PUBLICATION OF THE NOTICE.  
23       ~~(h)~~ (G)   Promulgate rules and regulations.--The department       <—  
24  shall promulgate rules and regulations necessary to implement  
25  the provisions of this act.  
26  Section 122.   Duties of Commonwealth agencies.  
27       (a)   Review programs.--After the ~~department~~ SECRETARY makes a       <—  
28  determination that a municipality is distressed and THE       <—  
29  DEPARTMENT notifies Commonwealth agencies of ~~its~~ THE SECRETARY'S       <—  
30  determination, pursuant to section ~~121(d)~~ 121(C), each agency       <—

1 shall review all matters and programs pending, underway or about  
2 to be commenced or possible programs concerning the distressed  
3 municipality. An action which is within the authority and budget  
4 of a Commonwealth agency and which, in the judgment of the head  
5 of the agency, will help to improve the distressed  
6 municipality's financial situation shall be reported to the  
7 department.

8 (b) Transfer documented information.--~~Each~~ UPON REQUEST OF <—  
9 THE DEPARTMENT, EACH Commonwealth agency shall forward to the  
10 department all documented reports, data and other information  
11 referred to in section ~~121(e)~~ 121(D) within 30 days of receipt. <—  
12 Section 123. Powers and duties of municipalities.

13 (a) File completed survey.--On or before March ~~30~~ 15 of each <—  
14 year, every municipality shall return to the department a  
15 completed Survey of Financial Conditions referred to in section  
16 121(a). No municipality shall receive its allotted payments  
17 pursuant to the act of June 1, 1956 (1955 P.L.1944, No.655),  
18 referred to as the Liquid Fuels Tax Municipal Allocation Law,  
19 unless it complies with the provisions of this section,  
20 notwithstanding a provision of law to the contrary, and the  
21 Department of Transportation may not disburse funds to a  
22 municipality pursuant to the Liquid Fuels Tax Municipal  
23 Allocation Law until notified by the department that the  
24 municipality has complied with the provisions of this section.

25 (b) Right to petition court for tax increase.--After a  
26 municipality has adopted a plan under Subchapter C of Chapter 2,  
27 it may petition the court of common pleas of the county in which  
28 the municipality is located to increase its rates of taxation  
29 for earned income, real property, or both, beyond maximum rates  
30 provided by law. If a tax increase above existing limits is

1 granted by the court, ~~the additional amount of taxes shall not~~ <—  
2 ~~be subject to sharing with a school district.~~ COURTS, THE <—  
3 INCREASE SHALL BE EFFECTIVE FOR A PERIOD OF ONE YEAR FROM THE  
4 DATE A FINAL PLAN IS ADOPTED BY THE GOVERNING BODY PURSUANT TO  
5 SECTION 245. SUBSEQUENT INCREASES IN RATES OF TAXATION MAY BE  
6 GRANTED BY THE COURT UPON ANNUAL PETITION OF THE MUNICIPALITY.  
7 THE ADDITIONAL AMOUNT OF TAXES RESULTING FROM THE PETITION SHALL  
8 NOT BE SUBJECT TO SHARING WITH A SCHOOL DISTRICT.

9 SUBCHAPTER C

10 JUDICIAL PROVISIONS

11 Section 141. Jurisdiction of court of common pleas.

12 The court of common pleas of each county shall have  
13 jurisdiction to hear a petition filed by a municipality which  
14 has adopted a final plan pursuant to Subchapter C of Chapter 2  
15 to increase rates of taxation for earned income, real property,  
16 or both, beyond maximum rates provided by law. The court may ~~not~~ <—  
17 extend ANNUALLY the increased taxing powers of the municipality <—  
18 ~~beyond the date for final consummation~~ UNTIL THE TERMINATION <—  
19 DATE of a THE plan adopted by the municipality pursuant to <—  
20 Chapter 2.

21 CHAPTER 2

22 MUNICIPAL FINANCIAL DISTRESS

23 SUBCHAPTER A

24 DETERMINATION OF MUNICIPAL FINANCIAL DISTRESS

25 Section 201. Criteria.

26 The evaluation of a municipality's financial stability by the  
27 department under section 121 shall include each of the following  
28 criteria. If at least one criterion is present and the  
29 department ~~finds~~ ASSESSES pursuant to section 121(b) that it is <—  
30 a valid indication of municipal financial distress, then the

1 department shall exercise its powers and duties pursuant to  
2 section 121.

3 (1) The municipality has maintained a deficit over a  
4 three-year period, with a deficit of 1% or more in each of  
5 the previous fiscal years.

6 (2) The municipality's expenditures have exceeded  
7 revenues for a period of three years or more.

8 (3) The municipality has defaulted in payment of  
9 principal or interest on any of its bonds or notes or in  
10 payment of rentals due any authority.

11 (4) The municipality has missed a payroll for 30 days.

12 (5) The municipality has failed to make required  
13 payments to judgment creditors for 30 days beyond the date of  
14 the recording of the judgment.

15 (6) The municipality, for a period of at least 30 days  
16 beyond the due date, has failed to forward taxes withheld on  
17 the income of employees or has failed to transfer employer or  
18 employee contributions for Social Security.

19 (7) The municipality has accumulated and has operated  
20 for each of two successive years a deficit equal to 5% or  
21 more of its revenues.

22 (8) The municipality has failed to make the budgeted  
23 payment of its minimum municipal obligation as required by  
24 section 302 of the act of December 18, 1984 (P.L.1005,  
25 No.205), known as the Municipal Pension Plan Funding Standard  
26 and Recovery Act, with respect to a pension fund during the  
27 fiscal year for which the payment was budgeted and has failed  
28 to take action within that time period to make required  
29 payments.

30 (9) A municipality has sought to negotiate resolution or

adjustment of a claim in excess of 30% against a fund or budget and has failed to reach an agreement with creditors.

(10) A municipality has filed a municipal debt readjustment plan pursuant to Chapter 9 of the Bankruptcy Code (11 U.S.C. § 901 et seq).

