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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1773 Session of  
2013

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INTRODUCED BY ROSS, GINGRICH, HARPER, FREEMAN AND M. DALEY,  
OCTOBER 17, 2013

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REFERRED TO COMMITTEE ON URBAN AFFAIRS, OCTOBER 17, 2013

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AN ACT

1 Amending the act of July 10, 1987 (P.L.246, No.47), entitled "An  
2 act empowering the Department of Community Affairs to declare  
3 certain municipalities as financially distressed; providing  
4 for the restructuring of debt of financially distressed  
5 municipalities; limiting the ability of financially  
6 distressed municipalities to obtain government funding;  
7 authorizing municipalities to participate in Federal debt  
8 adjustment actions and bankruptcy actions under certain  
9 circumstances; and providing for consolidation or merger of  
10 contiguous municipalities to relieve financial distress,"  
11 further providing for title of act; providing for declaration  
12 of fiscal emergencies and receivership in municipalities;  
13 authorizing certain taxes; providing for disincorporation of  
14 municipalities and the establishment of unincorporated  
15 service districts; establishing the Unincorporated Service  
16 District Trust Fund; and making extensive amendments,  
17 additions and editorial changes.

18 The General Assembly of the Commonwealth of Pennsylvania  
19 hereby enacts as follows:

20 Section 1. The title of the act of July 10, 1987 (P.L.246,  
21 No.47), known as the Municipalities Financial Recovery Act, is  
22 amended to read:

23 AN ACT

24 Amending the act of July 10, 1987 (P.L.246, No.47), entitled "An  
25 act empowering the Department of Community [Affairs] and

1 Economic Development to assist municipalities in avoiding  
2 financial distress; declare certain municipalities as  
3 financially distressed; providing for the restructuring of  
4 debt of financially distressed municipalities; limiting the  
5 ability of financially distressed municipalities to obtain  
6 government funding; authorizing municipalities to participate  
7 in Federal debt adjustment actions and bankruptcy actions  
8 under certain circumstances; authorizing certain taxes; and  
9 providing for [consolidation or merger of contiguous  
10 municipalities to relieve financial distress] the  
11 disincorporation of municipalities and the establishment of  
12 unincorporated service districts.

13 Section 2. Section 102 of the act, amended Oct. 20, 2011  
14 (P.L.318, No.79), is amended to read:

15 Section 102. Purpose and legislative intent.

16 (a) Policy.--It is hereby declared to be a public policy of  
17 the Commonwealth to foster fiscal integrity of municipalities so  
18 that they provide for the health, safety and welfare of their  
19 citizens; pay principal and interest on their debt obligations  
20 when due; meet financial obligations to their employees, vendors  
21 and suppliers; and provide for proper financial accounting  
22 procedures, budgeting and taxing practices. The failure of a  
23 municipality to do so is hereby determined to affect adversely  
24 the health, safety and welfare not only of the citizens of the  
25 municipality but also of other citizens in this Commonwealth.

26 (b) Legislative intent.--The General Assembly finds and  
27 declares as follows:

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

29 (i) Enact procedures to provide municipalities  
30 showing early indicators of financial distress with

1 training and technical and financial assistance.

2 [(i)] (ii) Enact procedures and provide powers and  
3 guidelines to ensure fiscal integrity of municipalities  
4 while leaving principal responsibility for conducting the  
5 governmental affairs of a municipality, including  
6 choosing the priorities for and manner of expenditures  
7 based on available revenues, to the charge of its elected  
8 officials, consistent with the public policy set forth in  
9 this section.

10 [(ii)] (iii) Enact procedures for the adjustment of  
11 municipal debt by negotiated agreement with creditors.

12 [(iii)] (iv) Provide for the exercise of the  
13 Commonwealth's sovereign and plenary police power in  
14 emergency fiscal conditions to protect the health, safety  
15 and welfare of a municipality's citizens when local  
16 officials are unwilling or unable to accept a solvency  
17 plan developed for the benefit of the [community]  
18 municipality.

19 (v) Provide for the exercise of the Commonwealth's  
20 sovereign and plenary power to establish and abolish  
21 local government units and provide essential services in  
22 areas of this Commonwealth in which the fiscal integrity  
23 of existing local government units cannot be sustained.

24 (2) Changing and deteriorating economic conditions,  
25 developing technologies and attendant unemployment erode  
26 local tax bases and threaten essential municipal services.  
27 Under such circumstances, such distressed governmental units  
28 may no longer be viable and that the citizens of those  
29 communities should be granted the opportunity in accordance  
30 with law 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 revenue  
6 base to provide necessary public services to the citizens of  
7 financially distressed municipalities.

8 (3) Policies of certain municipalities are so  
9 ineffective and the financial conditions so severe that the  
10 provision of vital and necessary services is threatened.

11 (4) Sustained failure of a municipality to enact or  
12 implement a fiscal plan to adequately address or prevent  
13 insolvency after repeated opportunities to do so:

14 (i) constitutes a fiscal emergency; and

15 (ii) signifies:

16 (A) a breakdown in the function of municipal  
17 government;

18 (B) a dereliction of its elected officials'  
19 paramount public duty to safeguard the health, safety  
20 and welfare of its citizens; and

21 (C) a threat to the fiscal stability of  
22 neighboring communities.

23 (5) Pursuant to the Commonwealth's paramount right and  
24 duty to maintain law and order and protect and preserve the  
25 health, safety and welfare of its citizens and ensure  
26 compliance with this act under Article IX of the Constitution  
27 of Pennsylvania, the Governor is authorized to act in the  
28 face of a fiscal emergency under paragraph (4) (i) and  
29 dereliction of official duty under paragraph (4) (ii) (B).

30 (6) Municipalities may face such deteriorated economic

1 conditions that all reasonable efforts to restore economic  
2 viability have failed and merger or consolidation cannot  
3 occur through any means provided by law. It is the intent of  
4 the General Assembly that, for municipalities incapable of  
5 continuing to function as general purpose units of local  
6 government, procedures exist to ensure the provision of  
7 essential and vital public services to the residents of those  
8 areas absent a functioning municipal government.

9 Section 3. Section 103 of the act, repealed Oct. 13, 1994  
10 (P.L.596, No.90) and added July 5, 2012 (P.L.1104, No.133), is  
11 amended to read:

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 "Arbitration settlement." An adjustment or settlement of a  
17 collective bargaining agreement or dispute. The term includes a  
18 final or binding arbitration award or other determination.

19 "Authority." A municipal authority, parking authority or any  
20 other authority or corporate entity that is directly or  
21 indirectly controlled by a distressed municipality or to which a  
22 distressed municipality has power of appointment.

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

27 "Chief executive officer." Mayor in a mayor-council form of  
28 government or manager in a council-manager form of government of  
29 a city operating under an optional form of government pursuant  
30 to the act of July 15, 1957 (P.L.901, No.399), known as the

1 Optional Third Class City Charter Law; a mayor of a city of the  
2 first class under the act of April 21, 1949 (P.L.665, No.155),  
3 known as the First Class City Home Rule Act; or an individual  
4 serving in such capacity as designated by a home rule charter or  
5 optional plan pursuant to the act of April 13, 1972 (P.L.184,  
6 No.62), known as the Home Rule Charter and Optional Plans Law.

7 "Claim." Right to payment, whether or not the right is  
8 reduced to judgment, liquidated, unliquidated, fixed,  
9 contingent, matured, unmatured, disputed, undisputed, legal,  
10 equitable, secured or unsecured; or right to an equitable remedy  
11 for breach of performance if the breach gives rise to a right to  
12 payment, whether or not the right to an equitable remedy is  
13 reduced to judgment, fixed, contingent, matured, unmatured,  
14 disputed, undisputed, secured or unsecured.

15 "Commonwealth agency." The Governor and the departments,  
16 boards, commissions, authorities and other officers and agencies  
17 of this Commonwealth, whether or not subject to the policy  
18 supervision and control of the Governor.

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

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

28 "Department." The Department of Community [Affairs] and  
29 Economic Development of the Commonwealth.

30 "Expenditures." Reductions in fund equity, including current

1 operating expenses that require the use of fund equity, debt  
2 service and capital outlays. The term shall not include  
3 interfund transfers.

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

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

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

15 "Municipal record." A financial record [and] or document of  
16 a municipality or of [an authority incorporated by a  
17 municipality, excluding confidential] an authority or other  
18 corporate entity which directly or indirectly performs a  
19 governmental function on behalf of the municipality, is directly  
20 or indirectly controlled by the municipality or to which the  
21 municipality has direct or indirect power of appointment or has  
22 directly or indirectly pledged or designated the municipality's  
23 revenues or the municipality's credit. The term does not  
24 include:

25 (1) Confidential information relating to personnel  
26 matters and matters relating to the initiation and conduct of  
27 investigations of violations of law. To the extent such  
28 information is included in a financial record or document  
29 otherwise subject to this definition, it shall be redacted  
30 and the remainder subject to disclosure as otherwise provided

1 by this act.

2 (2) A financial record or document in the custody or  
3 control of an entity other than a municipality, municipal  
4 authority or other authority, except if the document relates  
5 to services or governmental functions performed by the  
6 municipality, municipal authority or on behalf of the  
7 municipality or municipal authority, or the revenues or  
8 credit of the municipality or a municipal authority.

9 "Municipality." Every county, city, borough, incorporated  
10 town, township and home rule municipality.

11 "Plan" or "recovery plan." A recovery plan developed under  
12 this act.

13 "Revenues." Additions to fund equity other than from  
14 interfund transfers, proceeds of debt and proceeds of  
15 disposition of general fixed assets.

16 "Secretary." The Secretary of Community [Affairs] and  
17 Economic Development of the Commonwealth.

18 Section 4. Section 121(a), (b), (c) and (h) of the act are  
19 amended to read:

20 Section 121. Powers and duties of department.

21 (a) Compile financial data.--

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

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



1 (i) The survey shall seek information necessary to  
2 determine the fiscal status of a municipality, shall be  
3 concise to facilitate prompt response and shall contain  
4 an attestation clause to be signed by the presiding  
5 officer of the municipality's governing body. [The actual  
6 survey form shall not exceed two pages in length.]

7 (ii) The survey shall be provided to the municipal  
8 clerk or municipal secretary along with tax information  
9 forms in accordance with law.

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

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

14 (b) Assess data.--A power and duty of the department shall  
15 be to apply the criteria of section 201 to data and information  
16 on the fiscal status of municipalities to assess the validity  
17 and applicability of an indication of municipal financial  
18 distress. In assessing validity and applicability, the  
19 department shall undertake a review process, including, but not  
20 limited to, consultation, correspondence and visits with a  
21 municipality which appears to be financially distressed,  
22 notwithstanding the provisions of section 2501-C(e) and (f) of  
23 the act of April 9, 1929 (P.L.177, No.175), known as The  
24 Administrative Code of 1929, which limits department  
25 intervention to incidences when such is requested by the  
26 municipality. If the department [assesses] determines that a  
27 municipality needs assistance to correct minor fiscal problems,  
28 the department shall offer appropriate recommendations,  
29 including a recommendation that the municipality submit an  
30 application as provided in Chapter 1-A. If the municipality

1 adopts those recommendations, the department need take no  
2 further action.

3 (c) Notify agencies of determination.--Upon the making of a  
4 determination by the secretary that a municipality is distressed  
5 pursuant to section 203(f), the department shall immediately  
6 notify the heads of all Commonwealth agencies of the  
7 determination. The department shall, by January 1 of each year  
8 thereafter, notify the heads of all Commonwealth agencies of the  
9 priority funding requirement for distressed municipalities as  
10 provided in section 282.

11 \* \* \*

12 (h) Promulgate rules and regulations.--The department shall  
13 [promulgate]:

14 (1) Within 90 days of the effective date of this  
15 paragraph, and with the assistance of the Department of  
16 Revenue, promulgate rules and regulations for the  
17 administration and enforcement of a tax as provided in  
18 section 124. The rules and regulations shall include:

19 (i) The form and contents of a return.

20 (ii) A method for the reexamination and correction  
21 of returns and payments alleged or found to be incorrect,  
22 or as to which an overpayment is claimed or found to have  
23 occurred.

24 (iii) Rules for appeals of vendors aggrieved by any  
25 decision of the tax collector and for review of petitions  
26 for abatement of interest and penalties, compromise and  
27 refund of the tax in a manner consistent with 53 Pa.C.S.  
28 Ch. 84 Subch. C (relating to local taxpayer bill of  
29 rights). For purposes of the application of 53 Pa.C.S.  
30 Ch. 84 Subch. C, the tax levied in accordance with

1 section 124 shall be considered an "eligible tax" and  
2 vendors shall be considered "taxpayers" as those terms  
3 are defined in 53 Pa.C.S. § 8422 (relating to  
4 definitions).

5 (2) Promulgate other rules and regulations necessary to  
6 implement the provisions of this act.

7 Section 5. Section 122 of the act is amended by adding a  
8 subsection to read:

9 Section 122. Duties of Commonwealth agencies.

10 \* \* \*

11 (c) Waiver of certain administrative mandates.--

12 (1) Notwithstanding any provision of law and at the  
13 request of the coordinator or receiver, a Commonwealth agency  
14 may exempt a distressed municipality from the application of  
15 a regulatory requirement, if the following conditions are  
16 satisfied:

17 (i) The regulatory requirement is not expressly  
18 required by Federal law or regulation, or an act of the  
19 Commonwealth, and is not related to the rights or terms  
20 and conditions of employment by the municipality.

21 (ii) The waiver of the regulatory mandate will not  
22 likely affect public health and safety.

23 (2) It is the intent of this subsection that distressed  
24 municipalities be considered for relief from regulatory  
25 mandates that, due to financial distress or the  
26 implementation of recovery measures, are unduly burdensome on  
27 the municipality and would not undermine the regulatory  
28 purposes of the agency if waived.

29 Section 6. Section 123 of the act, amended July 11, 1996  
30 (P.L.645, No.108), is amended to read:

1 Section 123. Powers and duties of municipalities.

2 (a) File completed survey.--On or before March 15 of each  
3 year, every municipality shall return to the department a  
4 completed Survey of Financial Conditions referred to in section  
5 121(a). No municipality shall receive its allotted payments  
6 pursuant to the act of June 1, 1956 (1955 P.L.1944, No.655),  
7 referred to as the Liquid Fuels Tax Municipal Allocation Law,  
8 unless it complies with the provisions of this section,  
9 notwithstanding a provision of law to the contrary, including  
10 any provisions which require payment prior to March 15, and the  
11 Department of Transportation may not disburse funds to a  
12 municipality pursuant to the Liquid Fuels Tax Municipal  
13 Allocation Law until notified by the department that the  
14 municipality has complied with the provisions of this section.

15 (b) File applications for grants and loans.--A financially  
16 distressed municipality may apply to the secretary for emergency  
17 financial aid in the form of a grant or loan pursuant to Chapter  
18 3.

19 (c) Right to petition court for tax increase.--

20 (1) After a municipality has adopted a plan under  
21 [Subchapter C] Subchapters C and C.1 of Chapter 2, it may  
22 petition the court of common pleas of the county in which the  
23 municipality is located to increase its rates of taxation for  
24 earned income of residents and nonresidents, real property,  
25 or both, beyond maximum rates provided by law.

26 (1.1) In addition to the right under paragraph (1), a  
27 municipality may petition the court to increase the rate of a  
28 local services tax and levy a payroll preparation tax as  
29 provided in subsection (d) or an optional alcohol consumption  
30 tax as provided in section 124.

1           (2) If a tax increase above existing limits is granted  
2 by the courts or a tax is approved as provided in subsection  
3 (d) or section 124, the increase shall be effective for a  
4 period of one year. The one-year increase shall run from the  
5 date specified in the petition filed with the court or, if no  
6 such date is specified, from the beginning of the current  
7 fiscal year of the municipality. Subsequent increases in  
8 rates of taxation or the imposition of a tax under subsection  
9 (d) or section 124 may be granted by the court upon annual  
10 petition of the municipality until the termination date of  
11 the plan adopted by the municipality under Chapter 2. The  
12 additional amount of taxes resulting from the petition shall  
13 not be subject to sharing with a school district.

14           (3) A petition filed by a city of the second class A or  
15 a home rule municipality that was previously a city of the  
16 second class A under this subsection may not include an  
17 increase in a tax on nonresident income unless the  
18 municipality certifies to the court, with regard to those  
19 provisions of the plan having a measurable fiscal impact,  
20 that:

21           (i) the municipality has substantially implemented  
22 the provisions which are within the authority of the  
23 chief executive officer or governing body, including, but  
24 not limited to, provisions of the plan that call for  
25 increasing existing tax rates levied on residents and  
26 increasing fees charged by the municipality;

27           (ii) the municipality has taken those actions  
28 required to obtain the approval of other parties for  
29 those provisions which may not be implemented without  
30 such approval, including, but not limited to, the

1 approval of a court, local electors or any collective  
2 bargaining unit; and

3 (iii) the additional income from the aforementioned  
4 actions is insufficient to balance the municipal budget,  
5 necessitating additional revenue from an increase in the  
6 tax on nonresident income.

