

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 136

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

AS AMENDED ON SECOND CONSIDERATION, MAY 5, 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 adjustment actions and bankruptcy actions under certain  
8 circumstances; and providing for consolidation or merger of  
9 contiguous municipalities to relieve financial distress.

## TABLE OF CONTENTS

11	Chapter 1. General Provisions
12	Subchapter A. Preliminary Provisions
13	Section 101. Short title.
14	Section 102. Purpose and legislative intent.
15	Section 103. Definitions.
16	Subchapter B. Administrative Provisions
17	Section 121. Powers and duties of department.
18	Section 122. Duties of Commonwealth agencies.
19	Section 123. Powers and duties of municipalities.
20	Subchapter C. Judicial Provisions
21	Section 141. Jurisdiction of court of common pleas.

1 Chapter 2. Municipal Financial Distress  
2 Subchapter A. Determination of Municipal Financial Distress  
3 Section 201. Criteria.  
4 Section 202. Standing to petition for a determination.  
5 Section 203. Procedure for determination.  
6 Section 204. Commonwealth funds.  
7 Subchapter B. Coordinator  
8 Section 221. Designation.  
9 Section 222. Access to information.  
10 Section 223. Public and private meetings.  
11 Section 224. Coordinator barred from elective office.  
12 Subchapter C. Coordinator's Plan  
13 Section 241. Contents.  
14 Section 242. Publication.  
15 Section 243. Review of plan.  
16 Section 244. Revision.  
17 Section 245. Adoption by municipality.  
18 Section 246. Preparation and action on alternate plan.  
19 Section 247. Plan implementation.  
20 Section 248. Failure to adopt or implement plan.  
21 Section 249. Plan amendments.  
22 Section 250. Debt provisions.  
23 Section 251. Commonwealth agency payments or assistance.  
24 Section 252. Plan not affected by certain collective  
25 bargaining agreements or settlements.  
26 Section 253. Termination of status.  
27 Subchapter D. Application of Federal Law  
28 Section 261. Filing municipal debt adjustment under Federal  
29 law.  
30 Section 262. Significance and duty on filing Federal action.

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

2 Section 264. Suspension of Commonwealth funding.

3 ~~Chapter 3. Consolidation or Merger of Economically Nonviable~~ <—

4 ~~Municipalities~~

5 ~~Subchapter A. General Provisions~~

6 ~~Section 301. Determination.~~

7 ~~Section 302. Procedure for consolidation or merger.~~

8 ~~Section 303. Joint agreement of governing bodies.~~

9 ~~Section 304. Initiative of electors.~~

10 ~~Section 305. Conduct of referenda.~~

11 ~~Section 306. Consolidation or merger agreement.~~

12 ~~Section 307. Effectuation of consolidation or merger.~~

13 ~~Section 308. Collective bargaining agreements; furlough of~~

14 ~~employees; disputes.~~

15 ~~Section 309. Procedures.~~

16 ~~Subchapter B. Economic Assistance~~

17 ~~Section 321. Eligibility.~~

18 ~~Section 322. Priority.~~

19 ~~Chapter 4. Technical Provisions~~

20 ~~Section 401. Repeal.~~

21 ~~Section 402. Expiration.~~

22 ~~Section 403. Effective date.~~

23 CHAPTER 3. EMERGENCY FINANCIAL AID FOR DISTRESSED <—

24 MUNICIPALITIES

25 SECTION 301. PROGRAM.

26 SECTION 302. GRANT AND LOAN PROCEDURE.

27 SECTION 303. LIMITATIONS.

28 CHAPTER 4. CONSOLIDATION OR MERGER OF ECONOMICALLY NONVIABLE

29 MUNICIPALITIES

30 SUBCHAPTER A. GENERAL PROVISIONS

1 SECTION 401. DETERMINATION.  
2 SECTION 402. PROCEDURE FOR CONSOLIDATION OR MERGER.  
3 SECTION 403. JOINT AGREEMENT OF GOVERNING BODIES.  
4 SECTION 404. INITIATIVE OF ELECTORS.  
5 SECTION 405. CONDUCT OF REFERENDA.  
6 SECTION 406. CONSOLIDATION OR MERGER AGREEMENT.  
7 SECTION 407. EFFECTUATION OF CONSOLIDATION OR MERGER.  
8 SECTION 408. COLLECTIVE BARGAINING AGREEMENTS; FURLOUGH OF  
9 EMPLOYEES; DISPUTES.  
10 SECTION 409. PROCEDURES.  
11 SUBCHAPTER B. ECONOMIC ASSISTANCE  
12 SECTION 421. ELIGIBILITY.  
13 SECTION 422. PRIORITY.  
14 CHAPTER 5. FUNDING  
15 SECTION 501. APPROPRIATION.  
16 CHAPTER 6. TECHNICAL PROVISIONS  
17 SECTION 601. REPEALS.  
18 SECTION 602. EXPIRATION.  
19 SECTION 603. EFFECTIVE DATE.

20 The General Assembly of the Commonwealth of Pennsylvania  
21 hereby enacts as follows:

22 CHAPTER 1  
23 GENERAL PROVISIONS  
24 SUBCHAPTER A  
25 PRELIMINARY PROVISIONS

26 Section 101. Short title.

27 This act shall be known and may be cited as the Financially  
28 Distressed Municipalities Act.

29 Section 102. Purpose and legislative intent.

30 (a) Policy.--It is hereby declared to be a public policy of

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

11 (b) Legislative intent.--

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

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

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

23 (2) The General Assembly further recognizes that  
24 changing and deteriorating economic conditions, developing  
25 technologies and attendant unemployment erode local tax bases  
26 and threaten essential municipal services. Under such  
27 circumstances, the General Assembly believes that such  
28 distressed governmental units may no longer be viable and  
29 that the citizens of those communities should be granted the  
30 opportunity to voluntarily consolidate or merge their

1 municipalities with other municipalities in an effort to  
2 allow municipal boundaries to reflect the geographic and  
3 economic realities of a distressed area, to merge a common  
4 community of interest, to take advantage of economies of  
5 scale in providing services, and to create an expanded  
6 revenue base to provide necessary public services to the  
7 citizens of financially distressed municipalities.