(11) THE MUNICIPALITY HAS EXPERIENCED A DECREASE IN A QUANTIFIED LEVEL OF MUNICIPAL SERVICE FROM THE PRECEDING FISCAL YEAR WHICH HAS RESULTED FROM THE MUNICIPALITY REACHING ITS LEGAL LIMIT IN LEVYING REAL ESTATE TAXES FOR GENERAL PURPOSES. FOR DETERMINING LEVELS OF MUNICIPAL SERVICE FOR THE YEAR 1987, THE DEPARTMENT SHALL UTILIZE ANNUAL STATISTICAL DATA SINCE THE YEAR 1982 TO DETERMINE A PATTERN OF DECREASE IN DELIVERY OF MUNICIPAL SERVICES SINCE 1982.

Section 202. Standing to petition for a determination.

The following have standing to seek a determination of municipal financial distress from the ~~department~~ SECRETARY:

(1) The department itself, if, subsequent to its review and analysis under sections 121 and 201, it concludes that a municipality is substantially in a condition of financial distress.

(2) The governing body of the municipality upon passing a resolution by a majority vote of the governing body after a special public meeting duly advertised as provided by law.

(3) A creditor with a matured claim to whom the municipality owes \$10,000 or more, if the creditor agrees in writing to suspend pending actions and to forbear from bringing an alternate or additional legal action against the municipality to collect the debt or part of it for a period of nine months or until the municipality adopts a plan under this act, whichever occurs first. The filing of a Federal



1 debt adjustment action by a municipality pursuant to  
2 Subchapter D of Chapter 2 during the nine-month period  
3 cancels the forbearance obligation.

4 (4) Ten percent of the number of electors of the  
5 municipality that voted at the last municipal election, by  
6 petition to the department alleging the municipality is  
7 fiscally distressed.

8 (5) Trustee of a municipal pension fund; an actuary for  
9 a pension fund; or 10% or more of the beneficiaries of a  
10 pension fund upon petition to the department, provided that a  
11 municipality has not timely deposited its minimum obligation  
12 payment as required by section 302 of the act of December 18,  
13 1984 (P.L.1005, No.205), known as the Municipal Pension Plan  
14 Funding Standard and Recovery Act.

15 (6) Ten percent of the employees of the municipality who  
16 have not been paid for over 30 days from the time of a missed  
17 payroll, upon signing collectively the petition to the  
18 department.

19 (7) Trustees or paying agents of a municipal bond  
20 indenture.

21 (8) The elected auditors, appointed independent auditors  
22 or elected controllers of a municipality if they have reason  
23 to believe a municipality is in a state of financial distress  
24 pursuant to section 201.

25 Section 203. Procedure for determination.

26 (a) Petition.--A party with standing to petition under  
27 section 202 may petition the secretary seeking a determination  
28 that the municipality involved is a financially distressed  
29 municipality. The petition shall:

30 (1) Allege the petitioner has standing to bring a

determination of the distress.

(2) State why the petitioner believes the municipality is distressed under section 201.

(3) Include a listing of judgments recorded against the municipality.

(4) Include any other material allegation justifying the relief afforded by this act.

(5) IF THE PETITIONER IS A MUNICIPALITY, THE PETITION MAY STATE WHY THE PETITIONER BELIEVES MANIFESTATION OF SECTION 201 CRITERIA IS IMMINENT AND INEVITABLE. THIS STATEMENT MAY BE IN LIEU OF THE STATEMENT REQUIRED UNDER PARAGRAPH (2).

<—

(b) Hearing.--Within ten days of receiving a petition, the secretary shall set a time and place for a public hearing which shall be scheduled to be held on a date at least two weeks but not more than 30 days later within the county of the subject municipality.

(c) Investigation.--After receiving the petition but before the public hearing, the secretary may make an investigation into the financial affairs of the municipality. The results of the investigation ~~of~~ OR any study previously conducted by the department under section 121 shall be placed in the record of the public hearing.

<—

(d) Notice.--The secretary shall publish notice of the hearing in accordance with the act of July 3, 1986 (P.L.388, No.84), known as the Sunshine Act, at least once in a newspaper with general circulation in the subject municipality and shall give written notice by certified mail, with return receipt requested, upon the municipal clerk or municipal secretary, the mayor, the municipal solicitor, each member of the governing

1 body of the municipality and the petitioner.

2 (e) Hearing officer.--The secretary or an official of the  
3 department designated by the secretary shall conduct the public  
4 hearing to hear testimony of the petitioners and other  
5 interested persons.

6 (f) Determination.--Within 30 days after the hearing, the  
7 secretary shall issue an administrative determination of whether  
8 the municipality is financially distressed and reasons for the  
9 determination.

10 (G) APPEAL.--A DETERMINATION BY THE SECRETARY UNDER THIS ACT <—  
11 IS APPEALABLE PURSUANT TO TITLE 2 OF THE PENNSYLVANIA  
12 CONSOLIDATED STATUTES (RELATING TO ADMINISTRATIVE LAW AND  
13 PROCEDURE).

14 Section 204. Commonwealth funds.

15 No municipality shall be deemed to be distressed by reason of  
16 circumstances arising as a result of the failure of the  
17 Commonwealth to make any payment of money, including any Federal  
18 money which passes through the Commonwealth, due the  
19 municipality at the time such payment is due.

20 SUBCHAPTER B

21 COORDINATOR

22 Section 221. ~~Appointment~~ DESIGNATION. <—

23 (a) ~~Duties~~ APPOINTMENT.--No later than 30 days following a <—  
24 determination of municipal financial distress under section 203,  
25 the secretary shall appoint a coordinator who shall prepare a  
26 plan addressing the municipality's financial problems.

27 (b) Qualifications.--The coordinator may be an employee of  
28 the department, furnished with additional staff or consultant  
29 assistance, if needed, or may be a consultant or consulting  
30 firm. No elected or appointed OFFICIAL OR employee of the <—

1 municipality shall be eligible for serving as coordinator. The  
2 coordinator shall be experienced in municipal administration and  
3 finance.

4 (c) Compensation.--The department shall be responsible for  
5 compensating the coordinator appointed by the secretary for  
6 reasonable salary and expenses. Notwithstanding any law to the  
7 contrary, the appointment of a plan coordinator shall not be  
8 subject to contractual competitive bidding procedures.

9 Section 222. Access to information.

10 The coordinator shall have full access to all municipal  
11 records. If the coordinator believes that an official or  
12 employee of the municipality is not answering questions  
13 accurately or completely or is not furnishing information  
14 requested, the coordinator may notify the official or employee,  
15 in writing, to furnish answers to questions or to furnish  
16 documents or records, or both. If the official or employee  
17 refuses, the coordinator may seek a subpoena in the court of  
18 common pleas to compel testimony and furnish records and  
19 documents. An action is mandamus shall lie to enforce the  
20 provisions of this section.