7 (d) Additional tax options and limitations.--After a  
8 municipality has adopted a plan under Subchapter C or C.1 of  
9 Chapter 2 and with the approval of the court, it may adopt an  
10 ordinance imposing any of the following:

11 (1) A local services tax pursuant to Chapter 3 of the  
12 act of December 31, 1965 (P.L.1257, No.511), known as The  
13 Local Tax Enabling Act, at a rate not to exceed \$156. A  
14 municipality adopting an ordinance under this paragraph shall  
15 be prohibited from imposing any additional tax on earned  
16 income pursuant to subsection (c). A municipality levying the  
17 local services tax at a rate in excess of \$52 shall, by  
18 ordinance, exempt any person from the local services tax  
19 whose total earned income and net profits from all sources  
20 within the municipality is less than \$15,600 for the calendar  
21 year in which the local services tax is levied.

22 (2) A payroll preparation tax pursuant to section 303 of  
23 the Local Tax Enabling Act. A municipality imposing a tax  
24 under this paragraph may levy a tax at a rate as provided in  
25 this section and as certified by the coordinator and approved  
26 by the court. When imposing a tax under this paragraph the  
27 municipality may impose the tax not to exceed a rate that is  
28 sufficient to produce revenues equal to revenues collected as  
29 a result of a business privilege tax and a mercantile tax  
30 under Chapter 3 of the Local Tax Enabling Act in the

1 preceding fiscal year. A municipality adopting a payroll  
2 preparation tax under this paragraph shall suspend the levy  
3 of a business privilege tax or mercantile tax until  
4 expiration of the payroll preparation tax authorized under  
5 this paragraph at which time the municipality may resume its  
6 levy of the business privilege tax or mercantile tax. The  
7 authority provided by this paragraph is limited to those  
8 municipalities levying a business privilege or mercantile  
9 tax, on a flat-rate or millage basis, in the year of the  
10 filing of a petition as provided in subsection (c).

11 (3) A tax on the retail sale of alcohol as provided in  
12 section 124. The authority provided in this paragraph:

13 (i) Shall be granted in lieu of any increased rate  
14 in a local services tax as provided in paragraph (1) or  
15 any increase in earned income taxes as provided in  
16 subsection (c).

17 (ii) Shall not apply to a municipality in which any  
18 portion thereof is the situs of a tax levied by another  
19 political subdivision on the retail sale of alcohol and  
20 which tax is in effect on the date of a petition as  
21 provided in subsection (c)(1.1).

22 Section 7. The act is amended by adding a section to read:

23 Section 124. Optional distressed municipality alcohol  
24 consumption tax.

25 (a) Authority to levy and collect tax.--For the tax year  
26 beginning on or after the effective date of this section, the  
27 governing body of every municipality authorized to do so by the  
28 court pursuant to section 123(c)(1.1), as recommended by the  
29 coordinator, shall be authorized to levy and collect a tax in  
30 the manner and at the rates provided in this section. Except as

1 otherwise limited by section 123, the tax shall be in addition  
2 to any other tax every such municipality is authorized to levy  
3 and collect under any existing law. The taxes, interest and  
4 penalties collected under the provisions of this section shall  
5 be used by every such municipality for general purposes as  
6 provided for pursuant to this section.

7 (b) Tax and rate.--The governing body of a municipality may  
8 authorize the levy of a tax imposed upon each separate sale at  
9 retail within the municipality at a rate of not more than 10% of  
10 the sale price, which tax shall be collected by the vendor from  
11 the purchaser and shall be paid over by the vendor to the tax  
12 collector as provided in this section.

13 (c) Returns and payment of tax.--Every vendor required to  
14 collect and remit the tax to the tax collector shall file  
15 monthly returns with respect to such tax on or before the 25th  
16 day of the month succeeding the month with respect to which the  
17 return is made. The returns shall be filed with the tax  
18 collector on forms as established by the department and provided  
19 by the tax collector. Every vendor filing a return shall pay  
20 over to the tax collector the amount of tax shown as due thereon  
21 at the time the return is filed. The failure of any vendor to  
22 procure or receive a return form shall not excuse the vendor  
23 from filing a return and paying over the tax due.

24 (d) Designation of tax collector and compensation.--The  
25 governing body shall by resolution designate the tax collector  
26 and establish tax collector compensation at a rate negotiated  
27 between the tax collector and the governing body. The rate of  
28 compensation shall not exceed 5% of the revenue collected from  
29 the tax.

30 (e) Powers and duties of tax collector.--The tax collector



1 shall:

2 (1) Collect and receive the taxes, interest and  
3 penalties authorized by this section.

4 (2) Enforce the provisions of this section and such  
5 rules and regulations governing the administration and  
6 enforcement of the provisions of this section as promulgated  
7 in accordance with section 121.

8 (3) Examine the books, papers and records of any vendor  
9 in order to verify the accuracy of any return filed or  
10 ascertain the amount of tax due. Every vendor shall give to  
11 the tax collector the means, facilities and opportunities for  
12 the examinations. The tax collector may examine any person  
13 concerning the amount of tax due and may compel the  
14 production of books, papers and records and the attendance of  
15 all persons before the tax collector, whether as parties or  
16 witnesses, whom the tax collector believes to have knowledge  
17 relating to the amount of tax due.

18 (f) Review and appeal.--The governing body of the  
19 municipality, in a manner consistent with 53 Pa.C.S. Ch. 84  
20 Subch. C (relating to local taxpayer bill of rights) and rules  
21 and regulations promulgated in accordance with section 121,  
22 shall provide for appeals of persons aggrieved by any decision  
23 of the tax collector and review petitions for abatement of  
24 interest and penalties for compromise and refund of taxes  
25 authorized by this section.

26 (g) Interest and penalties.--

27 (1) Any vendor who fails to pay over to the tax  
28 collector any amount of tax due on or before the last date  
29 prescribed for payment shall pay interest on such amount at  
30 the rate of 0.5% per month or fraction thereof from such last

1 date to the date paid, without regard to any extension of  
2 time for payment.

3 (2) Any vendor who fails to pay over to the tax  
4 collector any amount of tax due on or before the last date  
5 prescribed for payment shall be liable to pay a penalty of 1%  
6 per month or fraction thereof from such last date to the date  
7 paid.

8 (3) The interest and penalties provided for in this  
9 section shall be added to the tax assessed and collected at  
10 the same time, in the same manner and as part of the tax.

11 (h) Suit for collection.--

12 (1) The governing body of the municipality may sue for  
13 the recovery of all taxes due under this section not paid  
14 when due. Any suit to recover any tax, together with interest  
15 and penalties, authorized under this section, from any  
16 vendor, shall begin within six years after the tax is due or  
17 within six years after a return has been filed, whichever  
18 date is later.

19 (2) The six-year limitation period specified in  
20 paragraph (1) shall not apply:

21 (i) Where a vendor has failed to file a report  
22 required under the provisions of this section.

23 (ii) Where an examination of a return filed by a  
24 vendor and of other evidence relating to such return  
25 reveals a fraudulent evasion of taxes, including, but not  
26 limited to, substantial understatement of sales at retail  
27 taxed under this section.

28 (3) Where suit is brought for the recovery of such tax,  
29 the vendor shall be liable for, and the tax collector shall  
30 collect, in addition to the tax assessed against the vendor,

1 the costs of collection and the interest and penalties  
2 provided under this section.

3 (i) Criminal penalties.--

4 (1) Any vendor who willfully makes any false or untrue  
5 statement on the vendor's return shall be guilty of a  
6 misdemeanor and, upon conviction thereof, shall be sentenced  
7 to pay a fine of not more than \$300 or to imprisonment for  
8 not more than 90 days, or both.

9 (2) Any vendor who willfully fails or refuses to appear  
10 before the collector in person with the vendor's books,  
11 records or accounts for examination when required under the  
12 provisions of this section to do so or who willfully refuses  
13 to permit inspection of the books, records or accounts in the  
14 vendor's custody or control when the right to make the  
15 inspection by the collector is requested, shall be guilty of  
16 a misdemeanor and, upon conviction thereof, shall be  
17 sentenced to pay a fine of not more than \$300 or to  
18 imprisonment for not more than 90 days, or both.

19 (3) Any vendor who willfully fails or refuses to file a  
20 return required by this section or to collect and pay over to  
21 the tax collector any tax imposed under this section shall be  
22 guilty of a misdemeanor and, upon conviction thereof, shall  
23 be sentenced to pay a fine of not more than \$300 or to  
24 imprisonment for not more than 90 days, or both.

25 (j) Liquor Code violations.--Any vendor who willfully fails  
26 or refuses to file a return required by this section or to  
27 collect and pay over to the tax collector any tax imposed under  
28 this section commits an unlawful act under section 493 of the  
29 act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.  
30 The governing body of the municipality may notify the Liquor

1 Control Board in writing that a vendor has violated this  
2 subsection and request that the vendor be subject to the  
3 enforcement provisions of the Liquor Code.

4 (k) Cumulative penalties and remedies.--It is hereby  
5 declared to be the purpose of this section to provide cumulative  
6 penalties and remedies to ensure compliance by vendors with the  
7 requirements of this section.

8 (l) Definitions.--As used in this section, the following  
9 words and phrases shall have the meanings given to them in this  
10 subsection unless the context clearly indicates otherwise:

11 "Person." Any individual, limited partnership, partnership,  
12 association or corporation. Whenever used in a provision of this  
13 section prescribing or imposing a fine or imprisonment or both,  
14 the term as applied to "limited partnership" or "partnership,"  
15 shall mean the partners thereof, as applied to "association,"  
16 the members thereof, and as applied to "corporation," the  
17 officers thereof, except that, as to an incorporated club, the  
18 term shall mean such individual or individuals who, under the  
19 bylaws of the club, has jurisdiction over the possession and  
20 sale of liquor in the club.

21 "Purchaser." A person who acquires liquor or malt and brewed  
22 beverages through sale at retail.

23 "Sale at retail." Any transfer at retail for a consideration  
24 in any manner or by any means whatsoever of liquor and malt and  
25 brewed beverages, but the term shall not include any transaction  
26 which was or is subject to tax by the Commonwealth under Article  
27 II of the act of March 4, 1971 (P.L.6, No.2), known as the Tax  
28 Reform Code of 1971.

29 "Tax collector." The entity responsible for the collection  
30 of earned income taxes under the act of December 31, 1965

1 (P.L.1257, No.511), known as The Local Tax Enabling Act.

2 "Tax year." The 12-month period corresponding to the fiscal  
3 year of a municipality imposing a tax under this section and the  
4 year for which a tax is levied under this section.

5 "Vendor." Any person maintaining a place of business in any  
6 municipality under this section and licensed by the Commonwealth  
7 to sell liquor or malt and brewed beverages, the sale of which  
8 is subject to the tax authorized by this section. The term does  
9 not include an employee who, in the ordinary scope of  
10 employment, renders services to his employer in exchange for  
11 wages or salary.

12 Section 8. Section 141 of the act, amended July 11, 1996  
13 (P.L.645, No.108), is amended to read:

14 Section 141. Jurisdiction of court of common pleas.

15 (a) Increases in tax rates.--The court of common pleas of  
16 each county shall have jurisdiction to hear a petition filed by  
17 a municipality which has adopted a [final] plan pursuant to  
18 Subchapter C or C.1 of Chapter 2 to increase rates of taxation  
19 for earned income on residents and nonresidents, real property,  
20 or both, beyond maximum rates provided by law in accordance with  
21 sections 123 and 124. The court may extend annually the  
22 increased taxing powers of the municipality until the  
23 termination date of the plan adopted by the municipality  
24 pursuant to Chapter 2.

25 (b) Involuntary compromises of delinquent taxes.--The court  
26 of common pleas of each county may hear a petition filed by at  
27 least two taxing authorities having taxing power over the  
28 properties within a municipality which has adopted a [final]  
29 plan pursuant to Subchapter C or C.1 of Chapter 2 if the  
30 petition requests a compromise of delinquent taxes due on a

1 property in that municipality. The court may order the property  
2 to be sold at a sheriff's sale and the proceeds to be divided  
3 among all authorities which are owed taxes for the property  
4 sold. If the property is sold at sheriff's sale and if the  
5 proceeds are insufficient to satisfy tax liens on the property,  
6 the court shall order a proration of the sale proceeds among the  
7 taxing authorities which fixed the liens.

8 Section 9. The act is amended by adding a chapter to read:

9 CHAPTER 1-A

10 EARLY INTERVENTION PROGRAM

11 SUBCHAPTER A

12 PRELIMINARY PROVISIONS

13 Section 101-A. Definitions.

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

17 "Center." The Governor's Center for Local Government  
18 Services of the Department of Community and Economic Development  
19 of the Commonwealth.

20 "Keystone Principles." The Keystone Principles and Criteria  
21 for Growth Investment and Resource Conservation adopted May 31,  
22 2005, by the Economic Development Cabinet to foster and measure  
23 the effectiveness of sustainable economic development and  
24 conservation of resources through the investment of Commonwealth  
25 funds in its municipalities.

26 "Program." The Early Intervention Program established by  
27 this chapter.

28 Section 102-A. Program objectives.

29 The Early Intervention Program established by this chapter  
30 provides a municipality with a preemptive step for the purpose

1 of seeking guidance and assistance from the Commonwealth to  
2 develop long-term financial management, administrative, service  
3 delivery and economic development strategies that the  
4 municipality can implement to avert a fiscal crisis and provide  
5 fiscal stability. The specific objectives of the Early  
6 Intervention Program include the following and are meant to:

7       (1) Provide the resources to assist a municipality in  
8 identifying, prioritizing and addressing the financial  
9 difficulties confronting it, while ensuring its short-term  
10 and long-term goals and objectives are adequately taken into  
11 account.

12       (2) Engage in a management review of its operations and  
13 provide recommendations that will enhance financial  
14 administration, management and service delivery of a  
15 municipality.

16       (3) Strengthen the ability of a municipality to develop,  
17 adopt, implement and monitor multiyear financial management  
18 plans and to incorporate the process into its annual budget  
19 process.

20       (4) Implement a system of multiyear revenue and  
21 expenditure trend analysis, monitoring and forecasting so  
22 that a municipality can better anticipate and plan for future  
23 financial circumstances.

24       (5) Promote multimunicipal and regional planning,  
25 cooperation strategies and cost-sharing opportunities between  
26 two or more municipalities.

27       (6) Support the adoption by a municipality of best  
28 management practices and efficiency measures to increase the  
29 financial stability of a municipality.

30       (7) Further the integration of sound community and

1 economic development strategies to encourage the economic  
2 growth of the tax base of a municipality over a multiyear  
3 period.

4 SUBCHAPTER B

5 ADMINISTRATIVE PROVISIONS

6 Section 103-A. Authorization.

7 The Early Intervention Program is established to authorize  
8 the center to provide guidance and assistance through grants to  
9 a municipality seeking to ensure fiscal stability by developing  
10 and implementing long-term financial, managerial and economic  
11 development strategies.

12 Section 104-A. Grants.

13 (a) General rule.--A grant may be awarded by the center to a  
14 municipality or two or more municipalities cooperating together  
15 to ensure fiscal stability through the development and  
16 implementation of long-term financial, managerial and economic  
17 development strategies in an amount not exceeding \$200,000  
18 during the first fiscal year that commences on the effective  
19 date of this section, adjusted for inflation in subsequent years  
20 by an amount not to exceed an annual cost-of-living adjustment  
21 calculated by applying the percentage change in the Consumer  
22 Price Index immediately prior to the date the adjustment is due  
23 to take effect. To be eligible for a grant for implementation  
24 funding, a municipality must meet the basic training  
25 requirements established in guidelines developed by the center.

26 (b) Match.--The grant amount is subject to a 50% financial  
27 match by the municipality to which the grant was provided,  
28 unless the center determines a match by the municipality of a  
29 lesser amount not less than 10% is warranted. The center may  
30 authorize any portion of the municipality's financial match to



1 be offset by an in-kind match.

2 (c) Eligible activities.--A grant shall be used for the  
3 following eligible activities:

4 (1) The development of multiyear financial management  
5 plan for a municipality.

6 (2) The development of multimunicipal or regional  
7 intergovernmental cooperation initiatives and cost-sharing  
8 strategies.

9 (3) A study to improve the management and operational  
10 practices and financial administration procedures of a  
11 municipality.

12 (4) A merger or consolidation feasibility study.

13 (5) The implementation of any of the eligible activities  
14 identified in paragraphs (1) through (4).

15 (6) Training and capacity-building activities that meet  
16 basic requirements established in guidelines developed by the  
17 center which assist the municipality in the implementation of  
18 plan recommendations.

19 (7) Contracts with professional consultants to develop  
20 and implement recommendations related to eligible activities.

21 Section 105-A. Application.

22 A program application must be submitted by the applicant  
23 municipality on a form prescribed by the department utilizing  
24 the electronic single application format and include or  
25 demonstrate all of the following:

26 (1) The name and address of the municipality or, in the  
27 case of a multimunicipal application, the municipalities.

28 (2) The name of a contact person.