8 Section 103. Definitions.

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

12 "Basis of accounting." Revenues and expenditures may be  
13 recognized on the cash, modified accrual or full accrual basis  
14 of accounting, provided that basis is applied consistently  
15 throughout the fiscal periods reported for evaluation purposes.

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

25 "Claim." Right to payment, whether or not the right is  
26 reduced to judgment, liquidated, unliquidated, fixed,  
27 contingent, matured, unmatured, disputed, undisputed, legal,  
28 equitable, secured or unsecured; or right to an equitable remedy  
29 for breach of performance if the breach gives rise to a right to  
30 payment, whether or not the right to an equitable remedy is

1 reduced to judgment, fixed, contingent, matured, unmatured,  
2 disputed, undisputed, secured or unsecured.

3 "Commonwealth agency." The Governor and the departments,  
4 boards, commissions, authorities and other officers and agencies  
5 of this Commonwealth, whether or not subject to the policy  
6 supervision and control of the Governor.

7 "Consolidated or merged municipality." A municipal entity  
8 resulting from successful consolidation or merger proceedings  
9 under Subchapter A of Chapter 3 4. <—

10 "Consolidation or merger." The combination of two or more  
11 municipalities into one municipality.

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

17 "Creditor." An individual, partnership, corporation,  
18 association, estate, trust, governmental unit or the governing  
19 board of a pension fund of a municipality that has a claim  
20 against a municipality.

21 "Deficit." The excess of expenditures over revenues, stated  
22 as a percentage of revenue, during an accounting period. This  
23 calculation shall include all governmental fund types and all  
24 proprietary fund types, but shall exclude all fiduciary fund  
25 types of the municipality.

26 "Department." The Department of Community Affairs of this  
27 Commonwealth.

28 "Election officials." The county boards of election, except  
29 in a city of the first class where "election officials" means  
30 the city board of elections.

1 "Expenditures." Reductions in fund equity, including current  
2 operating expenses that require the use of fund equity, debt  
3 service and capital outlays. The term shall not include  
4 interfund transfers.

5 "Fund equity." Excess of assets of a fund over its  
6 liabilities.

7 "Governing body." The council in cities, boroughs and  
8 incorporated towns; the board of commissioners in counties; the  
9 board of commissioners in townships of the first class; the  
10 board of supervisors in townships of the second class, or the  
11 legislative policy-making body in home rule municipalities.

12 "Initiative." The filing with applicable election officials  
13 of a petition containing a proposal for a referendum to be  
14 placed on the ballot of the next election. The petition shall  
15 be:

16 (1) Filed not later than the 13th Tuesday prior to the  
17 next election in which it will appear on the ballot.

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

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

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

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

30 "Municipal record." A financial record and document of a

1 municipality or of an authority incorporated by a municipality,  
2 excluding confidential information relating to personnel matters  
3 and matters relating to the initiation and conduct of  
4 investigations of violations of law.

5 "Municipality." Every county, city, borough, incorporated  
6 town, township and home rule municipality.

7 "Referendum." Placement of a question inserted on the  
8 ballot, by initiative or otherwise, by a majority vote of the  
9 electors voting thereon.

10 "Revenues." Additions to fund equity other than from  
11 interfund transfers, proceeds of debt and proceeds of  
12 disposition of general fixed assets.

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

#### 15 SUBCHAPTER B

#### 16 ADMINISTRATIVE PROVISIONS

17 Section 121. Powers and duties of department.

18 (a) Compile financial data.--

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

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

28 (i) The survey shall seek information necessary to  
29 determine the fiscal status of a municipality, shall be  
30 concise to facilitate prompt response and shall contain

1 an attestation clause to be signed by the presiding  
2 officer of the municipality's governing body.

3 (ii) The survey shall be a supplement to and shall  
4 be included with the annual audit reports submitted to  
5 the department in accordance with law.

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

8 (iv) The survey shall include information relating  
9 to the basis of accounting utilized by municipalities.

10 (b) Assess data.--A power and duty of the department shall  
11 be to apply the criteria of section 201 to data and information  
12 on the fiscal status of municipalities to assess the validity  
13 and applicability of an indication of municipal financial  
14 distress. In assessing validity and applicability, the  
15 department shall undertake a review process including, but not  
16 limited to, consultation, correspondence and visits with a  
17 municipality which appears to be financially distressed,  
18 notwithstanding the provisions of section 2501-C(e) and (f) of  
19 the act of April 9, 1929 (P.L.177, No.175), known as The  
20 Administrative Code of 1929, which limits department  
21 intervention to incidences when such is requested by the  
22 municipality. If the department assesses that a municipality  
23 needs assistance to correct minor fiscal problems, the  
24 department shall offer appropriate recommendations. If the  
25 municipality adopts those recommendations, the department need  
26 take no further action.

27 (c) Notify agencies of determination.--Upon the making of a  
28 determination by the secretary that a municipality is distressed  
29 pursuant to section 203(f), the department shall immediately  
30 notify the heads of all Commonwealth agencies of the

1 determination.

2 (d) Act as analyzer of municipal reports.--A power and duty  
3 of the department shall be to act as the Commonwealth analyzer  
4 for relevant reports, data and information required by law to be  
5 filed by municipalities with any Commonwealth agency when such  
6 reports, data and information directly relate to the financial  
7 conditions of municipalities. The department shall, in  
8 consultation with every Commonwealth agency, determine which  
9 reports, data and information relate to the fiscal condition of  
10 municipalities. Upon an indication of distress in a municipality  
11 through information available to the department, the department  
12 shall request data, reports and information from all  
13 Commonwealth agencies to assist the department to substantiate a  
14 possible distress status of a municipality.

15 (e) Furnish program data to municipality.--Upon receipt of  
16 information forwarded to the department by each Commonwealth  
17 agency pursuant to section 122(a), the department shall furnish  
18 this information to the distressed municipality coordinator for  
19 possible inclusion of such information into the plan developed  
20 by the coordinator in accordance with Subchapter C of Chapter 2.