21 Section 223. Public and private meetings.

22 (a) Public meetings authorized.--The coordinator may hold  
23 public meetings as defined in the act of July 3, 1986 (P.L.388,  
24 No.84), known as the Sunshine Act, in connection with plan  
25 preparation.

26 (b) Private meetings authorized.--~~Private~~ NOTWITHSTANDING  
27 THE PROVISIONS OF THE SUNSHINE ACT, PRIVATE negotiation sessions  
28 may be conducted by the coordinator between the municipality and  
29 the individual creditors in an effort to obtain the consent of  
30 each creditor to the proposed adjustment and handling of

<—

1 specific claims against the municipality.

2 Section 224. Coordinator barred from elective office.

3 The coordinator may not run for an elected office of the  
4 municipality or its coterminous political subdivisions within  
5 two years after the final adoption of a plan pursuant to this  
6 act.

7 SUBCHAPTER C

8 COORDINATOR'S PLAN

9 Section 241. Contents.

10 A plan formulated by the appointed coordinator shall be  
11 consistent with applicable law and shall include any of the  
12 following factors which are relevant to alleviating the  
13 financially distressed status of the municipality:

14 (1) Projections of revenues and expenditures for the  
15 current year and the next two years, both assuming the  
16 continuation of present operations and as impacted by the  
17 measures in the plan.

18 (2) Recommendations which will:

19 (i) Satisfy judgments, past due accounts payable,  
20 and past due and payable payroll and fringe benefits.

21 (ii) Eliminate deficits and deficit funds.

22 (iii) Restore to special fund accounts money from  
23 those accounts that was used for purposes other than  
24 those specifically authorized.

25 (iv) Balance the budget, avoid future deficits in  
26 funds and maintain current payments of payroll, fringe  
27 benefits and accounts through possible revenue  
28 enhancement recommendations, including tax or fee  
29 changes.

30 (v) Avoid a fiscal emergency condition in the

1 future.

2 (vi) Enhance the ability of the municipality to  
3 negotiate new general obligation bonds, lease rental  
4 debt, funded debt and tax and revenue anticipation  
5 borrowing.

6 (vii) Consider changes in accounting and automation  
7 procedures for the financial benefit of the municipality.

8 (viii) Propose a reduction of debt due on specific  
9 claims by an amortized or lump sum payment considered to  
10 be the most reasonable disposition of each claim possible  
11 for the municipality considering the totality of  
12 circumstances.

13 (3) Possible changes in collective bargaining agreements  
14 and permanent and temporary staffing level changes or changes  
15 in organization.

16 (4) Recommended changes in municipal ordinances or  
17 rules.

18 (5) Recommendations for special audits or further  
19 studies.

20 (6) An analysis of whether conditions set forth in  
21 section 261 exist, whether specific exclusive Federal  
22 remedies could help relieve the municipality's financial  
23 distress and whether filing a Federal debt adjustment action  
24 under Subchapter D is deemed to be appropriate.

25 (7) An analysis of whether the economic conditions of  
26 the municipality are so severe that it is reasonable to  
27 conclude that the municipality is no longer viable and should  
28 consolidate or merge with an adjacent municipality or  
29 municipalities pursuant to Chapter 3.

30 Section 242. Publication.

1 (a) Filing.--Within 90 days of being named, the coordinator  
2 shall formulate a plan for relieving the municipality's  
3 financial distress and shall deliver true and correct copies of  
4 it to:

5 (1) The municipal clerk or municipal secretary, who  
6 shall immediately place the copy on file for public  
7 inspection in the municipal office.

8 (2) The secretary.

9 (3) Each member of the municipal governing body.

10 (4) The mayor.

11 (5) The chief financial officer of the municipality.

12 (6) The solicitor of the municipal governing body.

13 (7) All parties who have petitioned the secretary under  
14 section 203.

15 (b) Date of filing.--For purposes of this section, the date  
16 of filing the plan shall be the date on which the municipal  
17 clerk or municipal secretary places a true and correct copy of  
18 the plan on file for public inspection in the municipal office.

19 (c) Notices of plan.--

20 (1) On the date of filing, notice that a plan has been  
21 filed and is open for public inspection in the municipal  
22 office shall be published by the coordinator in the county  
23 legal reporter and in one or more newspapers with general  
24 circulation serving the area in which the municipality is  
25 located. The cost for publishing the notice shall be borne by  
26 the department. The notice shall set forth the following  
27 information:

28 (i) That a plan regarding the coordination and  
29 relief of the municipality's financial distress was filed  
30 pursuant to this act.

1 (ii) The date and place of filing.

2 (iii) That the public has 15 days from the date of  
3 filing in which to file written comments on the plan.

4 (iv) The name and address of the coordinator to whom  
5 written comments should be sent.

6 (v) Summary of the plan.

7 (2) Notice of a coordinator's public meeting on the plan  
8 shall be published by the coordinator in the county legal  
9 reporter and in one or more newspaper with general  
10 circulation serving the area in which the municipality is  
11 located. The department shall bear the cost for publishing  
12 the notice. The notice shall contain the following  
13 information:

14 (i) That the purpose of the coordinator's public  
15 meeting is to receive public comments on the plan.

16 (ii) The date and place of the meeting.

17 (3) The coordinator may combine the publication of the  
18 notice that a plan has been filed with the publication of the  
19 notice of the public meeting.

20 (d) Comment period.--Written comments on the plan may be  
21 filed with the coordinator. Written comments shall be made no  
22 later than 15 days after the date of filing. Written comments  
23 judged by the coordinator to have value to the plan may be used  
24 to develop a revised plan.

25 (e) Coordinator's public meeting.--A meeting conducted by  
26 the coordinator in the municipality shall be set for a date not  
27 later than 20 days after the date of filing the plan. The  
28 coordinator shall request in writing that the chief executive  
29 officer, each member of the municipal governing body and the  
30 chief financial officer of the municipality to be present at the



1 coordinator's meeting. Comments on the plan shall be received by  
2 the coordinator at that time.

3 Section 243. Review of plan.

4 (a) General rule.--The coordinator, in his discretion, shall  
5 consider comments made on the plan. Creditors who do not consent  
6 to the handling of their claim by the plan, shall notify the  
7 coordinator of their rejection of the plan not later than ten  
8 days before the public meeting scheduled by the governing body  
9 under section 245.