29 (3) The execution of a supporting resolution authorizing  
30 the submission of the application and committing the

1 resources of the municipality or, in the case of a  
2 multimunicipal application, municipalities.

3 (4) The single application shall be signed by the  
4 authorized officer of the municipality or, in the case of a  
5 multimunicipal application, municipalities.

6 (5) Any other information required by the department.  
7 Section 106-A. Evaluation criteria.

8 The center shall evaluate a program application on the basis  
9 of municipal financial characteristics and the quality of the  
10 proposed program, including the extent to which the program is  
11 estimated to improve the administrative, operational and  
12 financial management capacity of the applicant municipality.

13 The following factors shall be considered in the evaluation:

14 (1) The current and projected financial condition of the  
15 municipality.

16 (2) The economic and demographic condition of the  
17 municipality.

18 (3) The proactive measures the municipality has taken to  
19 manage its finances in a responsible manner, including  
20 attempts to reduce expenditures, increase revenues, adopt  
21 sound management practices, establish municipal priorities  
22 and adhere to generally accepted financial management, budget  
23 and financial reporting standards.

24 (4) The extent to which the municipality has  
25 demonstrated its willingness and commitment to engage in a  
26 multimunicipal or regional strategy and has examined whether  
27 certain municipal services can be provided through a council  
28 of governments, a county government or other structure.

29 (5) The extent to which the municipality has  
30 demonstrated its willingness and commitment to improve its

1 financial and administrative operation through the adoption  
2 and implementation of a multiyear financial management plan.

3 (6) Where it has received assistance and funding from  
4 the department, past performance by the municipality.

5 (7) Where applicable, the elements of the Keystone  
6 Principles shall be included as part of the evaluation  
7 criteria.

8 (8) Any other factors the center considers relevant.

9 Section 107-A. Award.

10 The secretary shall announce by letter applications selected  
11 for funding. The contact person specified in the application  
12 shall be sent the offer letter. All funding decisions shall be  
13 made subject to the availability of funds.

14 Section 108-A. Guidelines.

15 The department shall establish guidelines consistent with  
16 this chapter, particularly the program requirements and  
17 measurements to ensure a municipality is provided with adequate  
18 guidance. The program shall include a requirement of a financial  
19 audit of the municipality, prepared by an independent accountant  
20 or firm, for the fiscal year immediately preceding the  
21 application for funds under this chapter. The department may  
22 establish guidelines for the audit, and the requirement may be  
23 satisfied by any previous audit prepared in accordance with the  
24 guidelines.

25 Section 10. Section 203(c) of the act, amended June 30, 1992  
26 (P.L.336, No.69), is amended to read:

27 Section 203. Procedure for determination.

28 \* \* \*

29 (c) Investigation.--After receiving the request but before  
30 the public hearing, the secretary may make an investigation into

1 the financial affairs of the municipality. The results of the  
2 investigation or any study previously conducted by the  
3 department under Chapter 1-A or section 121 shall be placed in  
4 the record of the public hearing.

5 \* \* \*

6 Section 11. Sections 221(d) and (e), 222 and 223 of the act  
7 are amended to read:

8 Section 221. Designation.

9 \* \* \*

10 (d) Duties.--The coordinator shall [prepare and administer a  
11 plan designed to relieve the financial distress of the  
12 municipality which he has been appointed to serve.]:

13 (1) Present, at a public meeting within 45 days of the  
14 execution of the contract between the department and the  
15 coordinator, a list of the coordinator's preliminary  
16 findings, as to the financial condition of municipality. The  
17 list of findings shall include, but is not limited to, a  
18 quantification of all operating deficits for the current  
19 fiscal year and a projection of revenues and operating  
20 expenses for the next three fiscal years, all outstanding  
21 debt obligations, the cost and term of all outstanding  
22 contracts, and other relevant information.

23 (2) Solicit, not later than the date of the  
24 coordinator's presentation described in paragraph (1),  
25 comments relating to the issues associated with the  
26 municipality's distress from such persons and entities who:

27 (i) have participated in the early intervention  
28 process;

29 (ii) have provided consultation on behalf of the  
30 municipality relating to the issues associated with its

1           distress; or

2           (iii) are elected officials or employees of the  
3           municipality or labor organizations representing  
4           employees of the municipality.

5           (3) Consider all comments submitted within 30 days of  
6           the coordinator's presentation described in paragraph (1)  
7           before preparing and administering a plan designed to relieve  
8           the financial distress of the municipality which the  
9           coordinator has been appointed to serve.

10          (e) Powers.--The coordinator may [apply]:

11           (1) Apply for grants and loans pursuant to Chapter 3, as  
12          [he] the coordinator deems necessary.

13           (2) Investigate the tax-exempt status of any property  
14           within a distressed municipality and advise the governing  
15           body of the municipality to appeal the assessment or exempt  
16           status of property within the distressed municipality.

17           (3) Solicit and negotiate payments in lieu of taxes from  
18           institutions of public charity and other tax-exempt property  
19           owners in the municipality.

20 Section 222. Access to information.

21          (a) General rule.--The coordinator shall have full access to  
22 all municipal records.

23          (b) Enforcement where records in possession of official or  
24 public employee.--If the coordinator believes that an official  
25 or employee of the municipality or an authority is not answering  
26 questions accurately or completely or is not furnishing  
27 information requested, the coordinator may notify the official  
28 or employee in writing to furnish answers to questions or to  
29 furnish documents or records, or both. If the official or  
30 employee refuses, the coordinator may seek a subpoena in the

1 court of common pleas to compel testimony and furnish records  
2 and documents. An action in mandamus shall lie to enforce the  
3 provisions of this section.

4 (c) Enforcement where records in possession of other  
5 persons.--If the coordinator believes that a person is not  
6 furnishing information related to municipal records and that  
7 person is not subject to subsection (b), the coordinator may  
8 seek a subpoena in the court of common pleas to compel testimony  
9 and furnish records and documents.

10 Section 223. Public and private meetings.

11 (a) Public meetings authorized.--The coordinator may hold  
12 public meetings as defined in [the act of July 3, 1986 (P.L.388,  
13 No.84), known as the Sunshine Act] 65 Pa.C.S. Ch. 7 (relating to  
14 open meetings), in connection with plan preparation.

15 (b) Private meetings authorized.--Notwithstanding the  
16 provisions of [the Sunshine Act] 65 Pa.C.S. Ch. 7, private  
17 negotiation sessions may be conducted by the coordinator between  
18 the municipality and the individual creditors in an effort to  
19 obtain the consent of each creditor to the proposed adjustment  
20 and handling of specific claims against the municipality.

21 Section 12. Section 241 of the act, amended or added June  
22 30, 1992 (P.L.336, No. 69) and July 5, 2012 (P.L.1104, No.133)  
23 and repealed in part October 13, 1994 (P.L.596, No.90), is  
24 amended to read:

25 Section 241. Contents.

26 A plan formulated by the appointed coordinator shall be  
27 consistent with applicable law and shall include any of the  
28 following factors which are relevant to alleviating the  
29 financially distressed status of the municipality:

30 (1) Projections of revenues and expenditures for the

1 current year and the next [three] five years, both assuming  
2 the continuation of present operations and as impacted by the  
3 measures in the plan. The projections must include an  
4 itemization of the following:

5 (i) Projected revenues, including:

6 (A) Local taxes.

7 (B) Licenses, permits and fines.

8 (C) Sales and rentals.

9 (D) Federal, State and county grants and loans.

10 (E) Any other sources of projected revenue.

11 (ii) Projected expenditures, including:

12 (A) Debt service.

13 (B) Workforce.

14 (C) Elected and executive officials.

15 (D) Financial management.

16 (E) Infrastructure costs, including highways,  
17 roads and wastewater systems.

18 (F) Maintenance costs, including recycling and  
19 trash collection, disposal and removal.

20 (G) Other professional services.

21 (H) Public safety.

22 (I) Community and economic development.

23 (J) Any other applicable expenditures.

24 (2) Recommendations which will:

25 (i) Satisfy judgments, past due accounts payable,  
26 and past due and payable payroll and fringe benefits.

27 (ii) Eliminate deficits and deficit funds.

28 (iii) Restore to special fund accounts money from  
29 those accounts that was used for purposes other than  
30 those specifically authorized.

1 (iv) Balance the budget, avoid future deficits in  
2 funds and maintain current payments of payroll, [fringe]  
3 benefits and accounts through possible revenue  
4 enhancement recommendations, including tax or fee  
5 changes.

6 (v) Avoid a fiscal emergency condition in the  
7 future.

8 (vi) Enhance the ability of the municipality to  
9 negotiate new general obligation bonds, lease rental  
10 debt, funded debt and tax and revenue anticipation  
11 borrowing.

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

14 (viii) Propose a reduction of debt due on specific  
15 claims by an amortized or lump-sum payment considered to  
16 be the most reasonable disposition of each claim possible  
17 for the municipality considering the totality of  
18 circumstances.

19 (3) Possible changes in collective bargaining agreements  
20 and permanent and temporary staffing level changes or changes  
21 in organization.

22 (4) Recommended changes in municipal ordinances or  
23 rules.

24 (5) Recommendations for special audits or further  
25 studies.

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



1           [(7) An analysis of whether the economic conditions of  
2 the municipality are so severe that it is reasonable to  
3 conclude that the municipality is no longer viable and should  
4 consolidate or merge with an adjacent municipality or  
5 municipalities.]

6           (7.1) An analysis of whether the economic conditions  
7 within the municipality are so severe that it is no longer  
8 viable and should consolidate or merge with an adjacent  
9 municipality or municipalities in accordance with 53 Pa.C.S.  
10 Ch. 7 (relating to alteration of territory or corporate  
11 entity and dissolution) or disincorporate in accordance with  
12 Chapter 4.

13           (8) An analysis of whether functional consolidation of  
14 or privatization of existing municipal services is  
15 appropriate and feasible and recommendations for where and  
16 how this could be done.

17           (9) A capital budget which addresses infrastructure  
18 deficiencies.

19           (10) Recommendations for greater use of Commonwealth  
20 economic and community development programs.

21           (10.1) Recommendations for enhanced cooperation and  
22 changes in land use planning and zoning, including regional  
23 approaches that would promote economic development and  
24 improve residential, commercial and industrial use  
25 availability within and around the municipality.

26           (11) Notwithstanding any other provision of law, limits  
27 on projected expenditures for individual collective  
28 bargaining units that may not be exceeded by the distressed  
29 municipality, giving due consideration to the projection of  
30 revenue and expenses under paragraph (1).

1           (12) An analysis of current revenue sources and  
2 recommendation to modify revenue sources, including the  
3 subjects and rates of taxation of the distressed municipality  
4 in accordance with sections 123 and 124. Recommendations  
5 relating to a modification of revenue sources shall be made  
6 with consideration to the effect on economic development,  
7 employment and an equitable distribution of tax burden. The  
8 analysis and recommendations shall be presented to the court  
9 in any proceeding under sections 123 and 124. The analysis  
10 shall address:

11           (i) The tax bases of current and recommended revenue  
12 sources from both within and outside of the distressed  
13 municipality.

14           (ii) Collection rates, methods and costs of existing  
15 and, to the extent possible, proposed revenue sources,  
16 including code enforcement and tax collection.

17           (iii) The current fee, charge, penalty and fine  
18 provisions of municipal enactments related to municipal  
19 services and police powers.

20           (iv) Revenue as defined in section 103.

21       Section 13. Section 242(a) of the act, amended December 19,  
22 1988 (P.L.1272, No.157), is amended and the section is amended  
23 by adding a subsection to read:

24       Section 242. Publication.

25       (a) Filing.--Within [90] 120 days of an executed contract  
26 between the department and the coordinator, the coordinator  
27 shall formulate a plan for relieving the municipality's  
28 financial distress and shall deliver true and correct copies of  
29 it to:

30           (1) The municipal clerk or municipal secretary, who

1 shall immediately place the copy on file for public  
2 inspection in the municipal office.

3 (2) The secretary.

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

5 (4) The mayor.

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

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

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

10 \* \* \*

11 (c.1) Solicitation of comments.--The coordinator shall, no  
12 later than the date of filing, solicit comments on the  
13 coordinator's plan to be presented at the public meeting from  
14 such persons and entities which submitted timely comments under  
15 section 221(d) (2).

16 \* \* \*

17 Section 13.1. Section 245 of the act, amended December 19,  
18 1988 (P.L.1272, No.157), is amended to read:

19 Section 245. Adoption by municipality.

20 Not later than 25 days following the coordinator's public  
21 meeting, the municipal governing body shall either enact an  
22 ordinance approving the implementation of the plan, including  
23 enactment of necessary related ordinances and revisions to  
24 ordinances, or shall reject the plan and proceed under section  
25 246. If the ordinance takes effect in a municipality operating  
26 under an optional plan form of government or a home rule  
27 charter, the chief executive officer [may] shall issue an order  
28 directing the implementation of the plan no later than seven  
29 days from the enactment of the ordinance by the governing body.

30 Section 14. Section 246(d) (3) of the act is amended to read:

1 Section 246. Preparation and action on alternate plan.

2 \* \* \*

3 (d) Review by secretary.--

4 \* \* \*

5 (3) If the secretary is of the opinion that the plan,  
6 when implemented, will not overcome the municipality's  
7 financial problems, the secretary shall inform the  
8 municipality of the following:

9 (i) The secretary's determination.

10 (ii) The reasons for the determination.

11 (iii) The applicability of sections 251 and 264 to  
12 the municipality.

13 (iv) The applicability of Chapters 6 and 7 to the  
14 municipality.

15 Section 15. Section 247(a)(4) of the act, amended June 30,  
16 1992 (P.L.336, No.69), is amended to read:

17 Section 247. Plan implementation.

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

21 \* \* \*

22 (4) Terminate the plan upon its completion in accordance  
23 with Subchapter C.1.

24 \* \* \*

25 Section 16. Sections 248 and 250 of the act are amended to  
26 read:

27 Section 248. Failure to adopt or implement plan.

28 If no plan is adopted or implemented pursuant to this  
29 chapter, then sections 251 and 264 shall apply[.] and, upon a  
30 written recommendation of the coordinator, the secretary may

1 request a determination of a fiscal emergency in accordance with  
2 Chapter 6.

3 Section 250. Debt provisions.

4 Adoption of a plan in accordance with this subchapter and  
5 Subchapter C.1 by ordinance is a condition precedent for the  
6 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] 53 Pa.C.S. Pt. VII Subpt. B (relating to  
9 indebtedness and borrowing). A debt financing provision of the  
10 plan may be waived by agreement of the lender and the  
11 municipality; but any such waiving must be expressly set forth  
12 in the indenture or contract securing the debt.

13 Section 17. Section 252(a) of the act, amended July 5, 2012  
14 (P.L.1104, No.133), is amended to read:

15 Section 252. Plan not affected by certain collective bargaining  
16 agreements or settlements.

17 (a) General rule.--Except as provided in subsection (b), a  
18 collective bargaining agreement or arbitration settlement  
19 executed after the adoption of a plan under this subchapter or  
20 Subchapter C.1 shall not in any manner violate, expand or  
21 diminish its provisions.

22 \* \* \*

23 Section 18. Section 253 of the act is amended by adding a  
24 subsection to read:

25 Section 253. Termination of status.

26 \* \* \*

27 (d) Duration of distressed status.--Notwithstanding the  
28 provisions of this section, the duration of distressed status  
29 shall be limited as set forth in Subchapter C.1.

30 Section 19. The act is amended by adding a subchapter to

1 read:

2 SUBCHAPTER C.1

3 DURATION OF DISTRESSED STATUS

4 Section 254. Five-year limitation.

5 (a) Termination date.--

6 (1) Except as otherwise provided in this subchapter, no  
7 municipality shall be subject to the provisions of this act  
8 after five years from the effective date of an ordinance  
9 enacted in accordance with section 245 or 246. No amendment  
10 to a plan shall affect the termination date as determined  
11 from the date of enactment of the original ordinance.

12 (2) Nothing in this section shall be construed to:

13 (i) prohibit a municipality from participating in an  
14 early intervention program as provided in Chapter 1-A or  
15 reentering distressed status in accordance with this act  
16 after a termination of status in accordance with this  
17 subchapter.

18 (ii) Prohibit termination of status proceedings in  
19 accordance with section 253 prior to the termination date  
20 as provided in this section.

21 (b) Distressed municipalities.--

22 (1) Municipalities operating pursuant to a recovery plan  
23 on the effective date of this section shall be subject to a  
24 termination date five years from the effective date of the  
25 most recent recovery plan or amendment enacted in accordance  
26 with this act, provided, however, that municipalities subject  
27 to a plan that will remain in effect for one year or less on  
28 the effective date of this subsection shall be subject to a  
29 termination date three years from the termination date of the  
30 current plan or plan amendment.

1           (2) If its distressed status has not been rescinded, a  
2           municipality operating under Chapter 7 shall be subject to a  
3           termination date five years from the termination date of  
4           receivership.

5 Section 255. Coordinator's report.

6           (a) General rule.--In the final year of distressed status as  
7           determined in accordance with section 254(a) and (b), the  
8           coordinator shall prepare a report stating the financial  
9           condition of the municipality and include one of the following  
10          findings:

11           (1) Conditions within the municipality warrant a  
12           termination in status in accordance with section 253.