21 (f) Develop early warning system.--In conjunction with  
22 assessing a municipality's current fiscal stability under  
23 subsections (a) and (b) and section 201, the department shall  
24 develop an early warning system utilizing necessary fiscal and  
25 socioeconomic variables to identify municipal financial  
26 emergencies before they reach crisis proportions and to notify  
27 an affected municipality appropriately. The department shall be  
28 responsible for testing the validity and reliability of these  
29 variables and shall continuously monitor them to assure their  
30 effectiveness. In developing an early warning system, the

1 department may employ or contract with municipal fiscal  
2 consultants as deemed necessary to execute the provisions of  
3 this subsection. Notice shall be published in the Pennsylvania  
4 Bulletin that the early warning system has been developed and  
5 the system may not become operational until the publication of  
6 the notice.

7 (G) DISTRIBUTE GRANTS AND LOANS.--THE DEPARTMENT SHALL <—  
8 DISTRIBUTE GRANTS AND LOANS TO FINANCIALLY DISTRESSED  
9 MUNICIPALITIES IN ACCORDANCE WITH CHAPTER 3.

10 ~~(g)~~ (H) Promulgate rules and regulations.--The department <—  
11 shall promulgate rules and regulations necessary to implement  
12 the provisions of this act.

13 Section 122. Duties of Commonwealth agencies.

14 (a) Review programs.--After the secretary makes a  
15 determination that a municipality is distressed and the  
16 department notifies Commonwealth agencies of the secretary's  
17 determination pursuant to section 121(c), each agency shall  
18 review all matters and programs pending, underway or about to be  
19 commenced or possible programs concerning the distressed  
20 municipality. An action which is within the authority and budget  
21 of a Commonwealth agency and which, in the judgment of the head  
22 of the agency, will help to improve the distressed  
23 municipality's financial situation shall be reported to the  
24 department.

25 (b) Transfer documented information.--Upon request of the  
26 department, each Commonwealth agency shall forward to the  
27 department all documented reports, data and other information  
28 referred to in section 121(d) within 30 days of receipt.

29 Section 123. Powers and duties of municipalities.

30 (a) File completed survey.--On or before March 15 of each

1 year, every municipality shall return to the department a  
2 completed Survey of Financial Conditions referred to in section  
3 121(a). No municipality shall receive its allotted payments  
4 pursuant to the act of June 1, 1956 (1955 P.L.1944, No.655),  
5 referred to as the Liquid Fuels Tax Municipal Allocation Law,  
6 unless it complies with the provisions of this section,  
7 notwithstanding a provision of law to the contrary, and the  
8 Department of Transportation may not disburse funds to a  
9 municipality pursuant to the Liquid Fuels Tax Municipal  
10 Allocation Law until notified by the department that the  
11 municipality has complied with the provisions of this section.

12 (B) FILE APPLICATIONS FOR GRANTS AND LOANS.--A FINANCIALLY <—  
13 DISTRESSED MUNICIPALITY MAY APPLY TO THE SECRETARY FOR EMERGENCY  
14 FINANCIAL AID IN THE FORM OF A GRANT OR LOAN PURSUANT TO CHAPTER  
15 3.

16 ~~(b)~~ (C) Right to petition court for tax increase.--After a <—  
17 municipality has adopted a plan under Subchapter C of Chapter 2,  
18 it may petition the court of common pleas of the county in which  
19 the municipality is located to increase its rates of taxation  
20 for earned income, real property, or both, beyond maximum rates  
21 provided by law. If a tax increase above existing limits is  
22 granted by the courts, the increase shall be effective for a  
23 period of one year from the date a final plan is adopted by the  
24 governing body pursuant to section 245. Subsequent increases in  
25 rates of taxation may be granted by the court upon annual  
26 petition of the municipality. The additional amount of taxes  
27 resulting from the petition shall not be subject to sharing with  
28 a school district.

29 SUBCHAPTER C

30 JUDICIAL PROVISIONS

1 Section 141. Jurisdiction of court of common pleas.

2 The court of common pleas of each county shall have  
3 jurisdiction to hear a petition filed by a municipality which  
4 has adopted a final plan pursuant to Subchapter C of Chapter 2  
5 to increase rates of taxation for earned income, real property,  
6 or both, beyond maximum rates provided by law. The court may  
7 extend annually the increased taxing powers of the municipality  
8 until the termination date of the plan adopted by the  
9 municipality pursuant to Chapter 2.

10 CHAPTER 2

11 MUNICIPAL FINANCIAL DISTRESS

12 SUBCHAPTER A

13 DETERMINATION OF MUNICIPAL FINANCIAL DISTRESS

14 Section 201. Criteria.

15 The evaluation of a municipality's financial stability by the  
16 department under section 121 shall include each of the following  
17 criteria. If at least one criterion is present and the  
18 department assesses pursuant to section 121(b) that it is a  
19 valid indication of municipal financial distress, then the  
20 department shall exercise its powers and duties pursuant to  
21 section 121.

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

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

27 (3) The municipality has defaulted in payment of  
28 principal or interest on any of its bonds or notes or in  
29 payment of rentals due any authority.

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

1           (5) The municipality has failed to make required  
2 payments to judgment creditors for 30 days beyond the date of  
3 the recording of the judgment.

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

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

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

19           (9) A municipality has sought to negotiate resolution or  
20 adjustment of a claim in excess of 30% against a fund or  
21 budget and has failed to reach an agreement with creditors.

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

25           (11) The municipality has experienced a decrease in a  
26 quantified level of municipal service from the preceding  
27 fiscal year which has resulted from the municipality reaching  
28 its legal limit in levying real estate taxes for general  
29 purposes. For determining levels of municipal service for the  
30 year 1987, the department shall utilize annual statistical

1 data since the year 1982 to determine a pattern of decrease  
2 in delivery of municipal services since 1982.

3 Section 202. Standing to petition for a determination.

4 The following have standing to seek a determination of  
5 municipal financial distress from the secretary:

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

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

13 (3) A creditor with a matured claim to whom the  
14 municipality owes \$10,000 or more, if the creditor agrees in  
15 writing to suspend pending actions and to forbear from  
16 bringing an alternate or additional legal action against the  
17 municipality to collect the debt or part of it for a period  
18 of nine months or until the municipality adopts a plan under  
19 this act, whichever occurs first. The filing of a Federal  
20 debt adjustment action by a municipality pursuant to  
21 Subchapter D of Chapter 2 during the nine-month period  
22 cancels the forbearance obligation.