10 (b) Rejected claims.--If a creditor has rejected the plan,  
11 the coordinator shall make a written report to the governing  
12 body stating whether the timing and amount of payment or  
13 proposed resolution of the claim is the best disposition the  
14 municipality can make.

15 (c) Additional negotiations authorized.--Additional  
16 negotiations between the municipality and creditors rejecting  
17 the plan shall be encouraged and presided over by the  
18 coordinator.

19 (d) Governing body proposals.--The governing body of the  
20 municipality may propose to the coordinator resolutions of  
21 claims which have been the reason for rejection of the proposed  
22 plan, and the coordinator may revise the plan accordingly.

23 (e) Revision on own initiative.--Nothing in this section  
24 shall preclude the coordinator from revising a plan of his own  
25 initiative.

26 Section 244. Revision.

27 Neither the secretary nor the chief executive officer or the  
28 governing body, as appropriate, may revise the coordinator's  
29 plan. However, the coordinator shall consult with the secretary  
30 and either the chief executive officer or the governing body

1 throughout the revision of the plan and shall give consideration  
2 to comments they may propose.

3 Section 245. Adoption by municipality.

4 Not later than 15 days following the coordinator's public  
5 meeting, the municipal governing body shall either enact an  
6 ordinance approving the implementation of the plan, including  
7 enactment of necessary related ordinances and revisions to  
8 ordinances, or shall reject the plan and proceed under section  
9 246. If the ordinance takes effect in a municipality operating  
10 under an optional plan form of government or a home rule  
11 charter, the chief executive officer may issue an order  
12 directing the implementation of the plan no later than seven  
13 days from the enactment of the ordinance by the governing body.

14 Section 246. Preparation and action on alternate plan.

15 (a) Chief executive officer's plan.--If the governing body  
16 of a municipality that operates under an optional plan form of  
17 government or a home rule charter enacts an ordinance directing  
18 implementation of the coordinator's plan and the chief executive  
19 officer refuses or fails to issue an order as provided in  
20 section 245, or if the governing body refuses to enact an  
21 ordinance approving the coordinator's plan, then the chief  
22 executive officer, within 14 days of the action or refusal to  
23 act on the ordinance by the governing body, shall develop a  
24 plan, including a signed order implementing it, which shall be  
25 the subject of a public meeting no later than ten days following  
26 its completion.

27 (1) The chief executive officer may conduct private  
28 sessions before the public meeting with individual creditors  
29 in an effort to obtain the consent of each creditor to  
30 proposed adjustment and handling of specific claims against

1 the municipality. An agreement reached as a result of these  
2 private sessions shall become a matter of record and part of  
3 the proceedings of the public meeting conducted pursuant to  
4 this subsection.

5 (2) The chief executive officer shall be responsible for  
6 placing notice that a public meeting will be held on his  
7 plan. Notice shall be published in the same manner as  
8 provided in section 242(c). The coordinator shall attend the  
9 public meeting and furnish written and oral comments on the  
10 chief executive officer's plan.

11 (b) Governing body's plan.--In the case of a municipality  
12 operating under a form of government other than an optional plan  
13 form of government or a home rule charter, if the governing body  
14 by majority vote refuses to enact an ordinance approving and  
15 implementing the coordinator's plan as provided in section 245,  
16 then within 14 days of its refusal the governing body shall  
17 develop a plan which shall be the subject of a public meeting  
18 held not later than ten days following plan completion.

19 (1) The governing body may conduct private sessions  
20 before the public meeting with individual creditors in an  
21 effort to obtain consent of each creditor to proposed  
22 adjustment and handling of specific claims against the  
23 municipality. An agreement reached as a result of these  
24 private sessions shall become a matter of record and part of  
25 the proceedings of the public meeting conducted pursuant to  
26 this subsection.

27 (2) The governing body shall be responsible for placing  
28 notice that a public meeting will be held on its plan. Notice  
29 shall be published in the same manner as provided in section  
30 242(c). The coordinator shall attend the public meeting and

1 furnish written and oral comments on the governing body's  
2 plan.

3 (c) Approval or rejection of plan.--Following the public  
4 meeting on the chief executive officer's plan or the governing  
5 body's plan, the governing body may enact an ordinance,  
6 including necessary related implementing ordinances or revisions  
7 to ordinances, approving the plan.

8 ~~(d) Failure to adopt or implement plan. If no plan is~~ <—  
9 ~~adopted pursuant to this chapter, then sections 250 and 264~~  
10 ~~shall apply.~~

11 (D) REVIEW BY SECRETARY.-- <—

12 (1) IF AN ORDINANCE IS ENACTED APPROVING A PLAN UNDER  
13 THIS SECTION, IT SHALL BE FORWARDED TO THE SECRETARY FOR  
14 DETERMINATION THAT THE PLAN, WHEN IMPLEMENTED, WILL OVERCOME  
15 THE MUNICIPALITY'S FINANCIAL DISTRESS.

16 (2) IF THE SECRETARY IS OF THE OPINION THAT THE PLAN,  
17 WHEN IMPLEMENTED, WILL OVERCOME THE MUNICIPALITY'S FINANCIAL  
18 DISTRESS, THE SECRETARY SHALL SO INFORM THE MUNICIPALITY.

19 (3) IF THE SECRETARY IS OF THE OPINION THAT THE PLAN,  
20 WHEN IMPLEMENTED, WILL NOT OVERCOME THE MUNICIPALITY'S  
21 FINANCIAL PROBLEMS, THE SECRETARY SHALL INFORM THE  
22 MUNICIPALITY OF THE FOLLOWING:

23 (I) THE SECRETARY'S DETERMINATION.

24 (II) THE REASONS FOR THE DETERMINATION.

25 (III) THE APPLICABILITY OF SECTIONS 251 AND 264 TO  
26 THE MUNICIPALITY.

27 Section 247. Plan implementation.

28 (a) Coordinator's plan.--If the coordinator's plan is  
29 adopted by the municipal governing body, the coordinator shall  
30 be charged with implementing his plan and shall:

1           (1) Give written notice of plan adoption to creditors,  
2       collective bargaining units and other parties who will be  
3       directly affected by plan implementation. In the notice he  
4       shall outline the provisions of the plan and specify how that  
5       person's claim or interest will be treated.