13           (2) Conditions are such that the municipality should be  
14           disincorporated in accordance with Chapter 4.

15           (3) Conditions as specified in section 261 exist and the  
16           governing body should initiate proceedings for Federal debt  
17           readjustment under Subchapter D.

18           (4) The elected and appointed officials of the  
19           municipality have demonstrated a failure to adequately  
20           implement recovery measures and a receiver should be  
21           appointed in accordance with Chapter 7. For purposes of this  
22           paragraph, a failure to adequately implement recovery  
23           measures shall be considered a fiscal emergency.

24           (5) A three-year exit plan in accordance with section  
25           256 is warranted.

26           (b) Filing and notice.--

27           (1) The report shall be filed with the same parties as  
28           provided in section 242(a). The date of filing shall be the  
29           date on which the municipal clerk or municipal secretary  
30           places a true and correct copy of the report on file for

1 public inspection in the municipal office.

2 (2) On the date of filing, notice that the report has  
3 been filed and is open for public inspection in the municipal  
4 office shall be published by the coordinator in the county  
5 legal reporter and in one or more newspapers with general  
6 circulation serving the area in which the municipality is  
7 located. The department shall pay for the cost of the  
8 publication of the notice. The notice shall contain the  
9 following information:

10 (i) A statement that a report regarding the status  
11 of the municipality's financial distress was filed  
12 pursuant to this act.

13 (ii) The date and place of filing.

14 (iii) A statement that the public has 15 days from  
15 the date of filing in which to file written comments on  
16 the report.

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

19 (v) A summary of the report and findings of the  
20 coordinator.

21 (vi) The date and place of a public meeting to  
22 receive comments on the report.

23 (c) Written comments.--Written comments on the report may be  
24 filed with the coordinator. Written comments shall be made no  
25 later than 15 days after the date of filing. Written comments  
26 judged by the coordinator to have value to the plan may be used  
27 to develop a revised report.

28 (d) Public meeting.--A meeting conducted by the coordinator  
29 in the municipality shall be set for a date not later than 20  
30 days after the date of filing the report. The coordinator shall



1 request in writing that the chief executive officer, each member  
2 of the municipal governing body and the chief financial officer  
3 of the municipality be present at the coordinator's meeting.  
4 Comments on the plan shall be received by the coordinator at  
5 that time. The coordinator has the discretion whether to  
6 consider comments made on the report.

7 (e) Revision of report.--

8 (1) Nothing in this section shall be construed to  
9 preclude the coordinator from revising a report of his own  
10 initiative.

11 (2) Neither the secretary nor the chief executive  
12 officer or the governing body, as appropriate, may revise the  
13 coordinator's report.

14 (3) If the coordinator decides to revise the report, the  
15 coordinator shall consult with the secretary and either the  
16 chief executive officer or the governing body throughout the  
17 revision of the report and shall give consideration to  
18 comments they may propose.

19 (4) A revised report shall be completed and delivered to  
20 each party cited in section 242(a) within ten days from the  
21 date of the coordinator's public meeting on the original  
22 report.

23 Section 256. Exit plan.

24 (a) General rule.--If recommended in a final report under  
25 section 255, the coordinator shall within 90 days of the public  
26 meeting referred to in section 255 prepare an exit plan for the  
27 municipality. The exit plan shall be subject to the same filing,  
28 notice, public meeting and revision procedures as specified in  
29 section 255.

30 (b) Contents of exit plan.--The exit plan prepared by the

1 coordinator shall contain such elements as may be necessary to  
2 ensure termination of distressed status after three years,  
3 including, but not limited to:

4 (1) The sale, lease, conveyance, assignment or other use  
5 or disposition of the assets of the distressed municipality.

6 (2) Functional consolidation of or privatization of  
7 existing municipal services.

8 (3) The execution, approval, modification, rejection,  
9 renegotiation or termination of contracts or agreements of  
10 the distressed municipality, provided, however, that the  
11 provisions of section 252 shall apply to any exit plan  
12 adopted in accordance with this subchapter.

13 (4) Changes in the form of municipal government or the  
14 configuration of elected or appointed municipal officials and  
15 employees as permitted by law.

16 (c) Adoption of plan.--

17 (1) Not later than 45 days following the coordinator's  
18 public meeting, the municipal governing body shall enact an  
19 ordinance approving the implementation of the plan, including  
20 enactment of necessary related ordinances and revisions to  
21 ordinances.

22 (2) If the ordinance takes effect in a municipality  
23 operating under an optional plan form of government or a home  
24 rule charter, the chief executive officer shall issue an  
25 order directing the implementation of the plan no later than  
26 seven days from the enactment of the ordinance by the  
27 governing body.

28 (3) If the governing body fails to adopt and implement  
29 the plan, the secretary shall, upon a written determination  
30 by the coordinator, request that the Governor declare a

1 fiscal emergency and initiate proceedings under Chapter 7.  
2 Section 257. Postreport procedures.

3 (a) Five-year procedures.--The secretary shall, upon written  
4 recommendation from the coordinator and after filing a final  
5 report under section 255, take one of the following actions:

6 (1) Terminate the distressed status of the municipality  
7 effective 90 days after filing a final report containing a  
8 finding as provided in section 255(a)(1).

9 (2) After filing a final report containing a  
10 recommendation under section 255(a)(2), terminate the  
11 distressed status of the municipality effective on the date  
12 of a final order establishing an unincorporated district  
13 under Chapter 4.

14 (3) After filing a final report containing a  
15 recommendation under section 255(a)(3), authorize an  
16 application of the governing body to proceed with a municipal  
17 debt adjustment action under Subchapter D. The distressed  
18 status of the municipality shall not be rescinded during the  
19 term of the municipal debt adjustment plan.

20 (4) After filing a final report containing a  
21 recommendation under section 255(a)(4), petition the Governor  
22 to declare a fiscal emergency and initiate proceedings under  
23 Chapter 7.

24 (b) Exit plan procedures.--The secretary may, after the  
25 adoption of a plan under section 256(c) and upon written  
26 recommendation of the coordinator:

27 (1) issue a determination in accordance with section  
28 253; or

29 (2) petition the Governor to initiate proceedings under  
30 Chapter 7.

1 (c) Postexit plan procedures.--If three years have elapsed  
2 since the adoption of an exit plan without a recommendation as  
3 provided in subsection (b), the secretary shall, upon a written  
4 recommendation of the coordinator:

5 (1) authorize an application of the governing body to  
6 proceed with a municipal debt adjustment action under  
7 Subchapter D. Notwithstanding any other provision of this  
8 act, the distressed status of the municipality shall not be  
9 rescinded during the term of the municipal debt adjustment  
10 plan; or

11 (2) terminate the distressed status of the municipality  
12 effective on the date of a final order establishing an  
13 unincorporated district under Chapter 4.

14 Section 20. Section 261(a)(4) of the act, amended July 5,  
15 2012 (P.L.1104, No.133), is amended to read:

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 apply to the department to file a municipal debt adjustment  
21 action pursuant to the Bankruptcy Code (11 U.S.C. § 101 et  
22 seq.):

23 \* \* \*

24 [(4) A majority of the current or immediately preceding  
25 governing body of a municipality determined to be financially  
26 distressed has failed to adopt a plan or to carry out the  
27 recommendations of the coordinator pursuant to this act.]

28 \* \* \*

29 Section 21. Section 281 of the act, amended or added June  
30 30, 1992 (P.L.336, No.69), is amended to read:

1 Section 281. Eligibility.

2 If a municipality has been determined to be distressed under  
3 section 203(f) and is not subject to funding restrictions under  
4 section 251 or 264, it shall be eligible for economic and  
5 community development assistance as provided in section 282.  
6 Merger or consolidation [under Chapter 4] of a distressed  
7 municipality with a municipality may not be deemed to diminish  
8 the successor municipality's eligibility or priority status for  
9 economic assistance under this chapter.

10 Section 22. Section 282(b) of the act, added June 30, 1992  
11 (P.L.336, No.69), is amended and the section is amended by  
12 adding a subsection to read:

13 Section 282. Priority.

14 \* \* \*

15 (b) Releases of funds.--Funds granted to a distressed  
16 municipality shall only be released upon concurrence by the  
17 coordinator or receiver that the program to be funded is  
18 consistent with efforts to alleviate the financially distressed  
19 status of the municipality as provided in this act.

20 (b.1) Release of funds to unincorporated district.--Funds  
21 granted to an unincorporated district shall be released to the  
22 administrator in accordance with section 441.

23 \* \* \*

24 Section 23. Chapter 4 heading of the act is amended to read:

25 CHAPTER 4  
26 [CONSOLIDATION OR MERGER OF] COLLECTIVE  
27 BARGAINING IN MERGED OR CONSOLIDATED  
28 MUNICIPALITIES AND ECONOMICALLY NONVIABLE  
29 MUNICIPALITIES

30 Section 24. Chapter 4 of the act is amended by adding a

1 subchapter to read:

2 SUBCHAPTER C

3 DISINCORPORATION OF NONVIABLE MUNICIPALITIES

4 Section 431. Definitions

5 The following words and phrases when used in this subchapter  
6 shall have the meanings given to them in this section unless the  
7 context clearly indicates otherwise:

8 "Administrator." A service district administrator appointed  
9 pursuant to section 434.

10 "District." An unincorporated service district created by  
11 section 441.

12 "District advisory committee." A service district advisory  
13 committee established by section 442.

14 "Governing standards." Provisions within an essential  
15 service plan providing for certain conduct of residents and  
16 property owners as provided by section 436(c).

17 "Municipality." A county, city, borough, incorporated town,  
18 township and home rule municipality. The term does not include a  
19 city of the first class.

20 "Restricted Account." An account established in the State  
21 Treasury as provided by section 445.1.

22 Section 431.1. Determination of nonviability.

23 (a) General rule.--Upon recommendation of a coordinator  
24 appointed under Chapter 2 or a receiver appointed under Chapter  
25 7, the secretary shall consider whether all of the following  
26 conditions have been met in determining that a municipality is  
27 nonviable:

28 (1) The municipality is unable to function as a general  
29 purpose unit of government to provide essential services to  
30 its residents and property owners.

1       (2) The municipality has experienced such deteriorated  
2 economic conditions and a collapse of its tax base that all  
3 reasonable efforts to restore economic viability have failed.

4       (3) Efforts to merge or consolidate the municipality  
5 with a neighboring municipality are unachievable or will not  
6 result in viability.

7       (b) Notice and recommendation.--If the secretary determines  
8 that a municipality is nonviable under all of the conditions  
9 provided in subsection (a), the secretary shall provide notice  
10 to the governing body of the municipality of the secretary's  
11 determination and recommend that the municipality be  
12 disincorporated under this subchapter.

13 Section 432. Procedure for disincorporation.

14       (a) Ordinance.--Within 45 days of a determination of  
15 nonviability under section 431.1, the governing body may enact  
16 an ordinance, subject to review by the court of common pleas  
17 under section 433, that will initiate the disincorporation of  
18 the municipality. The ordinance shall be advertised as required  
19 by law but it may not become effective until the court has  
20 issued its decree under section 433.

21       (b) Petition by electors.--If the governing body of the  
22 municipality fails to pass an ordinance authorized under  
23 subsection (a), then a petition signed by registered electors of  
24 the municipality comprising at least 51% of the number of  
25 electors voting for the office of Governor in the last  
26 gubernatorial general election may be submitted to the court  
27 within 60 days of the failure of the governing body to enact an  
28 ordinance as provided in subsection (a).

29       (c) Action filed by secretary.--If no ordinance is filed for  
30 review under subsection (a) and no petition is filed under

1 subsection (b) with the court within the time specified, the  
2 secretary may file an action in the court of common pleas  
3 petitioning the court to issue a decree under section 433(e).  
4 Section 433. Judicial review of ordinance or petition.

5 (a) Filing and notice.--Upon presentation to the court of  
6 the filing of an ordinance under section 432(a) or a petition  
7 under section 432(b) or (c), the court shall direct the  
8 prothonotary to give notice of the filing of the ordinance or  
9 petition in a newspaper of general circulation in the county  
10 where the municipality is located once a week for four  
11 consecutive weeks and once in the county legal journal, if any,  
12 during the four-week period. The notice shall provide the date  
13 the ordinance or petition was filed and specify that exceptions  
14 to the ordinance or petition may be filed within 45 days of the  
15 date of the filing of the ordinance or petition by any of the  
16 following:

- 17 (1) the governing body of the municipality;  
18 (2) a taxpayer of the municipality;  
19 (3) any creditor or bondholder of the municipality; or  
20 (4) any collective bargaining unit or contractor of the  
21 municipality.

22 (b) Notice of hearing.--No later than 60 days after the date  
23 of the filing of the ordinance or petition, the court shall  
24 conduct a hearing on the ordinance or petition and exceptions  
25 filed thereto. Notice of the hearing shall be provided by the  
26 court to those receiving notice under subsection (a) and to all  
27 other parties that have filed exceptions in accordance with  
28 subsection (a).

29 (c) Hearing proceedings.--

- 30 (1) The governing body of the municipality and all other



1 individuals and entities which have filed exceptions under  
2 subsection (a) shall be parties to the proceedings and shall  
3 be entitled to present testimony or other evidence relevant  
4 to the nonviability of the municipality or relevant to  
5 exceptions timely filed, provided that the court, in its  
6 discretion, may consolidate testimony related to similar  
7 exceptions.

8 (2) The coordinator or receiver, or another designee of  
9 the secretary, shall testify about the progress of the  
10 municipality under the adopted recovery plan under Chapter 2  
11 or plan adopted under Chapter 7 and render an opinion  
12 regarding the viability of the municipality.

13 (3) The court may examine pertinent financial  
14 information and any audits prepared by a certified public  
15 accountant of the municipality and receive additional  
16 evidence relevant to the matter, including, but not limited  
17 to, evidence relating to:

18 (i) The effect of disincorporation, including  
19 provisions for services that would be continued to be  
20 provided to residents and property owners of the proposed  
21 disincorporated area.

22 (ii) Additional plans, proceedings or strategies  
23 that could ensure that the municipality remain viable.

24 (iii) The effect of the disincorporation on any  
25 bonds, other obligations or agreements of the  
26 municipality.

27 (d) Costs and fees.--Court costs and filing fees associated  
28 with proceedings under this subchapter shall be paid by the  
29 department.

30 (e) Judicial decree.--

1       (1) The court shall issue a decree approving the  
2 validity of the ordinance or granting the petition unless it  
3 finds, by clear and convincing evidence, that the  
4 municipality should continue to exist as a separate municipal  
5 corporation because of a reasonable expectation that the  
6 municipality is viable.

7       (2) Upon issuance of the judicial decree, the department  
8 and governing body of the municipality shall engage in the  
9 duties required by this subchapter to prepare for  
10 disincorporation. The disincorporation shall take effect upon  
11 the execution of disincorporation under section 439.

12       (3) Upon the failure of the court to issue a judicial  
13 decree under this subsection following the hearing, the  
14 secretary shall determine whether:

15           (i) the recovery plan for the municipality shall  
16 remain in effect, provided that the limitations under  
17 Subchapter C.1 do not yet apply;

18           (ii) the elected and appointed officials of the  
19 municipality have demonstrated a failure to adequately  
20 implement recovery measures and, if so, that a receiver  
21 should be appointed in accordance with Chapter 7. For  
22 purposes of this subparagraph, a failure to adequately  
23 implement recovery measures shall be considered a fiscal  
24 emergency;

25           (iii) conditions within the municipality warrant a  
26 termination in status in accordance with section 253; or

27           (iv) conditions as set forth in section 261 exist  
28 and, if so, that the governing body should initiate  
29 proceedings for federal debt readjustment under  
30 Subchapter D of Chapter 2.

1 Section 434. Service district administrator.

2 (a) Appointment.--No later than 30 days following a decree  
3 of the court of common pleas under section 433(e), the secretary  
4 shall appoint a service district administrator. The  
5 administrator must have a minimum of five years' experience and  
6 demonstrable expertise in business, financial or State or local  
7 budgetary matters and be a resident of this Commonwealth for at  
8 least one year prior to appointment.

9 (b) Compensation and expenses.--The administrator's  
10 compensation and reimbursement for actual and necessary expenses  
11 shall be paid by the Commonwealth. The date and amount of  
12 compensation shall be established by the secretary. The  
13 department may require the compensation and expenses of the  
14 administrator to be reimbursed by an assessment for  
15 administrative costs under Subchapter D.

16 (c) Revocation and vacancy.--The secretary may revoke the  
17 appointment of an administrator at any time. A vacancy in the  
18 office of the administrator by way of revocation or resignation  
19 shall be filled in the same manner as the original appointment.

20 (d) Prohibitions.--An administrator may not:

21 (1) Seek or hold a position as any other elected or  
22 appointed public official within this Commonwealth or as a  
23 political party officer during the term of the  
24 administrator's tenure.

25 (2) Seek election as a public official or political  
26 party officer for one year after the person's service as  
27 administrator has ended.