23 (4) Ten percent of the number of electors of the  
24 municipality that voted at the last municipal election, by  
25 petition to the department alleging the municipality is  
26 fiscally distressed.

27 (5) Trustee of a municipal pension fund; an actuary for  
28 a pension fund; or 10% or more of the beneficiaries of a  
29 pension fund upon petition to the department, provided that a  
30 municipality has not timely deposited its minimum obligation

1 payment as required by section 302 of the act of December 18,  
2 1984 (P.L.1005, No.205), known as the Municipal Pension Plan  
3 Funding Standard and Recovery Act.

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

8 (7) Trustees or paying agents of a municipal bond  
9 indenture.

10 (8) The elected auditors, appointed independent auditors  
11 or elected controllers of a municipality if they have reason  
12 to believe a municipality is in a state of financial distress  
13 pursuant to section 201.

14 Section 203. Procedure for determination.

15 (a) Petition.--A party with standing to petition under  
16 section 202 may petition the secretary seeking a determination  
17 that the municipality involved is a financially distressed  
18 municipality. The petition shall:

19 (1) Allege the petitioner has standing to bring a  
20 determination of the distress.

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

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

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

27 (5) If the petitioner is a municipality, the petition  
28 may state why the petitioner believes manifestation of  
29 section 201 criteria is imminent and inevitable. This  
30 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 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 body of the municipality and the petitioner.

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

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

(g) Appeal.--A determination by the secretary under this act is appealable pursuant to Title 2 of the Pennsylvania

1 Consolidated Statutes (relating to administrative law and  
2 procedure).

3 Section 204. Commonwealth funds.

4 No municipality shall be deemed to be distressed by reason of  
5 circumstances arising as a result of the failure of the  
6 Commonwealth to make any payment of money, including any Federal  
7 money which passes through the Commonwealth, due the  
8 municipality at the time such payment is due.

9 SUBCHAPTER B

10 COORDINATOR

11 Section 221. Designation.

12 (a) Appointment.--No later than 30 days following a  
13 determination of municipal financial distress under section 203,  
14 the secretary shall appoint a coordinator who shall prepare a  
15 plan addressing the municipality's financial problems.

16 (b) Qualifications.--The coordinator may be an employee of  
17 the department, furnished with additional staff or consultant  
18 assistance, if needed, or may be a consultant or consulting  
19 firm. No elected or appointed official or employee of the  
20 municipality shall be eligible for serving as coordinator. The  
21 coordinator shall be experienced in municipal administration and  
22 finance.

23 (c) Compensation.--The department shall be responsible for  
24 compensating the coordinator appointed by the secretary for  
25 reasonable salary and expenses. Notwithstanding any law to the  
26 contrary, the appointment of a plan coordinator shall not be  
27 subject to contractual competitive bidding procedures.

28 (D) DUTIES.--THE COORDINATOR SHALL PREPARE AND ADMINISTER A <—  
29 PLAN DESIGNED TO RELIEVE THE FINANCIAL DISTRESS OF THE  
30 MUNICIPALITY WHICH HE HAS BEEN APPOINTED TO SERVE.

(E) POWERS.--THE COORDINATOR MAY APPLY FOR GRANTS AND LOANS  
PURSUANT TO CHAPTER 3, AS HE DEEMS NECESSARY.

Section 222. Access to information.

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

Section 223. Public and private meetings.

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

(b) Private meetings authorized.--Notwithstanding the provisions of the Sunshine Act, private negotiation sessions may be conducted by the coordinator between the municipality and the individual creditors in an effort to obtain the consent of each creditor to the proposed adjustment and handling of specific claims against the municipality.

Section 224. Coordinator barred from elective office.

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

1 SUBCHAPTER C

2 COORDINATOR'S PLAN

3 Section 241. Contents.

4 A plan formulated by the appointed coordinator shall be  
5 consistent with applicable law and shall include any of the  
6 following factors which are relevant to alleviating the  
7 financially distressed status of the municipality:

8 (1) Projections of revenues and expenditures for the  
9 current year and the next two years, both assuming the  
10 continuation of present operations and as impacted by the  
11 measures in the plan.

12 (2) Recommendations which will:

13 (i) Satisfy judgments, past due accounts payable,  
14 and past due and payable payroll and fringe benefits.

15 (ii) Eliminate deficits and deficit funds.

16 (iii) Restore to special fund accounts money from  
17 those accounts that was used for purposes other than  
18 those specifically authorized.

19 (iv) Balance the budget, avoid future deficits in  
20 funds and maintain current payments of payroll, fringe  
21 benefits and accounts through possible revenue  
22 enhancement recommendations, including tax or fee  
23 changes.

24 (v) Avoid a fiscal emergency condition in the  
25 future.

26 (vi) Enhance the ability of the municipality to  
27 negotiate new general obligation bonds, lease rental  
28 debt, funded debt and tax and revenue anticipation  
29 borrowing.

30 (vii) Consider changes in accounting and automation

1 procedures for the financial benefit of the municipality.

2 (viii) Propose a reduction of debt due on specific  
3 claims by an amortized or lump sum payment considered to  
4 be the most reasonable disposition of each claim possible  
5 for the municipality considering the totality of  
6 circumstances.

7 (3) Possible changes in collective bargaining agreements  
8 and permanent and temporary staffing level changes or changes  
9 in organization.

10 (4) Recommended changes in municipal ordinances or  
11 rules.

12 (5) Recommendations for special audits or further  
13 studies.

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

19 (7) An analysis of whether the economic conditions of  
20 the municipality are so severe that it is reasonable to  
21 conclude that the municipality is no longer viable and should  
22 consolidate or merge with an adjacent municipality or  
23 municipalities pursuant to Chapter 3 4. <—

24 Section 242. Publication.

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

29 (1) The municipal clerk or municipal secretary, who  
30 shall immediately place the copy on file for public

1 inspection in the municipal office.