6           (2) Initiate plan implementation and continue its  
7       implementation for at least four months.

8           (3) Oversee completion of the plan either by directly  
9       controlling the implementation process or by turning the  
10      implementation process over to a person designated by the  
11      governing body or by the chief executive officer, as the case  
12      may be. The person designated shall supply the coordinator  
13      with monthly reports.

14          (4) Terminate the plan upon its completion.

15          (5) Suggest amendments to the plan which may be  
16      necessary to implement or complete the plan.

17      (b) Chief executive officer's plan.--If the plan adopted is  
18      the plan proposed by the chief executive officer in an optional  
19      plan form of government or home rule charter, the chief  
20      executive officer shall have the duties of the coordinator set  
21      forth in subsection (a).

22      (c) Municipal governing body's plan.--If the plan adopted is  
23      the plan proposed by the municipal governing body, a person  
24      designated by the governing body shall have the duties of the  
25      coordinator set forth in subsection (a).

26      SECTION 248. FAILURE TO ADOPT OR IMPLEMENT PLAN. <—

27      IF NO PLAN IS ADOPTED OR IMPLEMENTED PURSUANT TO THIS  
28      CHAPTER, THEN SECTIONS 251 AND 264 SHALL APPLY.

29      Section ~~248~~ 249. Plan amendments. <—

30      An amendment to an adopted plan may be initiated by the

1 coordinator, the chief executive officer, or the governing body  
2 of a municipality, as the case may be. The adoption of an  
3 amendment shall be by ordinance.

4 Section ~~249~~ 250. Debt provisions. <—

5 Adoption of a plan by ordinance is a condition precedent for  
6 the approval of long-term debt or funding debt under the act of  
7 July 12, 1972 (P.L.781, No.185), known as the Local Government  
8 Unit Debt Act. A debt financing provision of the plan may be  
9 waived by agreement of the lender and the municipality; but any  
10 such waiving must be expressly set forth in the indenture or  
11 contract securing the debt.

12 Section ~~250~~ 251. Commonwealth agency payments or assistance. <—

13 (a) Withholding of certain Commonwealth funds.--Upon  
14 certification by the secretary that a financially distressed  
15 municipality has failed to ADOPT A PLAN OR implement an adopted <—  
16 plan as proposed under this act OR HAS ADOPTED A PLAN WHICH IS <—  
17 INADEQUATE TO ADDRESS THE MUNICIPALITY'S FINANCIAL DISTRESS, the  
18 municipality shall not receive a grant, loan, entitlement or  
19 payment from the Commonwealth or any of its agencies. Moneys  
20 withheld shall be held in escrow by the Commonwealth until the  
21 secretary has rescinded the certification.

22 (b) Exceptions to the withholding of Commonwealth funds.--  
23 Notwithstanding the provisions of subsection (a), the following  
24 funds shall not be withheld from a municipality.

25 (1) Capital projects under contract in progress.

26 (2) Moneys received by a municipality from an agency of  
27 the Commonwealth or the Federal Government subsequent to the  
28 declaration of a disaster resulting from a catastrophe.

29 (3) Pension fund disbursements made pursuant to State  
30 law.

1 Section ~~251~~ 252. Plan not affected by certain collective <—  
2 bargaining agreements or settlements.

3 A collective bargaining agreement or arbitration settlement  
4 executed after the adoption of a plan shall not in any manner  
5 violate, expand or diminish its provisions.

6 Section ~~252~~ 253. Termination of status. <—

7 (a) Determination by secretary.--Following a duly advertised  
8 public hearing with notices given as provided in section 203,  
9 the secretary may issue a determination that the conditions  
10 which led to the earlier determination of municipal financial  
11 distress municipality are no longer applicable. The  
12 determination shall rescind the status of municipal financial  
13 distress and shall include a statement of facts as part of the  
14 final order.

15 (b) Determination upon petition by a municipality.--A  
16 financially distressed municipality may petition the secretary  
17 to make a determination that the conditions which led to the  
18 earlier determination of municipal financial distress are no  
19 longer present. Upon receiving the petition, the secretary may  
20 issue a determination to rescind following a duly advertised  
21 public hearing with notices given as provided in section 203.

22 SUBCHAPTER D

23 APPLICATION OF FEDERAL LAW

24 Section 261. Filing municipal debt adjustment under Federal  
25 law.

26 (a) Authorization.--In the event one of the following  
27 conditions is present, a municipality is hereby authorized to  
28 file a municipal debt adjustment action pursuant to the  
29 Bankruptcy Code (11 U.S.C. § 101 et seq.):

30 (1) After recommendation by the plan coordinator

1 pursuant to section 241(6).

2 (2) Imminent jeopardy of an action by a creditor,  
3 claimant or supplier of goods or services which is likely to  
4 substantially interrupt or restrict the continued ability of  
5 the municipality to provide health or safety services to its  
6 citizens.

7 (3) One or more creditors of the municipality have  
8 rejected the proposed or adopted plan, and efforts to  
9 negotiate resolution of their claims have been unsuccessful  
10 for a ten-day period.

11 (4) A condition substantially affecting the  
12 municipality's financial distress is potentially solvable  
13 only by utilizing a remedy exclusively available to the  
14 municipality through the Federal Municipal Debt Readjustment  
15 Act (48 Stat. 798).

16 (5) A majority of the current or immediately preceding  
17 governing body of a municipality determined to be financially  
18 distressed has failed to adopt a plan or to carry out the  
19 recommendations of the coordinator pursuant to this act.

20 (b) Majority vote.--This authority may be exercised only  
21 upon the vote by a majority of the municipality's governing  
22 body.

23 Section 262. Significance and duty on filing Federal action.

24 (a) Status.--A municipality which files a municipal debt  
25 adjustment action under Federal law shall be deemed to be a  
26 financially distressed municipality under this act.

27 (b) Notice.--The municipality shall immediately notify the  
28 secretary and the plan coordinator, if one has been assigned, of  
29 the Federal filing.

30 (c) Appointment of coordinator.--Upon receipt of notice of



1 filing of the Federal action by a municipality, the secretary  
2 shall appoint a plan coordinator under section 221, if none had  
3 yet been appointed. The coordinator shall formulate a plan  
4 approvable by the Federal court.