28 (3) Engage in any conduct prohibited by the act of July  
29 19, 1957 (P.L.1017, No.451), known as the State Adverse  
30 Interest Act, or 65 Pa.C.S. Ch. 11 (relating to ethics

1 standards and financial disclosure).

2 (e) Liability.--

3 (1) The administrator shall not be liable personally for  
4 any obligations of the municipality or unincorporated service  
5 district.

6 (2) It is declared to be the intent of the General  
7 Assembly that the administrator shall enjoy sovereign and  
8 official immunity as provided in 1 Pa.C.S. § 2310 (relating  
9 to sovereign immunity reaffirmed; specific waiver) and shall  
10 remain immune from suit except as provided by and subject to  
11 the provisions of 42 Pa.C.S. Ch. 85 Subchs. A (relating to  
12 general provisions) and B (relating to actions against  
13 Commonwealth parties).

14 (f) Powers and duties.--Notwithstanding any other provision  
15 of law, the administrator shall have the following powers and  
16 duties:

17 (1) To require the municipality to take actions  
18 necessary for disincorporation under section 439, including:

19 (i) The sale, conveyance, assignment or other use or  
20 disposition of the municipality's assets as provided by  
21 law.

22 (ii) The repayment of debt, bonds or other  
23 obligations before disincorporation.

24 (iii) Any other action necessary to implement the  
25 disincorporation.

26 (2) To seek a writ of mandamus against the governing  
27 body to carry out this subchapter.

28 (3) To identify essential services which should be  
29 provided to the residents and property owners of the district  
30 after the municipality is disincorporated.

1       (4) To approve, disapprove, modify, reject, terminate or  
2 renegotiate contracts and agreements to provide services to  
3 the residents and property owners of the district.

4       (5) To deposit all funds collected to administer  
5 Subchapter D in the municipality's restricted account and to  
6 requisition moneys from the restricted account.

7       (6) To apply for grants, loans or payments under any  
8 economic and community development program funded by the  
9 Commonwealth.

10       (7) To establish fees which may be assessed to fund  
11 essential services provided by contract or intergovernmental  
12 cooperation agreements under Subchapter D.

13       (8) To meet and consult with the municipal governing  
14 body before disincorporation and the district advisory  
15 committee after the establishment of the district.

16       (9) To meet and consult with county officials to  
17 prevent, abate and mediate blight as permissible by law.

18       (10) To contract for professional services to aid in the  
19 administrator's duties under this subchapter and Subchapter  
20 D.

21       (11) To seek enforcement of any provision of this  
22 subchapter and Subchapter D.

23       (12) To seek invalidation of any act by the governing  
24 body of the municipality in conflict with the administrator's  
25 essential services plan.

26 Section 435. Powers and duties of municipality.

27       (a) General rule.--After the review of the court of common  
28 pleas resulting in a decree under section 433(e), but not less  
29 than 30 days before the date set by the administrator for  
30 disincorporation to take effect, the governing body of the

1 municipality shall:

2 (1) Enact a budget in the municipality's projected final  
3 year that funds the municipality's functions until the date  
4 of disincorporation and provides for the payment of every  
5 current obligation of the municipality before the date of  
6 disincorporation. All remaining municipal funds as of the  
7 date of disincorporation shall be transferred to the  
8 municipality's restricted account.

9 (2) Provide for the transfer and administration of any  
10 municipal pension obligation to a private or public pension  
11 fund. Nothing in this paragraph shall be construed to  
12 authorize a modification of the pension benefits due to any  
13 current or past employee of the municipality.

14 (3) Provide for the appointment of the district advisory  
15 committee to assist the administrator after the  
16 disincorporation of the municipality.

17 (b) Corporate powers reserved.--After the review of the  
18 court of common pleas resulting in a decree under section 433(e)  
19 until the date of disincorporation, the governing body shall  
20 retain all corporate powers otherwise authorized by law, except  
21 that it shall not take any action inconsistent with the  
22 administrator's plan for disincorporation.

23 (c) Establishment of governing standards for district.--

24 (1) The governing body of the municipality may adopt  
25 recommended governing standards which may be included by the  
26 administrator in the essential services plan as the governing  
27 standards of the district.

28 (2) If the governing body adopts recommended governing  
29 standards, the following shall apply:

30 (i) No later than 30 days following a decree of the

1 court of common pleas under section 433(e), the governing  
2 body shall provide written notice to the administrator  
3 that the governing body intends to adopt an ordinance  
4 containing recommended governing standards for the  
5 inclusion in the essential services plan.

6 (ii) No later than 60 days following the notice  
7 provided under subparagraph (i), the governing body shall  
8 adopt an ordinance containing recommended governing  
9 standards for inclusion in the essential services plan.  
10 The ordinance may incorporate, by reference, any  
11 previously enacted ordinance of the municipality.

12 (d) Powers of district advisory committee authorized.--After  
13 the review of the court of common pleas resulting in a decree  
14 under section 433(e) but prior to the date of disincorporation,  
15 in addition to the powers provided for under this subchapter,  
16 the governing body of the municipality may advise the  
17 administrator in the manner provided for the district advisory  
18 committee under Subchapter D in the formation and amendment of  
19 the essential services plan.

20 Section 436. Essential services plan.

21 (a) Formation.--The administrator shall, within 90 days  
22 following appointment and in consultation with the department,  
23 develop an essential services plan to provide essential services  
24 after the date of disincorporation. The essential services plan  
25 shall provide for:

26 (1) Negotiation of contracts for the provision of vital  
27 and necessary services, not otherwise provided by an  
28 authority, as defined under Chapters 6 and 7.

29 (2) Local emergency management in accordance with the  
30 plan and program of the Pennsylvania Emergency Management

1 Agency. The administrator shall consult with the emergency  
2 management organization of the county where the district is  
3 located to develop a plan which serves the district in a  
4 substantially similar manner as plans required for a  
5 political subdivision under 35 Pa.C.S. Ch. 75 Subch. A  
6 (relating to general provisions). The plan shall include a  
7 procedure for a declaration of a disaster emergency to be  
8 made in the district and the designation of a local  
9 coordinator of emergency management. The administrator is  
10 authorized to negotiate any contracts which are necessary to  
11 provide for the execution of a plan formed under this  
12 paragraph.

13 (3) Payment of the lawful financial obligations of the  
14 unincorporated service district, including any transferred  
15 current obligation of the municipality and service of any  
16 debt incurred by the municipality in the manner provided by  
17 Subchapter D, after the disincorporation of the municipality.

18 (4) Assessment of fees as provided by Subchapter D.

19 (5) Disposition of all municipal property by sale, lease  
20 or conveyance for any of the following purposes:

21 (i) Payment of outstanding debt obligations.

22 (ii) Provision of services by an entity contracting  
23 with the unincorporated service district.

24 (iii) Possession of title by the Commonwealth as  
25 provided by Subchapter D.

26 (6) Termination of all contracts with the municipality.

27 (7) Administration of the unincorporated service  
28 district, which may include reimbursement to the department  
29 for the compensation of the administrator.

30 (8) Establishment of the date of disincorporation of the



1 municipality as provided for by section 439.

2 (9) Establishment of the name of the district. A  
3 district established by this act shall be named "The  
4 Unincorporated District of ....."

5 (b) Restrictions.--An essential services plan may not:

6 (1) Provide for the levy of any taxes.

7 (2) Terminate an obligation to repay any debt, except  
8 that the plan may designate the unincorporated service  
9 district as the servicer of a debt and may specify that a  
10 debt secured by the collection of taxes shall be secured by  
11 the assessment of fees sufficient to satisfy the service  
12 obligations of the debt.

13 (3) Assess and collect a higher amount of fees in the  
14 district's first full calendar year totaling 5% more than the  
15 total taxes levied in the municipality's final year before  
16 disincorporation.

17 (4) Authorize the incurrence of any debt by the  
18 district, except as provided under section 441(k).

19 (c) Governing standards of the district.--

20 (1) The essential services plan shall provide for  
21 governing standards, which standards shall include:

22 (i) Rules and conduct related to the maintenance of  
23 property, conduct in public places and the parking of  
24 vehicles in public places which shall protect the health,  
25 safety and welfare of the residents and property owners  
26 of the district to the extent such rules and conduct  
27 could have been adopted by the municipality by ordinance.

28 (ii) Fines and other relief which may be granted by  
29 a court presiding over a civil action brought for a  
30 violation of the governing standards.

1       (2) If the governing body of the municipality adopts  
2 recommended governing standards as provided in section  
3 435(c), the administrator shall include the recommended  
4 governing standards in the essential services plan unless the  
5 administrator finds that the recommended governing standards  
6 are unlawful, unconstitutional or would substantially impede  
7 the administration of the essential services plan.

8 Section 437. Proposed essential services plan.

9       (a) Filing.--Within 90 days of the appointment of the  
10 administrator, the administrator shall deliver true and correct  
11 copies of the proposed essential services plan to:

12           (1) The municipal clerk or municipal secretary, who  
13 shall immediately place the copy on file for public  
14 inspection in the municipal office.

15           (2) The secretary.

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

17           (4) The chief executive officer of the municipality.

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

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

20       (b) Date of filing.--For purposes of this section, the date  
21 of filing the proposed essential services plan shall be the date  
22 on which the municipal clerk or municipal secretary places a  
23 true and correct copy of the proposed essential services plan on  
24 file for public inspection in the municipal office.

25       (c) Notices of proposed essential services plan.--

26           (1) On the date of filing, notice that a proposed  
27 essential services plan has been filed and is open for public  
28 inspection in the municipal office shall be published by the  
29 administrator in the county legal reporter and in one or more  
30 newspapers with general circulation serving the area in which

1 the municipality is located. The cost for publishing the  
2 notice shall be borne by the department. The notice shall  
3 contain the following:

4 (i) A statement that a proposed essential services  
5 plan has been filed regarding the provision of essential  
6 services to the residents and property owners of the  
7 unincorporated service district which shall succeed the  
8 municipality after disincorporation.

9 (ii) The date and place of filing.

10 (iii) A statement that the public has 15 days from  
11 the date of filing in which to file written comments  
12 relating to the proposed essential services plan.

13 (iv) The name and address of the administrator to  
14 whom written comments should be sent.

15 (v) Summary of the proposed essential services plan.

16 (2) Notice of an administrator's public meeting on the  
17 proposed essential services plan shall be published by the  
18 administrator in the county legal reporter and in one or more  
19 newspapers with general circulation serving the area in which  
20 the municipality is located. The department shall bear the  
21 cost for publishing the notice. The notice shall contain the  
22 following:

23 (i) A statement that the purpose of the  
24 administrator's public meeting is to receive public  
25 comments on the proposed essential services plan.

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

27 (3) The administrator may combine the publication of the  
28 notice that a proposed essential services plan has been filed  
29 with the publication of the notice of the public meeting.

30 (d) Comment period.--Written comments on the proposed

1 essential services plan may be filed with the administrator.  
2 Written comments shall be made no later than 15 days after the  
3 date of filing. Written comments judged by the administrator to  
4 have value to the proposed essential services plan may be used  
5 to develop revisions for a final essential services plan.

6 (e) Administrator's public meeting.--A meeting conducted by  
7 the administrator in the municipality shall be set for a date no  
8 later than 20 days after the date of filing the proposed  
9 essential services plan. The administrator shall request in  
10 writing that the chief executive officer, each member of the  
11 municipal governing body and the chief financial officer of the  
12 municipality to be present at the service administrator's  
13 meeting. At that meeting, the administrator shall:

14 (1) Present a summary of the proposed essential services  
15 plan.

16 (2) Receive public comment on the proposed essential  
17 services plan.

18 (3) Allow the members of the governing body of the  
19 municipality to present written and oral comments requesting  
20 revisions of the proposed essential services plan.

21 Section 438. Final essential services plan.

22 (a) Amendment of plan.--

23 (1) The administrator shall consider all timely  
24 submitted written comments, comments presented at the public  
25 meeting and requests for revision in the amendment of the  
26 publicly presented proposed essential services plan before  
27 publishing a final essential services plan.

28 (2) In the event that the administrator does not  
29 incorporate the requests for revision by the members of the  
30 governing body of the municipality regarding the levels of

1 services provided under the proposed essential services plan  
2 or the basis for the calculation of fees assessed under the  
3 proposed essential services plan, the administrator shall  
4 state in the proposed essential services plan why the  
5 requested revisions were not feasible to incorporate in the  
6 final essential services plan.

7 (b) Notice of final essential services plan.--Within 45 days  
8 of the public meeting the administrator shall file the final  
9 essential services plan with the persons listed in section  
10 437(a) and provide notice of the publication of the final  
11 essential services plan in the manner provided in section  
12 437(c) (1) (i), (ii) and (v).

13 (c) Appeal.--

14 (1) Any person aggrieved by the final essential services  
15 plan may appeal the plan to the court of common pleas within  
16 30 days of notice of the filing of the final essential  
17 services plan. For purposes of this section, notice shall  
18 constitute the date that the person received actual notice of  
19 the final essential services plan, or the date that notice of  
20 the filing of the final essential services plan is first  
21 published in a newspaper with general circulation serving the  
22 area in which the municipality is located.

23 (2) No appeal of a final essential services plan shall  
24 constitute an automatic stay of the essential services plan.

25 (3) The appeal shall be sustained only where the court  
26 finds that the final essential services plan is unlawful or  
27 unconstitutional, or the conduct of the administrator is  
28 arbitrary or capricious.

29 Section 439. Disincorporation of municipality.

30 (a) Effects of disincorporation.--On the date of

1 disincorporation, the following shall occur:

2 (1) Notwithstanding any other provision of law, the  
3 terms of office of all elected officials of the municipality  
4 shall end and no person shall be elected or appointed to fill  
5 any vacancy of office.

6 (2) All ordinances of the municipality shall be  
7 nullified.

8 (3) All corporate powers granted to the municipality  
9 under its charter, municipal code or any other provision of  
10 law shall terminate.

11 (4) The municipality shall be deemed by operation of law  
12 to be disincorporated. The area formerly contained within the  
13 municipality shall be an unincorporated service district as  
14 provided under Subchapter D.

15 (b) Duties of administrator.--On or before the date of  
16 disincorporation, the administrator shall:

17 (1) Execute all contracts for the provision of services  
18 and otherwise implement the essential services plan, which  
19 shall take effect on the date of disincorporation.

20 (2) Provide notice of assessments to the property owners  
21 of the unincorporated service district according to the  
22 procedure provided in section 443(b) which may be a partial  
23 year assessment as provided by section 443(e).

24 (3) Provide notice to the Governor and all Commonwealth  
25 agencies that the municipality has been disincorporated and  
26 the date of disincorporation.

27 (c) Duties of county.--Effective on the date of  
28 disincorporation, notwithstanding any other provision of law,  
29 the county in which the municipality is located shall:

30 (1) Adopt a zoning ordinance which applies to the

1 unincorporated service district and adopts the substantive  
2 provisions of the municipality's zoning ordinance, if any, as  
3 it was in effect before nullification by subsection (a)(2).

4 (2) Adopt an official map for the unincorporated service  
5 district which adopts the substance of the municipality's  
6 official map, if any, as it was in effect before  
7 nullification by subsection (a)(2).

8 (3) Unless the county has adopted a subdivision and land  
9 development ordinance prior to the date of disincorporation  
10 of the municipality, adopt a subdivision and land development  
11 ordinance which shall apply to any unincorporated service  
12 district within the county.

13 (4) Provide for the administration of the zoning  
14 ordinance and the subdivision and land development ordinance  
15 as they apply to the unincorporated service district and any  
16 other provisions of the act of July 31, 1968 (P.L.805,  
17 No.247), known as the Pennsylvania Municipalities Planning  
18 Code, that may be applicable.

19 (5) Amend the county's comprehensive plan to the extent  
20 necessary to be consistent with the requirements of this  
21 subsection.

22 (d) Property succession.--Immediately following  
23 disincorporation the area formerly contained within the  
24 municipality shall, by operation of law, be deemed an  
25 unincorporated service district under Subchapter D, the  
26 Commonwealth shall succeed in title to all property, including  
27 all real property, personal property and moneys in any municipal  
28 account, of the disincorporated municipality to be held in trust  
29 for the benefit of the residents and property owners of the  
30 unincorporated service district as provided under Subchapter D.





1           (2) The administrator shall serve as trustee of the  
2 property and provide for the repair and maintenance of all  
3 real property and roadways held in trust for the benefit of  
4 the residents and property owners of the district through the  
5 collection of assessments under this subchapter and  
6 administration of payments distributed to the district as  
7 provided in subsection (f).

8           (3) Nothing in this subsection shall be construed as  
9 providing the express approval of the General Assembly to  
10 dispose of or use any lands acquired with funds under the act  
11 of June 22, 1964 (Sp.Sess., P.L.131, No.8), known as the  
12 Project 70 Land Acquisition and Borrowing Act, for purposes  
13 other than those provided by that act, except that the  
14 Commonwealth may succeed in title of the property for the  
15 limited purposes established by this subsection.