2 (2) The secretary.

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

4 (4) The mayor.

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

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

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

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

13 (c) Notices of plan.--

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

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

25 (ii) The date and place of filing.

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

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

30 (v) Summary of the plan.

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

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

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

11          (3) The coordinator may combine the publication of the  
12 notice that a plan has been filed with the publication of the  
13 notice of the public meeting.

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

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

27 Section 243. Review of plan.

28          (a) General rule.--The coordinator, in his discretion, shall  
29 consider comments made on the plan. Creditors who do not consent  
30 to the handling of their claim by the plan, shall notify the

1 coordinator of their rejection of the plan not later than ten  
2 days before the public meeting scheduled by the governing body  
3 under section 245.

4 (b) Rejected claims.--If a creditor has rejected the plan,  
5 the coordinator shall make a written report to the governing  
6 body stating whether the timing and amount of payment or  
7 proposed resolution of the claim is the best disposition the  
8 municipality can make.

9 (c) Additional negotiations authorized.--Additional  
10 negotiations between the municipality and creditors rejecting  
11 the plan shall be encouraged and presided over by the  
12 coordinator.

13 (d) Governing body proposals.--The governing body of the  
14 municipality may propose to the coordinator resolutions of  
15 claims which have been the reason for rejection of the proposed  
16 plan, and the coordinator may revise the plan accordingly.

17 (e) Revision on own initiative.--Nothing in this section  
18 shall preclude the coordinator from revising a plan of his own  
19 initiative.

20 Section 244. Revision.

21 Neither the secretary nor the chief executive officer or the  
22 governing body, as appropriate, may revise the coordinator's  
23 plan. However, the coordinator shall consult with the secretary  
24 and either the chief executive officer or the governing body  
25 throughout the revision of the plan and shall give consideration  
26 to comments they may propose.

27 Section 245. Adoption by municipality.

28 Not later than 15 days following the coordinator's public  
29 meeting, the municipal governing body shall either enact an  
30 ordinance approving the implementation of the plan, including

1 enactment of necessary related ordinances and revisions to  
2 ordinances, or shall reject the plan and proceed under section  
3 246. If the ordinance takes effect in a municipality operating  
4 under an optional plan form of government or a home rule  
5 charter, the chief executive officer may issue an order  
6 directing the implementation of the plan no later than seven  
7 days from the enactment of the ordinance by the governing body.  
8 Section 246. Preparation and action on alternate plan.

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

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

29 (2) The chief executive officer shall be responsible for  
30 placing notice that a public meeting will be held on his

1 plan. Notice shall be published in the same manner as  
2 provided in section 242(c). The coordinator shall attend the  
3 public meeting and furnish written and oral comments on the  
4 chief executive officer's plan.

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

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

21 (2) The governing body shall be responsible for placing  
22 notice that a public meeting will be held on its plan. Notice  
23 shall be published in the same manner as provided in section  
24 242(c). The coordinator shall attend the public meeting and  
25 furnish written and oral comments on the governing body's  
26 plan.

27 (c) Approval or rejection of plan.--Following the public  
28 meeting on the chief executive officer's plan or the governing  
29 body's plan, the governing body may enact an ordinance,  
30 including necessary related implementing ordinances or revisions

1 to ordinances, approving the plan.

2 (d) Review by secretary.--

3 (1) If an ordinance is enacted approving a plan under  
4 this section, it shall be forwarded to the secretary for  
5 determination that the plan, when implemented, will overcome  
6 the municipality's financial distress.

7 (2) If the secretary is of the opinion that the plan,  
8 when implemented, will overcome the municipality's financial  
9 distress, the secretary shall so inform the municipality.

10 (3) If the secretary is of the opinion that the plan,  
11 when implemented, will not overcome the municipality's  
12 financial problems, the secretary shall inform the  
13 municipality of the following:

14 (i) The secretary's determination.

15 (ii) The reasons for the determination.

16 (iii) The applicability of sections 251 and 264 to  
17 the municipality.

18 Section 247. Plan implementation.

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

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

27 (2) Initiate plan implementation and continue its  
28 implementation for at least four months.

29 (3) Oversee completion of the plan either by directly  
30 controlling the implementation process or by turning the

1 implementation process over to a person designated by the  
2 governing body or by the chief executive officer, as the case  
3 may be. The person designated shall supply the coordinator  
4 with monthly reports.

5 (4) Terminate the plan upon its completion.

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

8 (b) Chief executive officer's plan.--If the plan adopted is  
9 the plan proposed by the chief executive officer in an optional  
10 plan form of government or home rule charter, the chief  
11 executive officer shall have the duties of the coordinator set  
12 forth in subsection (a).

13 (c) Municipal governing body's plan.--If the plan adopted is  
14 the plan proposed by the municipal governing body, a person  
15 designated by the governing body shall have the duties of the  
16 coordinator set forth in subsection (a).

17 Section 248. Failure to adopt or implement plan.

18 If no plan is adopted or implemented pursuant to this  
19 chapter, then sections 251 and 264 shall apply.

20 Section 249. Plan amendments.

21 An amendment to an adopted plan may be initiated by the  
22 coordinator, the chief executive officer, or the governing body  
23 of a municipality, as the case may be. The adoption of an  
24 amendment shall be by ordinance.

25 Section 250. Debt provisions.

26 Adoption of a plan by ordinance is a condition precedent for  
27 the approval of long-term debt or funding debt under the act of  
28 July 12, 1972 (P.L.781, No.185), known as the Local Government  
29 Unit Debt Act. A debt financing provision of the plan may be  
30 waived by agreement of the lender and the municipality; but any

1 such waiving must be expressly set forth in the indenture or  
2 contract securing the debt.

3 Section 251. Commonwealth agency payments or assistance.

4 (a) Withholding of certain Commonwealth funds.--~~Upon~~ EXCEPT <—  
5 AS PROVIDED IN SECTION 302(B), UPON certification by the  
6 secretary that a financially distressed municipality has failed  
7 to adopt a plan or implement an adopted plan as proposed under  
8 this act or has adopted a plan which is inadequate to address  
9 the municipality's financial distress, the municipality shall  
10 not receive a grant, loan, entitlement or payment from the  
11 Commonwealth or any of its agencies. Moneys withheld shall be  
12 held in escrow by the Commonwealth until the secretary has  
13 rescinded the certification.