5 Section 263. Application of this act during Federal action.

6 (a) Existing plan.--After filing a Federal municipal debt  
7 adjustment action, if there is a plan in process under the terms  
8 of this act, the municipality shall utilize the plan and the  
9 expertise of the plan coordinator, among others available to it,  
10 to work out a revised plan to be proposed through the Federal  
11 action, adapting it to incorporate Federal remedies which are  
12 appropriate in the circumstances.

13 (b) Necessary plan development.--A municipality which files  
14 a municipal debt adjustment action under Federal law, whether or  
15 not a proceeding under this act had been commenced as of the  
16 date of such filing, shall utilize the procedures set up by this  
17 act concurrently with the processing of the Federal action, so  
18 as to efficiently expedite the formulation of a plan, its timely  
19 confirmation by the Federal court having jurisdiction of the  
20 Federal action and its adoption by ordinance.

21 (c) Plan implementation.--After adoption of a plan by the  
22 municipality as an ordinance and confirmation of the plan by the  
23 Federal court, implementation of the plan shall be coordinated  
24 through this act and in accordance with requirements set by the  
25 Federal court.

26 Section 264. Suspension of Commonwealth funding.

27 (a) General rule.--A municipality which remains classified  
28 as financially distressed by the department and has failed to  
29 adopt or implement a plan within a period set by the Federal  
30 court, or has failed or refused to follow a recommendation by a

1 coordinator, shall be notified in writing by the coordinator  
2 that he is requesting the secretary to issue a suspension of  
3 Commonwealth funding to the municipality for its failure to take  
4 the steps enumerated in the notice.

5 ~~(b) Certification.--Ten days after receipt by the secretary~~ <—  
6 ~~of the request, if the municipality has not~~

7 (B) MUNICIPALITY'S RESPONSE.--THE MUNICIPALITY SHALL HAVE <—  
8 TEN DAYS FROM THE DATE OF THE COORDINATOR'S NOTICE IN WHICH TO  
9 SHOW CAUSE TO THE SECRETARY AND THE COORDINATOR WHY COMMONWEALTH  
10 FUNDING TO THE MUNICIPALITY SHOULD NOT BE SUSPENDED.

11 (C) CERTIFICATION.--IF THE MUNICIPALITY HAS NOT ADEQUATELY  
12 shown cause to the secretary and coordinator why such action  
13 should not be taken, the secretary, WITHIN 20 DAYS OF THE <—  
14 COORDINATOR'S REQUEST, shall certify to the municipality in  
15 writing that each grant, loan, entitlement or payment by the  
16 Commonwealth or any of its agencies shall be suspended pending  
17 adoption of a plan calculated to fully resolve the  
18 municipality's financial distress. Suspended funds shall be held  
19 in escrow by the Commonwealth until the secretary has rescinded  
20 the certification.

21 ~~(e)~~ (D) Exception.--Notwithstanding the provisions of <—  
22 subsection ~~(b)~~ (C), the following funds shall not be withheld <—  
23 from a municipality:

24 (1) Capital projects under contract in progress.

25 (2) Moneys received by a municipality from an agency of  
26 the Commonwealth or the Federal Government subsequent to the  
27 declaration of a disaster resulting from a catastrophe.

28 (3) Pension fund disbursements made pursuant to State  
29 law.

30 CHAPTER 3

1 CONSOLIDATION OR MERGER OF ECONOMICALLY NONVIABLE  
2 MUNICIPALITIES  
3 SUBCHAPTER A  
4 GENERAL PROVISIONS

5 Section 301. Determination.

6 If a municipality has been determined to be financially  
7 distressed pursuant to this act and the coordinator has further  
8 determined under section 241 that consolidation or merger of the  
9 municipality with an adjacent municipality or municipalities is  
10 in the public interest, then the municipality may utilize the  
11 provisions of this chapter.

12 Section 302. Procedure for consolidation or merger.

13 Two or more municipalities may be consolidated or merged into  
14 a single municipality, whether within the same or different  
15 counties, if each of the municipalities is contiguous to at  
16 least one of the other consolidating or merging municipalities,  
17 and if together such municipalities would form a consolidated or  
18 merged municipality. Consolidation or merger may be commenced by  
19 one of the following:

20 (1) Joint agreement of the governing bodies of the  
21 municipalities proposed for consolidation or merger approved  
22 by ordinance.

23 (2) Initiative of electors.

24 Section 303. Joint agreement of governing bodies.

25 (a) General rule.--The governing body of each municipality  
26 to be consolidated or merged shall enter into a joint agreement  
27 under the official seal of each municipality to consolidate or  
28 merge into one municipality.

29 (b) Elements.--The joint agreement shall set forth:

30 (1) The name of each municipality that is a party to the

1 agreement.

2 (2) The name and the territorial boundaries of the  
3 consolidated or merged municipality.

4 (3) The type and class of the consolidated or merged  
5 municipality.

6 (4) Whether the consolidated or merged municipality  
7 shall be governed solely by the code and other general laws  
8 applicable to the kind and class of the consolidated or  
9 merged municipality or whether it shall be governed by a home  
10 rule charter or an optional plan of government previously  
11 adopted by one of the consolidating or merging  
12 municipalities.

13 (5) The number of wards, if any, into which the  
14 consolidated or merged municipality will be divided for the  
15 purpose of electing all or some members of its governing  
16 body.

17 (6) Terms for:

18 (i) The disposition of existing assets of each  
19 municipality.

20 (ii) The liquidation of existing indebtedness of  
21 each municipality.

22 (iii) The assumption, assignment or disposition of  
23 existing liabilities of each municipality, either  
24 jointly, separately or in certain defined proportions, by  
25 separate rates of taxation within each of the constituent  
26 municipalities until consolidation or merger becomes  
27 effective pursuant to section 307.

28 (iv) The implementation of a legally consistent  
29 uniform tax system throughout the consolidated or merged  
30 municipality which provides the revenue necessary to fund

1           required municipal services.

2           (7) The governmental organization of the consolidated or  
3 merged municipality insofar as it concerns elected officers.

4           (8) A transitional plan and schedule applicable to  
5 elected officers. The transitional plan shall provide for the  
6 abolition of the elected offices of each component  
7 municipality and the termination of the terms of office of  
8 the elected officials of each municipality and for the  
9 election of the first officers of the consolidated or merged  
10 municipality so that election and tenure shall conform to  
11 those in other municipalities of the same kind and class in  
12 the Commonwealth with properly staggered terms where required  
13 or desired.