16 (e) Former municipal debt secured by entrusted assets.--

17           (1) All debt incurred by the municipality before the  
18 establishment of the district shall be held by the district  
19 for administration by the administrator. Any such debt shall  
20 be secured by the assets conveyed to the Commonwealth and  
21 held in trust under subsection (d) and serviced by fees  
22 collected under this subchapter.

23           (2) Nothing in this section shall be construed to  
24 authorize the Commonwealth to guarantee any debt incurred by  
25 a municipality or district with the full faith and credit of  
26 the Commonwealth, revenues from the General Fund or any other  
27 source of revenue not derived from fees assessed for the  
28 administration of this subchapter or gains from the sale of  
29 assets of the former municipality.

30 (f) Eligibility for State grants and programs unaffected.--

1           (1) A district shall be eligible to receive any  
2 financial grant, loan or payment and participate in any  
3 program for which it was eligible when it was a municipality,  
4 including, but not limited to, payments distributed pursuant  
5 to the act of June 1, 1956 (1955 P.L.1944, No.655), referred  
6 to as the Liquid Fuels Tax Municipal Allocation Law, all  
7 programs administered by the Pennsylvania Infrastructure  
8 Investment Authority and all economic and community  
9 development programs funded by the Commonwealth.

10           (2) A district shall continue to receive priority in all  
11 economic and community development programs funded by the  
12 Commonwealth as provided for by Subchapter E of Chapter 2.

13           (3) The administrator may apply for and shall manage any  
14 funds distributed to the district pursuant to this section.

15           (g) Credit for fees assessed.--The payment of fees under  
16 this subchapter by a resident of a district shall constitute a  
17 credit against the collection of any income tax by a  
18 municipality on nonresidents, if applicable.

19           (h) Relationship with existing municipal and other  
20 authorities preserved.--

21           (1) All authorities established to provide services to  
22 the residents and property owners of a municipality prior to  
23 disincorporation shall continue to serve the residents and  
24 property owners of a district, and all members of the  
25 authority appointed by the governing body of the municipality  
26 prior to disincorporation shall continue to serve out the  
27 remainder of the members' terms.

28           (2) Notwithstanding the provisions of 53 Pa.C.S. § 5607  
29 (relating to purposes and powers) or any other provision of  
30 law, subsequent appointments to the authority board which

1 would otherwise be made by the governing body of the  
2 municipality shall be made by the administrator in  
3 consultation with the district advisory committee.

4 (i) Governing standards enforceable.--

5 (1) The governing standards included in the essential  
6 services plan shall be enforceable by the filing of a civil  
7 action by the administrator or any aggrieved property owner  
8 or resident of the district.

9 (2) A violation of the governing standards shall  
10 constitute a public nuisance.

11 (3) A magisterial district court or another court of  
12 competent jurisdiction presiding over a civil action brought  
13 under this subsection may find relief for the filing party  
14 according to the relief provided for in the essential  
15 services plan or any other relief which is available by law  
16 for the abatement of a public nuisance.

17 (j) Pennsylvania Construction Code applicable.--

18 (1) The act of November 10, 1999 (P.L.491, No.45), known  
19 as the Pennsylvania Construction Code Act, shall apply to all  
20 construction, alteration, repair and occupancy of all  
21 buildings within the district as though the district were a  
22 municipality which opted not to adopt the uniform  
23 construction code by ordinance.

24 (2) The administrator shall receive any application for  
25 a construction permit and provide appropriate notices to an  
26 applicant of a construction permit and the Department of  
27 Labor and Industry as provided under section 501(e) of the  
28 Pennsylvania Construction Code Act.

29 (k) Incurrence of debt limited.--The district shall not  
30 incur debts not provided for in subsection (e), except that the

1 administrator may utilize such mechanisms as are necessary to  
2 incur temporary debts, or make purchases on credit, on behalf of  
3 and for the limited purpose of managing the cash flow for the  
4 district. All obligations incurred under this subsection shall  
5 be satisfied in full within one year and secured only by the  
6 anticipation of the collection of assessments under section 443.  
7 Section 442. Service district advisory committee.

8 (a) Establishment.--Each service district shall establish a  
9 service district advisory committee.

10 (b) Composition.--The district advisory committee shall be  
11 composed of three persons who are at least 18 years of age,  
12 including two resident property owners of the district and one  
13 owner of a business within the district, if any, who may or may  
14 not be a resident of the district.

15 (c) Appointment by governing body.--At least 30 days prior  
16 to the date of disincorporation, the governing body of the  
17 former municipality shall appoint three members of the district  
18 advisory committee. The governing body shall designate that one  
19 appointee serve a term of one year, one appointee serve a term  
20 of two years and one appointee serve a term of three years.

21 (d) Vacancy.--At the expiration of the term of a member of  
22 the district advisory committee, the remaining members of the  
23 committee shall appoint a person to fill the vacancy. In the  
24 event that the remaining members of the committee are unable to  
25 agree on a person to fill the vacancy or there is more than one  
26 vacancy, the administrator shall select a person or persons to  
27 fill the vacancy. All persons appointed to fill a vacancy on the  
28 district advisory committee shall have a term of three years  
29 beginning on the date of appointment.

30 (e) Advise administrator.--The district advisory committee

1 shall, at least once every three months, meet with the  
2 administrator and may make recommendations to the administrator  
3 for revisions to the essential services plan, including  
4 revisions to the levels of services provided to the residents  
5 and property owners of the district and methodology of rate  
6 calculation. The administrator shall consider all  
7 recommendations of the district advisory committee.

8 (f) Advise county on land use issues.--The district advisory  
9 committee may provide recommendations on behalf of the residents  
10 and property owners of the district to any county official  
11 regarding any land use-related matter.

12 (g) Advise department on incorporation.--The district  
13 advisory committee may provide recommendations to the department  
14 at any time that the residents of the district and the  
15 department consider the feasibility of incorporating as a viable  
16 municipality or merger or consolidation with an existing  
17 municipality.

18 (h) Recommended amendment of governing standards.--

19 (1) Amendments to the governing standards may be  
20 recommended by a majority vote of the district advisory  
21 committee or by a petition signed by registered electors of  
22 the municipality comprising at least 10% of the number of  
23 electors voting for the office of Governor in the last  
24 gubernatorial general election.

25 (2) Upon receipt of a recommendation made under this  
26 subsection, the administrator shall include the recommended  
27 amendments to the governing standard as a proposed plan  
28 amendment under section 444, unless the administrator finds  
29 that the recommended amendment of the governing standards is  
30 unlawful, unconstitutional or would substantially impede the

1 administration of the essential services plan.

2 (i) Restrictions.--The district advisory committee shall  
3 have no authority to act as a municipal governing body.

4 (j) Open meetings.--The district advisory committee shall be  
5 an agency for purposes of the open meeting provisions of 65  
6 Pa.C.S. Ch.7 (relating to open meetings).

7 Section 443. Assessments.

8 (a) Authority to assess.--The administrator may establish  
9 assessments on a front foot or benefit-conferred basis, or a  
10 combination of both, on all real property within the district to  
11 provide for:

12 (1) The cost of all essential services provided to the  
13 district.

14 (2) The service of all debts held in trust by the  
15 Commonwealth which were incurred by the former municipality  
16 prior to disincorporation.

17 (3) The necessary construction, maintenance or repair of  
18 facilities or properties which have been conveyed to the  
19 Commonwealth and are held in trust for the benefit of the  
20 district.

21 (4) Reimbursement to the department of its reasonable costs  
22 of administration of the district, including, but not limited  
23 to, the compensation of the administrator and the collection of  
24 assessments authorized under this section.

25 (5) Other costs incurred by the district or administrator in  
26 the execution of this subchapter, including a reserve of no more  
27 than 15% of the annual estimated costs of the essential services  
28 plan in the restricted account established in section 445 to  
29 provide for the provision of unforeseeable costs.

30 (b) Establishment of assessment.--

1           (1) No later than October 1 of the year preceding the  
2 year for which the assessment applies, the administrator  
3 shall establish a schedule of assessment for all real  
4 property within the unincorporated district.

5           (2) The administrator shall provide written personal  
6 notice to each property owner of each property of the  
7 assessment due for the ensuing year no later than November 1  
8 of the year preceding the year for which the assessment  
9 applies.

10           (3) As used in this subsection, "personal notice" shall  
11 mean and include notice upon the owner of a property either  
12 by personal service upon the owner or by certified mail to  
13 the owner at the owner's last known address or where service,  
14 after a reasonable attempt, shall not have been successfully  
15 made by either of these two methods, then by leaving notice  
16 at or upon the property.

17           (c) Appeal of assessment.--Any person wishing to challenge  
18 the reasonableness of the assessment may file a suit in the  
19 court of common pleas within 30 days of receiving the notice  
20 provided in subsection (b).

21           (d) Payment of assessments.--Payment of the assessment in  
22 full shall be due no later than March 1, unless the  
23 administrator has provided for installment payments in  
24 accordance with subsection (e).

25           (e) Installments.--The administrator may provide for the  
26 payment of assessments by equal installments on a quarterly or  
27 semiannual basis as follows:

28           (1) The administrator shall provide written personal  
29 notice of the installment plan to owners containing the date  
30 installments are due, interest and prepayment.

1       (2) The rate of interest for the installments shall be  
2       established by the administrator at a rate of 6% per year.

3       (3) If any of the installments remain unpaid for 60 days  
4       after the same has become due and payable, the entire unpaid  
5       assessment, plus unpaid accrued interest and any costs, shall  
6       be due and payable and the administrator shall proceed to  
7       collect the assessment due as provided in subsection (g).

8       (4) A property owner upon whom an assessment has been  
9       made may pay all or as many of the installments before the  
10       same are due, with interest and costs to the due date of the  
11       next installment.

12       (f) First year assessment.--The administrator may provide  
13       for a partial assessment for the calendar year in which the  
14       disincorporation of the municipality occurs. The due date for a  
15       partial year assessment and installment schedule may be set by  
16       the administrator, provided that no assessment shall be due  
17       sooner than 60 days after the administrator provides written  
18       personal notice of the assessment under the procedure in  
19       subsection (a).

20       (g) Delinquent assessments.--Assessments remaining unpaid on  
21       December 31 of the year in which they are due shall be  
22       delinquent and subject to interest at a rate of 10% per year  
23       from the date of filing as a lien in accordance with the act of  
24       May 16, 1923 (P.L.207, No.153), referred to as the Municipal  
25       Claim and Tax Lien Law.

26       (h) Liens.--An assessment, together with all charges,  
27       expenses and fees, including reasonable attorney fees necessary  
28       for its collection, shall be a lien upon the real property  
29       benefited. The lien shall have the same priority and may be  
30       collected in the same manner as a municipal lien in accordance



1 with the Municipal Claim and Tax Lien Law or through a civil  
2 action initiated by the administrator.

3 (i) Limited assessment of public property.--An assessment  
4 under this section on property held by the Federal Government,  
5 the Commonwealth and any other public property shall be limited  
6 to an assessment for those services which are directly consumed  
7 by the property, including, but not limited to, water service,  
8 sewer service and waste collection.

9 Section 444. Amendment of essential services plan.

10 (a) Periodic review.--No less than once per year, the  
11 administrator shall meet with the district advisory committee to  
12 consider the adequacy of the essential services plan and  
13 consider any request for revision of the essential services plan  
14 made by the district advisory committee.

15 (b) Filing of amendment.--The administrator may file a  
16 proposed essential services plan amendment with the secretary  
17 and each member of the district advisory committee at any time.  
18 The district advisory committee may request a public meeting to  
19 consider the amendment within five days of the filing of a  
20 proposed essential services plan amendment.

21 (c) Notice of amendment.--No later than the date that the  
22 administrator files the proposed essential services plan  
23 amendment, the administrator shall provide notice to the public  
24 of the amended essential services plan using the procedure  
25 provided for by section 437(c)(1). If the district advisory  
26 committee requests a public hearing, the administrator shall  
27 schedule a public meeting within 30 days of the date that the  
28 proposed essential services plan amendment was filed and provide  
29 notice of the public meeting using the procedure provided for by  
30 section 437(c)(2).

1 (d) Comment period.--Written comments on the proposed  
2 essential services plan amendment may be filed with the  
3 administrator. Written comments must be made no later than 15  
4 days after the date of filing. Written comments judged by the  
5 administrator to have value to the essential services plan may  
6 be used to develop revisions for a final essential services plan  
7 amendment.

8 (e) Administrator's public meeting.--If a public meeting is  
9 scheduled at the request of the district advisory committee, the  
10 administrator shall request in writing that the members of the  
11 district advisory committee be present at the administrator's  
12 meeting. At that meeting, the administrator shall:

13 (1) Present a summary of the proposed essential services  
14 plan amendment.

15 (2) Receive public comment on the proposed essential  
16 services plan amendment.

17 (3) Allow the members of the district advisory committee  
18 to present written and oral comments requesting revisions of  
19 the proposed essential services plan amendment.

20 (f) Final essential services plan amendment.--The  
21 administrator shall consider all timely submitted written  
22 comments, comments presented at the public meeting and requests  
23 for revision in the amendment of the publicly presented proposed  
24 essential services plan before filing a final essential services  
25 plan amendment. In the event that the administrator does not  
26 incorporate the requests for revision by the district advisory  
27 committee regarding the levels of services provided under the  
28 essential services plan or the basis for the calculation of fees  
29 assessed under the essential services plan, the administrator  
30 shall state in the essential services plan amendment why the

1 requested revisions were not feasible to incorporate in the  
2 final essential services plan.

3 (g) Emergency essential services plan amendment.--

4 Notwithstanding the requirements provided by this section for  
5 the adoption of a final essential services plan amendment, where  
6 the secretary finds that there is or will be an imminent threat  
7 to public safety, human health or the environment, the secretary  
8 may provide a waiver to the administrator allowing the  
9 administrator to immediately publish an emergency essential  
10 services plan amendment. An emergency essential services plan  
11 amendment shall take effect immediately.

12 (h) Notice of final essential services plan amendment.--The

13 administrator shall provide notice of the publication of the  
14 final essential services plan amendment or emergency essential  
15 services plan amendment in the manner provided in section 437(c)  
16 (1)(i), (ii) and (v). Upon providing notice as required by this  
17 chapter, the administrator may execute any contract necessary to  
18 administer the essential services plan, as amended.

19 (i) Appeal.--

20 (1) Any person aggrieved by a final essential services  
21 plan amendment or emergency essential services plan amendment  
22 may appeal the final essential services plan amendment to the  
23 court of common pleas within 30 days of notice of the filing  
24 of the final essential services plan amendment.

25 (2) For purposes of this section, notice shall  
26 constitute the date that the person received actual notice of  
27 the final essential services plan amendment, or the date that  
28 notice of the filing of the final essential services plan  
29 amendment is first published in a newspaper with general  
30 circulation serving the area in which the municipality is

1 located.

2 (3) An appeal of a final essential services plan  
3 amendment shall be limited to the amended portion of the  
4 essential services plan.

5 (4) No appeal of a final essential services plan  
6 amendment shall constitute an automatic stay of any portion  
7 of the essential services plan.

8 (5) The appeal shall be sustained only where the court  
9 finds that the final essential services plan amendment is  
10 unlawful or unconstitutional, or the conduct of the  
11 administrator is arbitrary or capricious.

12 Section 445. Unincorporated Service District Trust Fund.

13 (a) Establishment.--There is hereby established a special  
14 fund in the State Treasury, separate and apart from all other  
15 public moneys or funds of the Commonwealth, to be known as the  
16 Unincorporated Service District Trust Fund. The purpose of this  
17 fund shall be to hold moneys from unincorporated service  
18 districts and pay for the expenses and obligations of  
19 administrators, unincorporated service districts and the  
20 department pursuant to Subchapter C. The department shall  
21 allocate funds specific to a district in a restricted account  
22 pursuant to section 445.1.

23 (b) Appropriation.--As much as may be necessary of such  
24 moneys and interest in the special fund established under  
25 subsection (a) is hereby appropriated for the purposes  
26 authorized by this subchapter.

27 Section 445.1. Restricted accounts.

28 (a) Establishment.--There is established in the  
29 Unincorporated Service District Trust Fund a restricted account  
30 for each unincorporated service district. The administrator for

1 each district shall deposit all moneys collected by assessments,  
2 delinquent municipal tax receipts, and proceeds from the sale of  
3 municipal assets authorized under this subchapter into the  
4 restricted account not later than 30 days after collection. Any  
5 interest accrued on the account shall be credited to the account  
6 for purposes of meeting the requirements of this subchapter. The  
7 restricted account shall be used to pay for the expenses and  
8 obligations of the administrator and the unincorporated service  
9 district. The department may pay for the compensation and  
10 expenses of the administrator from the restricted account.

11 (b) Appropriation.--As much as may be necessary of such  
12 moneys and interest in the restricted account established under  
13 subsection (a) is hereby appropriated for the purposes  
14 authorized by this subchapter.

15 Section 446. Audit.

16 The Auditor General shall conduct an annual audit of the  
17 district. The audit shall include a review of the services  
18 rendered under the essential services plan, the proceeds  
19 generated by the assessments levied pursuant to section 443 and  
20 all transactions made by the administrator on behalf of the  
21 district.