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

17 (1) Capital projects under contract in progress.

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

21 (3) Pension fund disbursements made pursuant to State  
22 law.

23 Section 252. Plan not affected by certain collective bargaining  
24 agreements or settlements.

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

28 Section 253. Termination of status.

29 (a) Determination by secretary.--Following a duly advertised  
30 public hearing with notices given as provided in section 203,

1 the secretary may issue a determination that the conditions  
2 which led to the earlier determination of municipal financial  
3 distress municipality are no longer applicable. The  
4 determination shall rescind the status of municipal financial  
5 distress and shall include a statement of facts as part of the  
6 final order.

7 (b) Determination upon petition by a municipality.--A  
8 financially distressed municipality may petition the secretary  
9 to make a determination that the conditions which led to the  
10 earlier determination of municipal financial distress are no  
11 longer present. Upon receiving the petition, the secretary may  
12 issue a determination to rescind following a duly advertised  
13 public hearing with notices given as provided in section 203.

#### 14 SUBCHAPTER D

#### 15 APPLICATION OF FEDERAL LAW

16 Section 261. Filing municipal debt adjustment under Federal  
17 law.

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

22 (1) After recommendation by the plan coordinator  
23 pursuant to section 241(6).

24 (2) Imminent jeopardy of an action by a creditor,  
25 claimant or supplier of goods or services which is likely to  
26 substantially interrupt or restrict the continued ability of  
27 the municipality to provide health or safety services to its  
28 citizens.

29 (3) One or more creditors of the municipality have  
30 rejected the proposed or adopted plan, and efforts to

1 negotiate resolution of their claims have been unsuccessful  
2 for a ten-day period.

3 (4) A condition substantially affecting the  
4 municipality's financial distress is potentially solvable  
5 only by utilizing a remedy exclusively available to the  
6 municipality through the Federal Municipal Debt Readjustment  
7 Act (48 Stat. 798).

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

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

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

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

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

22 (c) Appointment of coordinator.--Upon receipt of notice of  
23 filing of the Federal action by a municipality, the secretary  
24 shall appoint a plan coordinator under section 221, if none had  
25 yet been appointed. The coordinator shall formulate a plan  
26 approvable by the Federal court.

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

28 (a) Existing plan.--After filing a Federal municipal debt  
29 adjustment action, if there is a plan in process under the terms  
30 of this act, the municipality shall utilize the plan and the

1 expertise of the plan coordinator, among others available to it,  
2 to work out a revised plan to be proposed through the Federal  
3 action, adapting it to incorporate Federal remedies which are  
4 appropriate in the circumstances.

5 (b) Necessary plan development.--A municipality which files  
6 a municipal debt adjustment action under Federal law, whether or  
7 not a proceeding under this act had been commenced as of the  
8 date of such filing, shall utilize the procedures set up by this  
9 act concurrently with the processing of the Federal action, so  
10 as to efficiently expedite the formulation of a plan, its timely  
11 confirmation by the Federal court having jurisdiction of the  
12 Federal action and its adoption by ordinance.

13 (c) Plan implementation.--After adoption of a plan by the  
14 municipality as an ordinance and confirmation of the plan by the  
15 Federal court, implementation of the plan shall be coordinated  
16 through this act and in accordance with requirements set by the  
17 Federal court.

18 Section 264. Suspension of Commonwealth funding.

19 (a) General rule.--A municipality which remains classified  
20 as financially distressed by the department and has failed to  
21 adopt or implement a plan within a period set by the Federal  
22 court, or has failed or refused to follow a recommendation by a  
23 coordinator, shall be notified in writing by the coordinator  
24 that he is requesting the secretary to issue a suspension of  
25 Commonwealth funding to the municipality for its failure to take  
26 the steps enumerated in the notice.

27 (b) Municipality's response.--The municipality shall have  
28 ten days from the date of the coordinator's notice in which to  
29 show cause to the secretary and the coordinator why Commonwealth  
30 funding to the municipality should not be suspended.

1 (c) Certification.--If the municipality has not adequately  
2 shown cause to the secretary and coordinator why such action  
3 should not be taken, the secretary, within 20 days of the  
4 coordinator's request, shall certify to the municipality in  
5 writing that each grant, loan, entitlement or payment by the  
6 Commonwealth or any of its agencies shall be suspended pending  
7 adoption of a plan calculated to fully resolve the  
8 municipality's financial distress. Suspended funds shall be held  
9 in escrow by the Commonwealth until the secretary has rescinded  
10 the certification.

11 (d) Exception.--Notwithstanding the provisions of subsection  
12 (c), the following funds shall not be withheld from a  
13 municipality:

14 (1) Capital projects under contract in progress.

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

18 (3) Pension fund disbursements made pursuant to State  
19 law.

20 (4) A GRANT OR LOAN MADE PURSUANT TO SECTION 302(B) OF  
21 THIS ACT.

<—

22 CHAPTER 3  
23 EMERGENCY FINANCIAL AID FOR DISTRESSED MUNICIPALITIES  
24 SECTION 301. PROGRAM.

25 (A) ESTABLISHMENT.--THERE IS HEREBY ESTABLISHED WITHIN THE  
26 DEPARTMENT A PROGRAM TO PROVIDE EMERGENCY GRANTS AND LOANS TO  
27 MUNICIPALITIES DECLARED TO BE DISTRESSED IN ACCORDANCE WITH THIS  
28 ACT.

29 (B) NATURE OF LOANS.--ALL LOANS GRANTED BY THE DEPARTMENT  
30 SHALL BE FREE FROM INTEREST AND REPAYABLE ACCORDING TO A

SCHEDULE WHICH WILL NOT HINDER THE SATISFACTORY COMPLETION OF A  
PLAN ADOPTED AND IMPLEMENTED UNDER THIS ACT.

SECTION 302. GRANT AND LOAN PROCEDURE.