14           (9) The common administration and enforcement of  
15 ordinances enforced uniformly within the consolidated or  
16 merged municipality.

17 Section 304. Initiative of electors.

18           (a) General rule.--In order for consolidation or merger  
19 proceedings to be initiated by petition of electors, petitions  
20 containing signatures of at least 5% of the electors voting for  
21 the Office of Governor in the last gubernatorial general  
22 election in each municipality proposed to be consolidated or  
23 merged shall be filed with the county board of elections of the  
24 county in which the municipality, or the greater portion of its  
25 territory, is located.

26           (b) Notice to governing bodies affected.--When election  
27 officials find that a petition is in proper order, they shall  
28 send copies of the initiative petition without the signatures  
29 thereon to the governing bodies of each of the municipalities  
30 affected by the proposed consolidation or merger.

(c) Contents.--A petition shall set forth:

(1) The name of the municipality from which the signers of the petition were obtained.

(2) The names of the municipalities proposed to be consolidated or merged.

(3) The name of the consolidated or merged municipality.

(4) The type and class of the consolidated or merged municipality.

(5) Whether the consolidated or merged municipality shall be governed solely by the code and other general laws applicable to the kind and class of the consolidated or merged municipality, or whether it shall be governed by a home rule charter or an optional plan of government previously adopted by one of the consolidating or merging municipalities.

(6) The number of wards, if any, into which the consolidated or merged municipality will be divided for the purpose of electing all or some members of its governing body.

~~(d) Time limitations. Once the circulation of a petition has begun, the petition shall be submitted to the county board of elections within 21 days. Failure to do so within that prescribed time limit will invalidate the petition.~~

(D) FILING OF PETITION.--THE CONSOLIDATION OR MERGER PETITION SHALL BE FILED WITH THE ELECTION OFFICIALS NOT LATER THAN THE 13TH TUESDAY PRIOR TO THE NEXT PRIMARY, MUNICIPAL OR GENERAL ELECTION. THE PETITION AND PROCEEDINGS THEREIN SHALL BE IN THE MANNER AND SUBJECT TO THE PROVISIONS OF THE ELECTION LAWS WHICH RELATE TO THE SIGNING, FILING AND ADJUDICATION OF NOMINATION PETITIONS INSOFAR AS SUCH PROVISIONS ARE APPLICABLE,

1 EXCEPT THAT NO REFERENDUM PETITION SHALL BE SIGNED OR CIRCULATED  
2 PRIOR TO THE 20TH TUESDAY BEFORE THE ELECTION, NOR LATER THAN  
3 THE 13TH TUESDAY BEFORE THE ELECTION.

4 Section 305. Conduct of referenda.

5 (a) Duty to place on ballot.--Following initiation of  
6 proceedings for consolidation or merger by the procedures set  
7 forth either in section 303 or 304, the question of  
8 consolidation or merger shall be placed before the electors of  
9 each of the municipalities proposed to be consolidated or  
10 merged. A referendum shall be held at the first primary,  
11 municipal or general election after either:

12 (1) the date of the general agreement entered into under  
13 the provisions of section 303; or

14 (2) the date of filing of the petition filed under the  
15 provisions of section 304.

16 (b) Approval.--Consolidation or merger shall not be  
17 effective unless the referendum question is approved by a  
18 majority of the electors voting in each of the municipalities in  
19 which the referendum is held. If in any one of the  
20 municipalities in which the referendum is held a majority in  
21 favor of consolidation or merger does not result, the referendum  
22 shall fail and consolidation or merger shall not take place. The  
23 question described in the consolidation or merger proposal shall  
24 not be voted on again for a period of five years.

25 Section 306. Consolidation or merger agreement.

26 (a) Form.--Upon favorable action by the electorate on  
27 consolidation or merger, in cases where consolidation or merger  
28 was initiated otherwise than by joint agreement of municipal  
29 governing bodies under section 303, the governing bodies of the  
30 municipalities to be consolidated or merged shall meet within 60

1 days after the certification of the favorable vote and shall  
2 make a consolidation or merger agreement, as follows:

3 (1) If the governing body, or part of the governing  
4 body, of the consolidated or merged municipality is to be  
5 elected on a ward basis, the agreement shall set forth the  
6 ward boundaries and the ward designation, by number, and the  
7 number of members of the municipal governing body to be  
8 elected from each ward.

9 (2) The agreement shall set forth terms for:

10 (i) The disposition of the existing assets of each  
11 municipality.

12 (ii) The liquidation of the existing indebtedness of  
13 each municipality.

14 (iii) The assumption, assignment, and disposition of  
15 the existing liabilities of each municipality, either  
16 jointly, separately or in certain defined proportions, by  
17 separate rates of taxation within each of the constituent  
18 municipalities until consolidation or merger becomes  
19 effective pursuant to section 307.

20 (3) The agreement shall set forth the governmental  
21 organization of the consolidated or merged municipality,  
22 insofar as it concerns elected officers, and shall contain a  
23 transitional plan and schedule applicable to elected  
24 officers. The agreement shall provide for the abolition of  
25 elected offices and for the termination of the terms of  
26 office of elected officers of each municipality being merged  
27 or consolidated, and the election of the first officers of  
28 the consolidated or merged municipality so that election and  
29 tenure shall conform to those in other municipalities of the  
30 same kind and class in the Commonwealth, with properly



1       staggered terms, where required or desired.

2           (4) The agreement shall provide for common  
3       administration and enforcement of ordinances to be enforced  
4       uniformly within the consolidated or merged municipality.

5           (5) The agreement shall also provide, consistent with  
6       existing law, for the implementation of an uniform tax system  
7       throughout the consolidated or merged municipality which  
8       shall provide the revenue necessary to fund required  
9       municipal services.

10       (b) Filing.--A copy of the consolidation or merger agreement  
11      shall be filed with the Department of Community Affairs, the  
12      Department of Transportation, the Governor's Office of Policy  
13      Development or its successor, the Department of Education, State  
14      Tax Equalization Board, the Legislative Reapportionment  
15      Commission and the court of common pleas and the board of county  
16      commissioners of the county or counties in which municipalities  
17      affected are located.

