

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1773 Session of 2013

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

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 1, 2014

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:

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) and (c) 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 Section 5. Section 122 of the act is amended by adding a
13 subsection to read:

14 Section 122. Duties of Commonwealth agencies.

15 * * *

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

17 (1) Notwithstanding any provision of law and at the
18 request of the coordinator or receiver, a Commonwealth agency
19 may exempt a distressed municipality from the application of
20 a regulatory requirement, if the following conditions are
21 satisfied:

22 (i) The regulatory requirement is not expressly
23 required by Federal law or regulation, or an act of the
24 Commonwealth, and is not related to the rights or terms
25 and conditions of employment by the municipality.

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

28 (2) It is the intent of this subsection that distressed
29 municipalities be considered for relief from regulatory
30 mandates that, due to financial distress or the

1 implementation of recovery measures, are unduly burdensome on
2 the municipality and would not undermine the regulatory
3 purposes of the agency if waived.

4 Section 6. Sections 123 and 141 of the act, amended July 11,
5 1996 (P.L.645, No.108), are amended to read:

6 Section 123. Powers and duties of municipalities.

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

20 (b) File applications for grants and loans.--A financially
21 distressed municipality may apply to the secretary for emergency
22 financial aid in the form of a grant or loan pursuant to Chapter
23 3.

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

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

1 (1.1) In addition to the right under paragraph (1), a
2 municipality may petition the court to increase the rate of a
3 local services tax and levy a payroll preparation tax as
4 provided in subsection (d).

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

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

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

1 (ii) the municipality has taken those actions
2 required to obtain the approval of other parties for
3 those provisions which may not be implemented without
4 such approval, including, but not limited to, the
5 approval of a court, local electors or any collective
6 bargaining unit; and

7 (iii) the additional income from the aforementioned
8 actions is insufficient to balance the municipal budget,
9 necessitating additional revenue from an increase in the
10 tax on nonresident income.

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

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

26 (2) A payroll preparation tax pursuant to section 303 of
27 the Local Tax Enabling Act. A municipality imposing a tax
28 under this paragraph may levy a tax at a rate as provided in
29 this section and as certified by the coordinator and approved
30 by the court. When imposing a tax under this paragraph the

1 municipality may impose the tax not to exceed a rate that is
2 sufficient to produce revenues equal to revenues collected as
3 a result of a business privilege tax and a mercantile tax
4 under Chapter 3 of the Local Tax Enabling Act in the
5 preceding fiscal year. A municipality adopting a payroll
6 preparation tax under this paragraph shall suspend the levy
7 of a business privilege tax or mercantile tax until
8 expiration of the payroll preparation tax authorized under
9 this paragraph at which time the municipality may resume its
10 levy of the business privilege tax or mercantile tax. The
11 authority provided by this paragraph is limited to those
12 municipalities levying a business privilege or mercantile
13 tax, on a flat-rate or millage basis, in the year of the
14 filing of a petition as provided in subsection (c).

15 Section 141. Jurisdiction of court of common pleas.

16 (a) Increases in tax rates.--The court of common pleas of
17 each county shall have jurisdiction to hear a petition filed by
18 a municipality which has adopted a [final] plan pursuant to
19 Subchapter C or C.1 of Chapter 2 to increase rates of taxation
20 for earned income on residents and nonresidents, real property,
21 or both, beyond maximum rates provided by law in accordance with
22 section 123. The court may extend annually the increased taxing
23 powers of the municipality until the termination date of the
24 plan adopted by the municipality 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 7. 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. The
13 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 8. Section 203(c) AND (G) of the act, amended June <--
26 30, 1992 (P.L.336, No.69), ~~is~~ ARE 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 (G) APPEAL.--A DETERMINATION BY THE SECRETARY UNDER THIS <--
7 [ACT] SECTION IS APPEALABLE PURSUANT TO [TITLE 2 OF THE
8 PENNSYLVANIA CONSOLIDATED STATUTES (RELATING TO ADMINISTRATIVE
9 LAW AND PROCEDURE)] 2 PA.C.S. CH. 7 SUBCH. A (RELATING TO
10 JUDICIAL REVIEW OF COMMONWEALTH AGENCY ACTION).