(A) GENERAL PROVISIONS.--A FINANCIALLY DISTRESSED  
MUNICIPALITY OR THE COORDINATOR MAY APPLY TO THE SECRETARY FOR A  
GRANT OR LOAN SUBSEQUENT TO THE ADOPTION OF A PLAN BY A  
MUNICIPALITY PURSUANT TO CHAPTER 2. IN CASES WHERE THE PLAN  
FINALLY ADOPTED HAS BEEN FORMULATED BY THE CHIEF EXECUTIVE  
OFFICER OR GOVERNING BODY, THE CHIEF EXECUTIVE OFFICER OR A  
PERSON DESIGNATED BY THE GOVERNING BODY MAY APPLY TO THE  
SECRETARY FOR A GRANT OR LOAN.

(B) IMMEDIATE EMERGENCIES.--IN CASES WHERE A MUNICIPALITY  
HAS BEEN DECLARED DISTRESSED BUT PRIOR TO FINAL ADOPTION OF A  
PLAN, THE MUNICIPALITY OR THE COORDINATOR APPOINTED MAY APPLY TO  
THE DEPARTMENT FOR AN EXPEDITED LOAN OR GRANT TO IMMEDIATELY  
ASSIST THE DISTRESSED MUNICIPALITY IF EITHER OF THE FOLLOWING  
CONDITIONS EXISTS:

(1) THE APPLICANT VERIFIES THAT HE BELIEVES THE  
MUNICIPALITY IS IN IMMINENT DANGER OF INSOLVENCY.

(2) THE APPLICANT VERIFIES THAT HE BELIEVES THERE IS A  
CLEAR AND PRESENT DANGER TO THE HEALTH AND SAFETY OF  
RESIDENTS OF THE MUNICIPALITY.

(C) APPROVAL.--

(1) UPON RECEIPT OF AN APPLICATION UNDER SUBSECTION (A),  
THE SECRETARY SHALL SET A DATE FOR A HEARING TO BE HELD NOT  
SOONER THAN TEN DAYS NOR LATER THAN 30 DAYS FROM THE DATE OF  
RECEIPT OF THE APPLICATION. AT THE HEARING THE SECRETARY  
SHALL RECEIVE EVIDENCE WHICH SETS FORTH THE NECESSITY FOR THE  
MONEYS REQUESTED. THE HEARING SHALL BE CONDUCTED AT AN  
ACCEPTABLE LOCATION WITHIN THE MUNICIPALITY TO ACCOMMODATE

1 ALL INTERESTED PARTIES. IF SATISFIED THAT SUFFICIENT EVIDENCE  
2 EXISTS TO WARRANT A GRANT OR LOAN, THE SECRETARY SHALL  
3 APPROVE THE APPLICATION AND ORDER THE DEPARTMENT TO  
4 DISTRIBUTE MONEYS REQUESTED SUBJECT TO THE LIMITATIONS SET  
5 FORTH IN SECTION 303(C).

6 (2) UPON RECEIPT OF AN APPLICATION UNDER SUBSECTION (B),  
7 THE SECRETARY SHALL REVIEW ALL DATA IMMEDIATELY AVAILABLE AND  
8 SHALL DETERMINE WHETHER EMERGENCY FUNDS ARE WARRANTED. IF  
9 WARRANTED, THE SECRETARY SHALL APPROVE THE APPLICATION AND  
10 ORDER THE DEPARTMENT TO DISTRIBUTE MONEYS REQUESTED. THE  
11 SECRETARY OR THE APPLICANT MAY REQUEST A HEARING TO PROVIDE  
12 ADDITIONAL EVIDENCE OF EMERGENCY NEED, BUT IF REQUESTED, THE  
13 HEARING SHALL BE HELD NOT LATER THAN 15 DAYS FROM THE DATE  
14 THE APPLICATION IS RECEIVED.

15 EITHER DETERMINATION IS APPEALABLE UNDER TITLE 2 OF THE  
16 PENNSYLVANIA CONSOLIDATED STATUTES (RELATING TO ADMINISTRATIVE  
17 LAW AND PROCEDURES).

18 SECTION 303. LIMITATIONS.

19 (A) USE.--NO LOAN OR GRANT GIVEN TO A FINANCIALLY DISTRESSED  
20 MUNICIPALITY BY THE DEPARTMENT SHALL BE USED BY THE MUNICIPALITY  
21 TO PAY DEBTS INCURRED BY THE MUNICIPALITY PRIOR TO THE  
22 DETERMINATION BY THE SECRETARY THAT THE MUNICIPALITY IS  
23 FINANCIALLY DISTRESSED.

24 (B) ELIGIBILITY.--CITIES OF THE FIRST AND SECOND CLASS AND  
25 COUNTIES OF THE FIRST CLASS MAY NOT APPLY FOR A GRANT OR LOAN  
26 UNDER THIS ACT.

27 (C) AMOUNT.--THE SECRETARY SHALL NOT APPROVE AN APPLICATION  
28 TO ANY ONE MUNICIPALITY FOR AN AMOUNT WHICH WILL SUBSTANTIALLY  
29 IMPAIR THE DEPARTMENT'S ABILITY TO DISTRIBUTE THE REMAINING SUM  
30 FAIRLY AND EQUITABLY TO OTHER APPLICANTS OR POTENTIAL

1 APPLICANTS.

2 CHAPTER 3 4

<—

3 CONSOLIDATION OR MERGER OF ECONOMICALLY NONVIABLE

4 MUNICIPALITIES

5 SUBCHAPTER A

6 GENERAL PROVISIONS

7 Section ~~301~~ 401. Determination.

<—

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

14 Section ~~302~~ 402. Procedure for consolidation or merger.

<—

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

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

25 (2) Initiative of electors.

26 Section ~~303~~ 403. Joint agreement of governing bodies.

<—

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

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

2 (1) The name of each municipality that is a party to the  
3 agreement.

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

6 (3) The type and class of the consolidated or merged  
7 municipality.

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

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

19 (6) Terms for:

20 (i) The disposition of existing assets of each  
21 municipality.

22 (ii) The liquidation of existing indebtedness of  
23 each municipality.