18      Section 307. Effectuation of consolidation or merger.

19       Municipalities consolidated or merged shall continue to be  
20      governed as before consolidation or merger until the first  
21      Monday of January following the municipal election next  
22      succeeding the election at which consolidation or merger  
23      referenda were held. At that municipal election, the necessary  
24      officers of the consolidated or merged municipality shall be  
25      elected in accordance with the terms of the general law  
26      affecting municipalities of the kind or class of the  
27      consolidated or merged municipality, or, in case of a  
28      consolidated or merged municipality operating under a home rule  
29      charter or optional plan of government, in accordance with the  
30      charter or optional plan or with general law affecting home rule

1 or optional plan municipalities, as applicable. The officers  
2 elected at that municipal election shall be elected for terms of  
3 office under the plan and schedule set forth in the  
4 consolidation or merger agreement authorized by section 303 or  
5 306, as the case may be. They shall take office as officers of  
6 the consolidated or merged municipality on the first Monday of  
7 January following the municipal election at which they were  
8 elected, and thereupon, the consolidated or merged municipality  
9 shall begin to function and the former municipalities  
10 consolidated or merged into it shall be abolished.

11 Section 308. Collective bargaining agreements; furlough of  
12 employees; disputes.

13 (a) Collective bargaining contracts, agreements or  
14 arbitration awards.--A collective bargaining agreement or  
15 contract in existence in a municipality or an arbitration award  
16 in effect in a municipality prior to a consolidation or merger  
17 shall remain effective after consolidation or merger until the  
18 contract, agreements, or awards expire. After the expiration of  
19 the contracts, agreements or awards, a subsequent collective  
20 bargaining agreement, contract or award shall not impair the  
21 implementation of a plan adopted pursuant to this act.

22 (b) Reduction in existing work force.--Subsequent to  
23 consolidation or merger, the consolidated or merged municipality  
24 may, in accordance with existing contracts or arbitration award  
25 provisions and consistent with applicable laws, reduce the  
26 number of uniformed and nonuniformed employees to avoid  
27 overstaffing and duplication of positions in the consolidated or  
28 merged municipality. If a consolidated or merged municipality  
29 determines in its discretion that it is necessary to increase  
30 the number of uniformed or nonuniformed employees, employees of

1 the constituent municipalities shall be reinstated in the order  
2 of their seniority if they had been previously furloughed.

3 (c) Disputes.--The Pennsylvania Labor Relations Board shall  
4 have jurisdiction to determine labor disputes or controversies,  
5 except those arising out of interpretation or construction of a  
6 collective bargaining agreement containing provision for binding  
7 arbitration, between the consolidated or merged municipality and  
8 its employees.

9 (d) Effect on existing law.--Nothing in this section shall  
10 prohibit a consolidated or merged municipality from exercising  
11 its powers and responsibilities pursuant to provisions of law  
12 related to collective bargaining, including, but not limited to,  
13 the act of June 24, 1968 (P.L.237, No.111), referred to as the  
14 Policemen and Firemen Collective Bargaining Act, and the act of  
15 July 23, 1970 (P.L.563, No.195), known as the Public Employe  
16 Relations Act.

17 Section 309. Procedures.

18 (a) Ordinance book.--After consolidation or merger becomes  
19 effective, a new ordinance book shall be used by the  
20 municipality and the first document to be recorded in it shall  
21 be the consolidation or merger agreement.

22 (b) Ordinance codification.--No later than two years after  
23 consolidation or merger goes into effect, codification of all  
24 the ordinances of the municipality shall be completed. This  
25 shall include tabulation or indexing of those ordinances of the  
26 component municipalities that are of permanent effect in the  
27 consolidated or merged municipality.

28 (c) Vesting of rights, privileges, property and  
29 obligations.--All rights, privileges and franchises of each  
30 component municipality and all property belonging to each

1 component municipality shall be vested in the consolidated or  
2 merged municipality. The title to real estate vested in any of  
3 those municipalities shall not revert or be in any way impaired  
4 by reason of the consolidation or merger. All liens and rights  
5 of creditors shall be preserved. Agreements and contracts shall  
6 remain in force. Debts, liabilities and duties of each of the  
7 municipalities shall be attached to the consolidated or merged  
8 municipality and may be enforced against it.

#### 9 SUBCHAPTER B

#### 10 ECONOMIC ASSISTANCE

##### 11 Section 321. Eligibility.

12 In the event a municipality has been determined to be  
13 distressed pursuant to section 203(f) and has subsequently  
14 consolidated or merged under provisions of this chapter, the  
15 consolidated or merged municipality shall be eligible for  
16 economic and community development assistance as provided in  
17 section 322.

##### 18 Section 322. Priority.

19 Notwithstanding law to the contrary, if the electors of two  
20 or more municipalities at least one of which has been determined  
21 to be distressed pursuant to section 203(f), have voted to  
22 approve the consolidation or merger of those municipalities, the  
23 consolidated or merged municipality shall receive priority in  
24 all economic and community development programs funded by the  
25 Commonwealth. The secretary, upon notification of consolidation  
26 or merger of such municipalities shall notify Commonwealth  
27 agencies that the consolidated or merged municipality shall  
28 receive priority in funding as provided in this subchapter.

#### 29 CHAPTER 4

#### 30 TECHNICAL PROVISIONS

1 Section 401. ~~Repeal~~ REPEALS.

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2 SECTION 2501-C(E) AND (F) OF THE ACT OF APRIL 9, 1929  
3 (P.L.177, NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929, ARE  
4 REPEALED INsofar AS THEY ARE INCONSISTENT WITH THIS ACT.

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5 The act of June 11, 1935 (P.L.323, No.146), entitled "An act  
6 designating the Department of Internal Affairs as the agency of  
7 the Commonwealth to approve or disapprove petitions to courts,  
8 and plans for the readjustment of debts of political  
9 subdivisions, under the act of Congress relating to the  
10 bankruptcy of political subdivisions; and defining the powers  
11 and duties of said department in relation thereto," is repealed  
12 insofar as it related to a municipality as defined in section  
13 103 of this act.

14 SECTION 402. EXPIRATION.

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15 SECTION 203(A)(5) SHALL EXPIRE UPON PUBLICATION IN THE  
16 PENNSYLVANIA BULLETIN OF THE NOTICE REQUIRED UNDER SECTION  
17 121(G).

18 Section ~~402~~ 403. Effective date.

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19 This act shall take effect in 60 days.