22 Section 447. Merger and consolidation; incorporation of  
23 municipal corporation.

24 (a) Merger and consolidation.--

25 (1) For the limited purpose of merging or consolidating  
26 with one or more surrounding municipalities under 53 Pa.C.S.  
27 Ch. 7 Subch. C (relating to consolidation and merger), the  
28 residents of the district may file a petition with the county  
29 board of elections as provided in 53 Pa.C.S. §§ 735 (relating  
30 to initiative of electors seeking consolidation or merger

1 without new home rule charter) and 735.1 (relating to  
2 initiative of electors seeking consolidation or merger with  
3 new home rule charter).

4 (2) Residents of the district may be nominated to, and  
5 serve on, a commission formed to study merger or  
6 consolidation of the district with one or more  
7 municipalities.

8 (3) Upon favorable action by the electorate on  
9 consolidation or merger, the administrator, in consultation  
10 with the district advisory committee, may enter into a merger  
11 or consolidation agreement with the governing bodies of other  
12 municipalities in accordance with 53 Pa.C.S. § 737 (relating  
13 to consolidation or merger agreement) and shall provide for  
14 the transition of the district into a consolidated or merged  
15 municipality with the same powers and duties as provided by  
16 law to governing bodies of municipalities.

17 (4) The administrator may expend district funds to the  
18 extent authorized by law for the purpose of merger,  
19 consolidation or incorporation as provided in subsection (b).

20 (b) Incorporation as municipality.--If the secretary  
21 determines that the district could be incorporated as a viable  
22 municipality, the residents of the district may establish or  
23 incorporate the territory of the district as a municipality as  
24 provided by law.

25 (c) Grants permitted.--The department may issue any loan or  
26 grant authorized under Chapter 3 to a merged, consolidated or  
27 subsequently incorporated municipality, including the territory  
28 of the district to provide transitional assistance.

29 (d) Assets in trust.--All assets conveyed to the  
30 Commonwealth to be held in trust, not otherwise transferred

1 under the essential services plan or sold to repay the debt of  
2 the former municipality, shall be conveyed to a merged,  
3 consolidated or subsequently incorporated municipality,  
4 including the territory of the district.

5 (e) Assumption of debt.--All debt obligations held in trust  
6 by the Commonwealth on behalf of the former municipality for  
7 service by a district shall be assumed by a merged, consolidated  
8 or subsequently incorporated municipality, including the  
9 territory of the district.

10 Section 25. Chapter 5 of the act is repealed:

11 [CHAPTER 5

12 FUNDING

13 Section 501. Appropriation.

14 The sum of \$5,000,000, appropriated under section 210 of the  
15 act of July 1, 1986 (P.L.1776, No.5A), known as the General  
16 Appropriation Act of 1986, shall be used to carry out the  
17 provisions of this act. The appropriation shall be distributed  
18 as follows:

19 (1) \$500,000 shall be used by the department for  
20 administrative expenses necessary to carry out the provisions  
21 of this act.

22 (2) \$4,500,000 shall be used to provide grants and loans  
23 to municipalities determined to be financially distressed  
24 pursuant to this act.]

25 Section 26. Chapter 6 heading of the act, added October 20,  
26 2011 (P.L.318, No.79), is amended to read:

27 CHAPTER 6

28 FISCAL EMERGENCIES IN [CITIES OF THE

29 THIRD CLASS] MUNICIPALITIES

30 Section 27. Sections 601, 602 and 603 of the act, renumbered

1 and added October 20, 2011 (P.L.318, No.79), are amended to  
2 read:

3 Section 601. Definitions.

4 The following words and phrases when used in this chapter  
5 shall have the meanings given to them in this section unless the  
6 context clearly indicates otherwise:

7 "Authority." A municipal authority, parking authority or any  
8 other authority or corporate entity that is directly or  
9 indirectly controlled by a distressed [city] municipality or to  
10 which a distressed [city] municipality has power of appointment.  
11 The term shall not include a joint municipal authority.

12 ["City." A city of the third class.]

13 "Debt obligations." Any obligation to pay money, including  
14 amounts owed for payments relating to lease rental debt, debt  
15 service, bonds, notes, guarantees for bonds or notes, trust  
16 indentures, contracts or other agreements.

17 "Distressed [city] municipality." A [city] municipality  
18 which has been determined to be financially distressed under  
19 section 203(f).

20 "Fiscal emergency." A determination made by the Governor  
21 under section 602(b).

22 "Insolvent." Unable to meet all financial obligations as  
23 they become due, including payment of debt obligations.

24 "Municipality." A municipality as defined in section 103,  
25 other than a city of the first class.

26 "Vital and necessary services." Basic and fundamental  
27 municipal services, including any of the following:

- 28 (1) Police and fire services.  
29 (2) Ambulance and rescue services.  
30 (3) Water supply and distribution.



- 1 (4) Wastewater services.
- 2 (5) Refuse collection and disposal.
- 3 (6) Snow removal.
- 4 (7) Payroll and pension obligations.
- 5 (8) Fulfillment of payment of debt obligations or any
- 6 other financial obligations.

7 Section 602. Declaration of fiscal emergency.

8 (a) Fiscal emergency.--The Governor determines a fiscal  
9 emergency exists if the distressed [city] municipality:

10 (1) (i) is insolvent or is projected to be insolvent  
11 within 180 days or less; or

12 (ii) is unable to ensure the continued provision of  
13 vital and necessary services; and

14 (2) (i) has failed to adopt or implement the  
15 coordinator's plan in accordance with Subchapter C or C.1  
16 of Chapter 2; or

17 (ii) has failed to adopt or implement an alternative  
18 plan that the secretary has approved under section 246.

19 (b) Governor.--Upon making a determination that a state of  
20 fiscal emergency exists, the Governor may declare a state of  
21 fiscal emergency within the distressed [city] municipality.

22 Immediately upon making the declaration, the Governor shall:

23 (1) Provide written notice of the declaration to the  
24 governing body and, if applicable, the chief executive  
25 officer of the distressed [city] municipality along with a  
26 concise statement of facts supporting the determination.

27 (2) Direct the secretary to, within ten days of the  
28 Governor's declaration, develop an emergency action plan to  
29 ensure that vital and necessary services are maintained  
30 within the [city] municipality during the state of fiscal

1 emergency.

2 (c) Secretary.--In developing the emergency action plan, the  
3 secretary shall consider the financial plan prepared by the  
4 coordinator under Subchapter C of Chapter 2 and any other  
5 available plan or information the secretary deems appropriate  
6 and may employ financial or legal experts to assist in  
7 addressing the fiscal emergency. Notwithstanding any law to the  
8 contrary, the employment of such experts shall not be subject to  
9 contractual competitive bidding procedures.

10 Section 603. Notification by the secretary.

11 (a) Notice.--Upon completion of the emergency action plan,  
12 the secretary shall cause the plan to be posted on the  
13 department's publicly accessible Internet website and shall  
14 provide written notice of the emergency action plan by overnight  
15 delivery service, providing proof of receipt, to all members of  
16 the governing body and, if applicable, the chief executive  
17 officer of the distressed [city] municipality.

18 (b) Publication.--The secretary shall publish once in a  
19 newspaper of general circulation notice that the emergency  
20 action plan has been completed. The notice shall specify the  
21 publicly accessible Internet address of the department's website  
22 where the plan is posted.

23 Section 28. Sections 604, 605, 606, 607, 608, 609 and 610 of  
24 the act, added October 20, 2011 (P.L.318, No.79), are amended to  
25 read:

26 Section 604. Powers of the Governor.

27 (a) Powers.--During the state of fiscal emergency, the  
28 Governor may exercise the authority of the elected or appointed  
29 officials of the distressed [city] municipality or authority as  
30 necessary to ensure the provision of vital and necessary

1 services and may delegate the authority to the secretary or a  
2 designee of the secretary. The emergency powers of the Governor  
3 shall include the following:

4 (1) The power to collect funds payable to the distressed  
5 [city] municipality and authority and use those funds to pay  
6 for vital and necessary services.

7 (2) The power to obtain emergency financial aid for the  
8 distressed [city] municipality and authority under Chapter 3  
9 to pay for vital and necessary services.

10 (3) The power to enter into contracts and agreements on  
11 behalf of the distressed [city] municipality and authority to  
12 pay for vital and necessary services.

13 (4) The power to modify the emergency action plan as  
14 necessary to ensure the provision of vital and necessary  
15 services.

16 (5) Any other power of the elected or appointed  
17 officials of the distressed [city] municipality or authority  
18 to ensure the provision of vital and necessary services.

19 (b) Orders.--The Governor may issue an order to an elected  
20 or appointed official of the distressed [city] municipality or  
21 an authority to implement any provision of the emergency action  
22 plan or refrain from taking any action that would interfere with  
23 the powers granted to the Governor or the goals of the plan. An  
24 order issued under this subsection shall be enforceable under  
25 section 606.

26 (c) Authorization prohibited.--Neither this chapter nor the  
27 emergency action plan shall be interpreted to authorize the  
28 Governor to:

29 (1) Unilaterally levy taxes.

30 (2) Unilaterally abrogate, alter or otherwise interfere

1 with a lien, charge, covenant or relative priority that is:

2 (i) held by a holder of a debt obligation of a  
3 distressed [city] municipality; and

4 (ii) granted by the contract, law, rule or  
5 regulation governing the debt obligation.

6 (3) Unilaterally impair or modify existing bonds, notes,  
7 municipal securities or other lawful contractual or legal  
8 obligations of the distressed [city] municipality or  
9 authority, except as otherwise ordered by a court of  
10 competent jurisdiction.

11 (4) Authorize the use of the proceeds of the sale,  
12 lease, conveyance, assignment or other use or disposition of  
13 the assets of the distressed [city] municipality or  
14 authorities in a manner contrary to section 707.

15 (5) Pledge the full faith and credit of the  
16 Commonwealth.

17 Section 605. Elected and appointed officials.

18 During a fiscal emergency, the authorities and appointed and  
19 elected officials of the distressed [city] municipality shall  
20 continue to carry out the duties of their respective offices,  
21 except that no decision or action shall conflict with an  
22 emergency action plan, order or exercise of power by the  
23 Governor under section 604.

24 Section 606. Mandamus.

25 The Governor may petition Commonwealth Court to issue a writ  
26 of mandamus upon any elected or appointed official of the  
27 distressed [city] municipality or authority to secure compliance  
28 with an order issued under section 604(b). The court shall grant  
29 the relief requested within 14 days of the filing of the  
30 petition if it determines that the order was issued in

1 compliance with this chapter.

2 Section 607. Consent agreement.

3 (a) Negotiations.--Within eight days of the declaration of a  
4 fiscal emergency, the governing body and, if applicable, the  
5 chief executive officer of the distressed [city] municipality  
6 shall convene a special public meeting to negotiate a consent  
7 agreement. The meeting shall be attended by the secretary or  
8 secretary's designee. Negotiations among creditors and any of  
9 the parties in this subsection shall be conducted in accordance  
10 with section 223(b).

11 (b) Contents.--

12 (1) The consent agreement shall incorporate a plan  
13 setting forth measures designed to provide long-term  
14 financial stability to the distressed [city] municipality  
15 after the termination of the fiscal emergency.

16 (2) The consent agreement shall include all of the  
17 following:

18 (i) Continued provision of vital and necessary  
19 services.

20 (ii) Payment of the lawful financial obligations of  
21 the distressed [city] municipality and authority. This  
22 subparagraph includes debt obligations, municipal  
23 securities, lease rental obligations, legal obligations  
24 and consensual modifications of existing obligations,  
25 except as otherwise ordered by a court of competent  
26 jurisdiction.

27 (iii) Timely deposit of required payments to the  
28 pension fund for the distressed [city] municipality and  
29 each authority or the fund in which the distressed [city]  
30 municipality and each authority participates.

1 (iv) Legislative and administrative actions to be  
2 taken by the elected or appointed officials of the  
3 distressed [city] municipality during the term of the  
4 consent agreement.

5 (3) The consent agreement may include:

6 (i) The sale, lease, conveyance, assignment or other  
7 use or disposition of the assets of the distressed [city]  
8 municipality or authority.

9 (ii) Approval, modification, rejection,  
10 renegotiation or termination of contracts or agreements  
11 of the distressed [city] municipality or authorities.

12 (iii) Execution of new contracts or agreements.

13 (4) The consent agreement may not include any of the  
14 following:

15 (i) Projections of revenue from a tax or tax rate  
16 not currently authorized by law.

17 (ii) Provisions that unilaterally abrogate, alter or  
18 otherwise interfere with a lien, charge, covenant or  
19 relative priority, that is:

20 (A) held by a holder of a debt obligation of a  
21 distressed [city] municipality; and

22 (B) granted by the contract, law, rule or  
23 regulation governing the debt obligation.

24 (iii) Provisions that unilaterally impair or modify  
25 existing bonds, notes, municipal securities or other  
26 lawful contractual or legal obligations of the distressed  
27 [city] municipality or authority, except as otherwise  
28 ordered by a court of competent jurisdiction.

29 (iv) Provisions that authorize the use of the  
30 proceeds of the sale, lease, conveyance, assignment or

1 other use or disposition of the assets of the distressed  
2 [city] municipality or authorities in a manner contrary  
3 to section 707.

4 (v) Any increase in the rate of an earned income tax  
5 imposed on nonresident workers.

6 (c) Ordinance.--Notwithstanding any law to the contrary, the  
7 following shall apply:

8 (1) Upon approval by a majority vote of the governing  
9 body of the distressed [city] municipality, the consent  
10 agreement shall be presented to the secretary within 20 days  
11 of the declaration of fiscal emergency.

12 (2) The secretary shall approve or disapprove the  
13 consent agreement within three days.

14 (3) If the secretary determines that the consent  
15 agreement is sufficient to overcome the distressed [city's]  
16 municipality's financial distress and approves the agreement,  
17 the governing body shall enact the consent agreement in the  
18 form of an ordinance within seven days of approval by the  
19 secretary.

20 (4) The ordinance shall provide that, in the event of a  
21 breach or unilateral modification of the consent decree by  
22 the governing body or an elected or appointed official, the  
23 Governor may institute or reinstitute proceedings under  
24 Chapter 7.

25 (d) Consent to proceedings under Chapter 7.--In addition to  
26 breach or modification of the consent agreement under subsection  
27 (c), the following shall be deemed consent to proceedings under  
28 Chapter 7:

29 (1) Failure of the governing body of the distressed  
30 [city] municipality to convene or the failure of a quorum of

1 the governing body to participate in a special public  
2 meeting required by subsection (a).

3 (2) Failure of the governing body or, if applicable, the  
4 chief executive officer to enact a valid ordinance under  
5 subsection (c).

6 (3) Failure of the distressed [city] municipality to  
7 comply with the consent agreement or provision of an  
8 ordinance enacted under subsection (c).

9 (4) Enactment by the distressed [city] municipality of  
10 an amendment to the ordinance enacted in subsection (c) in  
11 violation of subsection (e).

12 (e) Amendment.--The ordinance may be amended upon the  
13 approval of the secretary.

14 (f) Collective bargaining.--A collective bargaining  
15 agreement or arbitration settlement executed following the  
16 enactment of an ordinance under this section may not in any  
17 manner violate, expand or diminish the provisions of the consent  
18 agreement.

19 Section 608. Termination of fiscal emergency and suspension of  
20 powers.

21 (a) Financial emergency.--A fiscal emergency shall end upon  
22 certification by the secretary that the [city] municipality is  
23 no longer financially distressed.

24 (b) Governor's powers.--The emergency powers of the Governor  
25 under this chapter shall be suspended upon the enactment and  
26 continued implementation of an ordinance under section 607 or  
27 entry of a judicial order appointing a receiver under section  
28 702.

29 Section 609. Restrictions.

30 (a) Earned income tax on nonresidents.--A distressed [city]



1 municipality subject to this chapter or Chapter 7 may not  
2 petition a court of common pleas for an increase in the rate of  
3 an earned income tax imposed on nonresident workers under  
4 section 123(c) until the secretary terminates the distress  
5 status of the [city] municipality under section 253.

6 (b) Municipal debt adjustment.--A distressed [city]  
7 municipality subject to this chapter or Chapter 7 may not file a  
8 municipal debt adjustment action under the Bankruptcy Code (11  
9 U.S.C. § 101 et seq.) except to the extent authorized under  
10 Chapter 7.

11 Section 610. Applicability.

12 (a) Statement.--

13 (1) This chapter shall apply only to distressed [cities]  
14 municipalities.

15 (2) Except as set forth in subsection (b), nothing in  
16 this chapter is intended to limit or otherwise abrogate the  
17 applicability of any other part of this act.

18 (b) Conflict.--If there is a conflict between a provision of  
19 this chapter and any other provision of this act, the provision  
20 of this chapter shall prevail.