24 (iii) The assumption, assignment or disposition of  
25 existing liabilities of each municipality, either  
26 jointly, separately or in certain defined proportions, by  
27 separate rates of taxation within each of the constituent  
28 municipalities until consolidation or merger becomes  
29 effective pursuant to section ~~307~~ 407. <—

30 (iv) The implementation of a legally consistent

1 uniform tax system throughout the consolidated or merged  
2 municipality which provides the revenue necessary to fund  
3 required municipal services.

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

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

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

19 Section ~~304~~ 404. Initiative of electors.

<—

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

28 (b) Notice to governing bodies affected.--When election  
29 officials find that a petition is in proper order, they shall  
30 send copies of the initiative petition without the signatures

1 thereon to the governing bodies of each of the municipalities  
2 affected by the proposed consolidation or merger.

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

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

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

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

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

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

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

22 (d) Filing of petition.--The consolidation or merger  
23 petition shall be filed with the election officials not later  
24 than the 13th Tuesday prior to the next primary, municipal or  
25 general election. The petition and proceedings therein shall be  
26 in the manner and subject to the provisions of the election laws  
27 which relate to the signing, filing and adjudication of  
28 nomination petitions insofar as such provisions are applicable,  
29 except that no referendum petition shall be signed or circulated  
30 prior to the 20th Tuesday before the election, nor later than

1 the 13th Tuesday before the election.

2 Section ~~305~~ 405. Conduct of referenda. <—

3 (a) Duty to place on ballot.--Following initiation of  
4 proceedings for consolidation or merger by the procedures set  
5 forth either in section ~~303~~ or ~~304~~ 403 or 404, the question of <—  
6 consolidation or merger shall be placed before the electors of  
7 each of the municipalities proposed to be consolidated or  
8 merged. A referendum shall be held at the first primary,  
9 municipal or general election after either:

10 (1) the date of the general agreement entered into under  
11 the provisions of section ~~303~~ 403; or <—

12 (2) the date of filing of the petition filed under the  
13 provisions of section ~~304~~ 404. <—

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

23 Section ~~306~~ 406. Consolidation or merger agreement. <—

24 (a) Form.--Upon favorable action by the electorate on  
25 consolidation or merger, in cases where consolidation or merger  
26 was initiated otherwise than by joint agreement of municipal  
27 governing bodies under section ~~303~~ 403, the governing bodies of <—  
28 the municipalities to be consolidated or merged shall meet  
29 within 60 days after the certification of the favorable vote and  
30 shall make a consolidation or merger agreement, as follows:



1 administration and enforcement of ordinances to be enforced  
2 uniformly within the consolidated or merged municipality.

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

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

16 Section ~~307~~ 407. Effectuation of consolidation or merger. <—

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

1 office under the plan and schedule set forth in the  
2 consolidation or merger agreement authorized by section ~~303~~ or ~~306~~ 403 or 406, as the case may be. They shall take office as  
3  
4 officers of the consolidated or merged municipality on the first  
5 Monday of January following the municipal election at which they  
6 were elected, and thereupon, the consolidated or merged  
7 municipality shall begin to function and the former  
8 municipalities consolidated or merged into it shall be  
9 abolished.

10 Section ~~308~~ 408. Collective bargaining agreements; furlough of ~~or~~  
11 employees; disputes.

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

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

1 of their seniority if they had been previously furloughed.

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

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

16 Section ~~309~~ 409. Procedures.

<—

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

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

27 (c) Vesting of rights, privileges, property and  
28 obligations.--All rights, privileges and franchises of each  
29 component municipality and all property belonging to each  
30 component municipality shall be vested in the consolidated or

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

8 SUBCHAPTER B  
9 ECONOMIC ASSISTANCE

10 Section ~~321~~ 421. Eligibility. <—

11 In the event a municipality has been determined to be  
12 distressed pursuant to section 203(f) and has subsequently  
13 consolidated or merged under provisions of this chapter, the  
14 consolidated or merged municipality shall be eligible for  
15 economic and community development assistance as provided in  
16 section ~~322~~ 422. <—

17 Section ~~322~~ 422. Priority. <—

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

28 CHAPTER 5 <—  
29 FUNDING

30 SECTION 501. APPROPRIATION.

1 THE SUM OF \$5,000,000, APPROPRIATED UNDER SECTION 210 OF THE  
2 ACT OF JULY 1, 1986 (P.L.1776, NO.5A), KNOWN AS THE GENERAL  
3 APPROPRIATION ACT OF 1986, SHALL BE USED TO CARRY OUT THE  
4 PROVISIONS OF THIS ACT. THE APPROPRIATION SHALL BE DISTRIBUTED  
5 AS FOLLOWS:

6 (1) \$500,000 SHALL BE USED BY THE DEPARTMENT FOR  
7 ADMINISTRATIVE EXPENSES NECESSARY TO CARRY OUT THE PROVISIONS  
8 OF THIS ACT.

9 (2) \$4,500,000 SHALL BE USED TO PROVIDE GRANTS AND LOANS  
10 TO MUNICIPALITIES DETERMINED TO BE FINANCIALLY DISTRESSED  
11 PURSUANT TO THIS ACT.

12 CHAPTER 4 6 <—

13 TECHNICAL PROVISIONS

14 Section ~~401~~ 601. Repeals. <—

15 Section 2501-C(e) and (f) of the act of April 9, 1929  
16 (P.L.177, No.175), known as The Administrative Code of 1929, are  
17 repealed insofar as they are inconsistent with this act.

18 The act of June 11, 1935 (P.L.323, No.146), entitled "An act  
19 designating the Department of Internal Affairs as the agency of  
20 the Commonwealth to approve or disapprove petitions to courts,  
21 and plans for the readjustment of debts of political  
22 subdivisions, under the act of Congress relating to the  
23 bankruptcy of political subdivisions; and defining the powers  
24 and duties of said department in relation thereto," is repealed  
25 insofar as it related to a municipality as defined in section  
26 103 of this act.

27 Section ~~402~~ 602. Expiration. <—

28 Section 203(a)(5) shall expire upon publication in the  
29 Pennsylvania Bulletin of the notice required under section  
30 121(g).

1 Section ~~403~~ 603. Effective date.

←

2 This act shall take effect in 60 days.