21 Section 29. Chapter 7 heading of the act, added October 20,  
22 2011 (P.L.318, No.79), is amended to read:

23 CHAPTER 7

24 RECEIVERSHIP IN [CITIES OF THE  
25 THIRD CLASS] MUNICIPALITIES

26 Section 30. Sections 701, 702, 703, 704, 705(g), 706, 707,  
27 708, 709, 711(a) and (b) and 712(a)(1) of the act, added October  
28 20, 2011 (P.L.318, No.79), are amended to read:

29 Section 701. Definitions.

30 The following words and phrases when used in this chapter

1 shall have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Authority." A municipal authority, parking authority or any  
4 other authority or corporate entity that is directly or  
5 indirectly controlled by a distressed [city] municipality or to  
6 which a distressed [city] municipality has power of appointment.  
7 The term shall not include a joint municipal authority.

8 ["City." A city of the third class.]

9 "Debt obligations." Any obligation to pay money, including  
10 amounts owed for payments relating to lease rental debt, debt  
11 service, bonds, notes, guarantees for bonds or notes, trust  
12 indentures, contracts or other agreements.

13 "Distressed [city] municipality." A [city] municipality  
14 which has been determined to be financially distressed under  
15 section 203(f).

16 "Fiscal emergency." A determination made by the Governor  
17 under section 602(b) or as provided in Subchapter C.1 of Chapter  
18 2.

19 "Insolvent." Unable to meet all financial obligations as  
20 they become due, including payment of debt obligations.

21 "Vital and necessary services." Basic and fundamental  
22 municipal services, including any of the following:

- 23 (1) Police and fire services.
- 24 (2) Ambulance and rescue services.
- 25 (3) Water supply and distribution.
- 26 (4) Wastewater services.
- 27 (5) Refuse collection and disposal.
- 28 (6) Snow removal.
- 29 (7) Payroll and pension obligations.
- 30 (8) Fulfillment of payment of debt obligations or any

1 other financial obligations.

2 Section 702. Receivership.

3 (a) Receiver.--Following the issuance of a declaration of  
4 fiscal emergency under section 602(b) or as provided in  
5 Subchapter C.1 of Chapter 2, the Governor may direct the  
6 secretary to file a petition in Commonwealth Court to appoint  
7 the individual named in the petition as a receiver for the  
8 distressed [city] municipality. The court shall have no  
9 authority to appoint anyone other than the individual named in  
10 the petition as the receiver.

11 (b) Service and notice.--

12 (1) The secretary shall serve the petition upon:

13 (i) the governing body of the distressed [city]  
14 municipality;

15 (ii) the chief executive officer of the distressed  
16 [city] municipality; and

17 (iii) the governing body of each authority.

18 (2) The secretary must publish notice of the filing of  
19 the petition once in a newspaper of general circulation.

20 (c) Hearing.--Upon notification of the Governor of the  
21 failure of the distressed [city] municipality to adopt a valid  
22 ordinance under section 607 or a notification by the secretary  
23 as provided in Subchapter C.1 of Chapter 2, Commonwealth Court  
24 shall conduct a hearing within 15 days on the petition.

25 (d) Determination.--No later than 60 days following the  
26 filing of a petition under this section, the court shall issue  
27 an order under subsection (e) if it finds by a preponderance of  
28 the evidence that all of the following apply:

29 (1) Thirty days have passed since the declaration of a  
30 fiscal emergency.

1 (2) There has been a failure by:

2 (i) the governing body of the distressed [city]  
3 municipality to adopt an ordinance under section 607;

4 (ii) the governing body of the distressed [city]  
5 municipality to implement an ordinance under section 607;

6 [or]

7 (iii) an elected or appointed official of the  
8 distressed city or authority to strictly comply with an  
9 order issued by the Governor under section 604[.]; or

10 (iv) (Reserved).

11 (3) A fiscal emergency under section 602(a) or  
12 Subchapter C.1 of Chapter 2 continues to exist.

13 (e) Order.--An order issued under this subsection shall:

14 (1) set forth the findings under subsection (d);

15 (2) grant the petition and declare the distressed [city]  
16 municipality to be in receivership;

17 (3) appoint the individual named in the petition to be  
18 the receiver for a period not to exceed two years, subject to  
19 extension under section 710(b);

20 (4) direct the receiver to develop a recovery plan  
21 within 30 days under section 703 and submit it to the court,  
22 the secretary, the governing body and, if applicable, the  
23 chief executive officer of the distressed [city]  
24 municipality; and

25 (5) require and empower the receiver to implement the  
26 emergency action plan developed by the secretary under  
27 section 602 until a recovery plan developed by the receiver  
28 is approved by the court under section 703.

29 (f) Additional actions.--

30 (1) The Governor may direct the secretary to file a

1 petition in Commonwealth Court to appoint an individual named  
2 in the petition as a receiver for the distressed [city]  
3 municipality if the distressed [city] municipality fails to  
4 comply with or has amended the ordinance without the approval  
5 of the secretary under section 607(d)(3) or (4).

6 (2) The court shall conduct a hearing on the petition  
7 under paragraph (1) within 15 days of the filing of the  
8 petition.

9 (3) No later than 60 days following the filing of the  
10 petition under paragraph (1), the court shall issue an order  
11 under subsection (e) if it finds by a preponderance of the  
12 evidence that the distressed [city] municipality has failed  
13 to comply with section 607(d)(3) or (4).

14 Section 703. Recovery plan.

15 (a) Issuance.--Within 30 days of the appointment of the  
16 receiver, the recovery plan required under section 702(e)(4)  
17 shall be furnished to Commonwealth Court, the secretary and the  
18 governing body and, if applicable, the chief executive officer  
19 of the distressed [city] municipality.

20 (b) Contents.--The receiver shall consider the plan prepared  
21 by the coordinator under section 241 and any other existing  
22 alternate plans in the development of the recovery plan. The  
23 following shall apply:

24 (1) The recovery plan shall provide for all of the  
25 following:

26 (i) Continued provision of vital and necessary  
27 services.

28 (ii) Payment of the lawful financial obligations of  
29 the distressed [city] municipality and authorities. This  
30 subparagraph includes debt obligations, municipal

1 securities, lease rental obligations, legal obligations  
2 and consensual modifications of existing obligations.

3 (iii) Timely deposit of required payments to the  
4 pension fund in which the distressed [city] municipality  
5 and each authority participates.

6 (2) The recovery plan may include:

7 (i) the sale, lease, conveyance, assignment or other  
8 use or disposition of the assets of the distressed [city]  
9 municipality or authority;

10 (ii) the approval, modification, rejection,  
11 renegotiation or termination of contracts or agreements  
12 of the distressed [city] municipality or authorities,  
13 except to the extent prohibited by the Constitutions of  
14 the United States and Pennsylvania;

15 (iii) the execution of new contracts or agreements;  
16 and

17 (iv) other information the receiver deems  
18 appropriate.

19 (c) Restrictions.--The recovery plan may not do any of the  
20 following:

21 (1) Unilaterally levy taxes.

22 (2) Unilaterally abrogate, alter or otherwise interfere  
23 with a lien, charge, covenant or relative priority that is:

24 (i) held by a holder of a debt obligation of a  
25 distressed [city] municipality; and

26 (ii) granted by the contract, law, rule or  
27 regulation governing the debt obligation.

28 (3) Unilaterally impair or modify existing bonds, notes,  
29 municipal securities or other lawful contractual or legal  
30 obligations of the distressed [city] municipality or

1 authority, except as otherwise ordered by a court of  
2 competent jurisdiction.

3 (4) Authorize the use of the proceeds of the sale,  
4 lease, conveyance, assignment or other use or disposition of  
5 the assets of the distressed [city] municipality or authority  
6 in a manner contrary to section 707.

7 (d) Confirmation.--Commonwealth Court shall conduct a  
8 hearing on the recovery plan within 30 days of the receipt of  
9 the plan from the receiver. The court shall confirm the plan  
10 within 60 days of the receipt of the plan unless it finds clear  
11 and convincing evidence that the plan is arbitrary, capricious  
12 or wholly inadequate to alleviate the fiscal emergency in the  
13 distressed [city] municipality.

14 (e) Modification of plan.--The receiver shall notify the  
15 Commonwealth Court of any modification to the plan. The court  
16 may conduct a hearing on the modification within 30 days of its  
17 receipt. The court shall confirm the modification within 60 days  
18 of receipt of notification of the modification unless it finds  
19 clear and convincing evidence that the recovery plan as modified  
20 is arbitrary, capricious or wholly inadequate to alleviate the  
21 fiscal emergency in the distressed [city] municipality.

22 Section 704. Confirmation.

23 (a) Effect of confirmation.--The confirmation of the  
24 recovery plan and any modification to the receiver's plan under  
25 section 703 shall have the effect of:

26 (1) imposing on the elected and appointed officials of  
27 the distressed [city] municipality or an authority a  
28 mandatory duty to undertake the acts set forth in the  
29 recovery plan;

30 (2) suspending the authority of the elected and

1 appointed officials of the distressed [city] municipality or  
2 an authority to exercise power on behalf of the distressed  
3 [city] municipality or authority pursuant to law, charter,  
4 ordinance, rule or regulation to the extent that the power  
5 would interfere with the powers granted to the receiver or  
6 the goals of the recovery plan; and

7 (3) superseding the emergency action plan developed by  
8 the secretary under section 602.

9 (b) Form of government.--Confirmation of the recovery plan  
10 and any modification to the plan under section 703 shall not be  
11 construed to:

12 (1) change the form of government of the distressed  
13 [city] municipality or an authority; or

14 (2) except as set forth in subsection (a), affect powers  
15 and duties of elected and appointed officials of the  
16 distressed [city] municipality or an authority.

17 (c) Collective bargaining.--A collective bargaining  
18 agreement or arbitration settlement executed after confirmation  
19 of a recovery plan may not, in any manner, violate, expand or  
20 diminish the provisions of the recovery plan.

21 Section 705. Receiver.

22 \* \* \*

23 (g) Liability.--The receiver shall not be liable personally  
24 for any obligations of the distressed [city] municipality or  
25 authority. It is declared to be the intent of the General  
26 Assembly that the receiver shall enjoy sovereign and official  
27 immunity as provided in 1 Pa.C.S. § 2310 (relating to sovereign  
28 immunity reaffirmed; specific waiver) and shall remain immune  
29 from suit except as provided by and subject to the provisions of  
30 42 Pa.C.S. Ch. 85 Subchs. A (relating to general provisions) and



1 B (relating to actions against Commonwealth parties).

2 Section 706. Powers, duties and prohibited actions.

3 (a) Powers and duties.--Notwithstanding any other provision  
4 of law, the receiver shall have the following powers and duties:

5 (1) To require the distressed [city] municipality or  
6 authority to take actions necessary to implement the recovery  
7 plan under section 703.

8 (2) To modify the recovery plan as necessary to achieve  
9 financial stability of the distressed [city] municipality and  
10 authorities in accordance with section 703.

11 (3) To require the distressed [city] municipality or  
12 authority to negotiate intergovernmental cooperation  
13 agreements between the distressed [city] municipality and  
14 other political subdivisions in order to eliminate and avoid  
15 deficits, maintain sound budgetary practices and avoid  
16 interruption of municipal services.

17 (4) To submit quarterly reports to the governing body  
18 and, if applicable, the chief executive officer of the  
19 distressed [city] municipality and to the department. The  
20 reports shall be posted on [the] a publicly accessible  
21 Internet website [for] maintained by the distressed [city]  
22 municipality.

23 (5) To require the distressed [city] municipality or  
24 authority to cause the sale, lease, conveyance, assignment or  
25 other use or disposition of the distressed [city's]  
26 municipality's or authority's assets in accordance with  
27 section 707.

28 (6) To approve, disapprove, modify, reject, terminate or  
29 renegotiate contracts and agreements with the distressed  
30 [city] municipality or authority, except to the extent

1 prohibited by the Constitutions of the United States and  
2 Pennsylvania.

3 (7) To direct the distressed [city] municipality or  
4 authority to take any other action to implement the recovery  
5 plan.

6 (8) To attend executive sessions of the governing body  
7 of the distressed [city] municipality or authority and make  
8 reports to the public on implementation of the recovery plan.

9 (9) [After July 1, 2012, to] To file a municipal debt  
10 adjustment action under the Bankruptcy Code (11 U.S.C. § 101  
11 et seq.) and to act on the [city's] municipality's behalf in  
12 the proceeding. The power under this paragraph shall only be  
13 exercised upon the written authorization of the secretary.  
14 The filing of a municipal debt adjustment action under this  
15 paragraph and any plan of the receiver accepted by the  
16 Federal court shall be considered a modification of the  
17 recovery plan, except that the modification shall not be  
18 subject to judicial review under section 709. A recovery plan  
19 submitted to and approved by the Federal court under a  
20 Federal municipal debt adjustment action may include Federal  
21 remedies not otherwise available under this chapter.

22 (10) To meet and consult with the advisory committee  
23 under section 711.

24 (11) To employ financial or legal experts deemed  
25 necessary to develop and implement the recovery plan.  
26 Notwithstanding any law to the contrary, the employment of  
27 such experts shall not be subject to contractual competitive  
28 bidding procedures.

29 (b) Authorization prohibited.--Neither this chapter nor the  
30 recovery plan shall be interpreted to authorize the receiver to

1 do any of the following:

2 (1) Unilaterally levy taxes.

3 (2) Unilaterally abrogate, alter or otherwise interfere  
4 with a lien, charge, covenant or relative priority that is:

5 (i) held by a holder of a debt obligation of a  
6 distressed [city] municipality; and

7 (ii) granted by the contract, law, rule or  
8 regulation governing the debt obligation.

9 (3) Unilaterally impair or modify existing bonds, notes,  
10 municipal securities or other lawful contractual or legal  
11 obligations of the distressed [city] municipality or  
12 authority, except as otherwise ordered by a court of  
13 competent jurisdiction.

14 (4) Authorize the use of the proceeds of the sale,  
15 lease, conveyance, assignment or other use or disposition of  
16 the assets of the distressed [city] municipality or authority  
17 in a manner contrary to section 707.

18 Section 707. Use or disposition of assets.

19 (a) Use of proceeds.--The proceeds from any sale, lease,  
20 conveyance, assignment or other use or disposition of assets of  
21 the distressed [city] municipality or authority shall be applied  
22 to the payment of outstanding debt obligations owed by the  
23 distressed [city] municipality or authority, subject to any  
24 lien, charge, covenant, restriction, contract, law, rule or  
25 regulation, that encumbers or is otherwise applicable to the  
26 assets. Proceeds remaining after payment of outstanding debt  
27 obligations owed by the distressed [city] municipality or  
28 authority may be used by the receiver to restructure or provide  
29 escrow for the payment of future debt obligations or to meet  
30 operating and capital needs of the distressed [city]

1 municipality or authority.

2 (b) Prohibitions.--Nothing under this section shall be  
3 construed to authorize the receiver to unilaterally abrogate,  
4 alter or otherwise interfere with a lien, charge, covenant or  
5 relative priority that is:

6 (1) held by a holder of a debt obligation of a  
7 distressed [city] municipality; and

8 (2) granted by the contract, law, rule or regulation  
9 governing the debt obligation.

10 Section 708. Elected and appointed officials.

11 (a) Orders.--The receiver may issue an order to an elected  
12 or appointed official of the distressed [city] municipality or  
13 an authority to:

14 (1) implement any provision of the recovery plan; and

15 (2) refrain from taking any action that would interfere  
16 with the powers granted to the receiver or the goals of the  
17 recovery plan.

18 (b) Enforcement.--An order issued under subsection (a) shall  
19 be enforceable under section 709.

20 Section 709. Judicial actions.

21 (a) Action by receiver.--The receiver may petition  
22 Commonwealth Court to issue a writ of mandamus upon any elected  
23 or appointed official of the distressed [city] municipality or  
24 authority to secure compliance with an order issued under  
25 section 708. The court shall grant or deny the relief within 14  
26 days of the filing of the petition. The court shall grant the  
27 relief requested if it determines that the order was issued in  
28 compliance with this chapter.

29 (b) Action by elected or appointed officials.--Any elected  
30 or appointed official of a distressed [city] municipality or

1 authority may petition Commonwealth Court to enjoin any action  
2 of the receiver that is contrary to this chapter.

3 Section 711. Municipal financial recovery advisory committee.

4 (a) Establishment.--[There is established a] A municipal  
5 financial recovery advisory committee is established to meet and  
6 consult with the receiver in carrying out the duties under this  
7 chapter. The sole function of the advisory committee shall be to  
8 provide recommendations and feedback to the receiver on the  
9 implementation of the recovery plan.

10 (b) Composition.--The advisory committee established under  
11 subsection (a) shall be comprised of the following:

12 (1) The chief executive officer, if any, of the  
13 distressed [city] municipality or a designee.

14 (2) The president of the governing body of the  
15 distressed [city] municipality or a designee.

16 (3) One member appointed by the county commissioners of  
17 the county where the distressed [city] municipality is  
18 located.

19 (4) One member appointed by the Governor.

20 \* \* \*

21 Section 712. Applicability.

22 (a) Statement.--

23 (1) This chapter shall apply only to distressed [cities]  
24 municipalities.

25 \* \* \*

26 Section 31. The addition of section 122(c) of the act shall  
27 apply to any and all regulations in effect on the effective date  
28 of this section.

29 Section 32. This act shall take effect in 60 days.