11 Section 9. Sections 221(d) and (e), 222 and 223 of the act
12 are amended to read:

13 Section 221. Designation.

14 * * *

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

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

28 (2) Solicit, not later than the date of the
29 coordinator's presentation described in paragraph (1),
30 comments relating to the issues associated with the

1 municipality's distress from such persons and entities who:

2 (i) have participated in the early intervention
3 process;

4 (ii) have provided consultation on behalf of the
5 municipality relating to the issues associated with its
6 distress; or

7 (iii) are elected officials or employees of the
8 municipality or labor organizations representing
9 employees of the municipality.

10 (3) Consider all comments submitted within 30 days of
11 the coordinator's presentation described in paragraph (1)
12 before preparing and administering a plan designed to relieve
13 the financial distress of the municipality which the
14 coordinator has been appointed to serve.

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

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

18 (2) Investigate the tax-exempt status of any property
19 within a distressed municipality and advise the governing
20 body of the municipality to appeal the assessment or exempt
21 status of property within the distressed municipality.

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

25 Section 222. Access to information.

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

28 (b) Enforcement where records in possession of official or
29 public employee.--If the coordinator believes that an official
30 or employee of the municipality or an authority is not answering

1 questions accurately or completely or is not furnishing
2 information requested, the coordinator may notify the official
3 or employee in writing to furnish answers to questions or to
4 furnish documents or records, or both. If the official or
5 employee refuses, the coordinator may seek a subpoena in the
6 court of common pleas to compel testimony and furnish records
7 and documents. An action in mandamus shall lie to enforce the
8 provisions of this section.

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

15 Section 223. Public and private meetings.

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

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

26 Section 10. The act is amended by adding a section to read:
27 Section 224.1. Performance of coordinator.

28 (a) Review of coordinator.--Beginning on July 1, 2015, the
29 secretary, or his designee, shall conduct an annual review of
30 each coordinator appointed under section 221 to assess whether

1 the coordinator's performance has been in compliance with the
2 requirements of the coordinator's contract, if any, and the
3 provisions of this act.

4 (b) Termination of coordinator.--An unfavorable review under
5 this section may constitute grounds for termination of the
6 coordinator's contract for cause.

7 Section 11. Section 241 of the act, amended or added June
8 30, 1992 (P.L.336, No. 69) and July 5, 2012 (P.L.1104, No.133)
9 and repealed in part October 13, 1994 (P.L.596, No.90), is
10 amended to read:

11 Section 241. Contents.

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

16 (1) Projections of revenues and expenditures for the
17 current year and the next [three] five years, both assuming
18 the continuation of present operations and as impacted by the
19 measures in the plan. The projections must include an
20 itemization of the following:

21 (i) Projected revenues, including:

22 (A) Local taxes.

23 (B) Licenses, permits and fines.

24 (C) Sales and rentals.

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

26 (E) Any other sources of projected revenue.

27 (ii) Projected expenditures, including:

28 (A) Debt service.

29 (B) Workforce.

30 (C) Elected and executive officials.

- 1 (D) Financial management.
- 2 (E) Infrastructure costs, including highways,
- 3 roads and wastewater systems.
- 4 (F) Maintenance costs, including recycling and
- 5 trash collection, disposal and removal.
- 6 (G) Other professional services.
- 7 (H) Public safety.
- 8 (I) Community and economic development.
- 9 (J) Any other applicable expenditures.

10 (2) Recommendations which will:

- 11 (i) Satisfy judgments, past due accounts payable,
- 12 and past due and payable payroll and fringe benefits.
- 13 (ii) Eliminate deficits and deficit funds.
- 14 (iii) Restore to special fund accounts money from
- 15 those accounts that was used for purposes other than
- 16 those specifically authorized.
- 17 (iv) Balance the budget, avoid future deficits in
- 18 funds and maintain current payments of payroll, [fringe]
- 19 benefits and accounts through possible revenue
- 20 enhancement recommendations, including tax or fee
- 21 changes.
- 22 (v) Avoid a fiscal emergency condition in the
- 23 future.
- 24 (vi) Enhance the ability of the municipality to
- 25 negotiate new general obligation bonds, lease rental
- 26 debt, funded debt and tax and revenue anticipation
- 27 borrowing.
- 28 (vii) Consider changes in accounting and automation
- 29 procedures for the financial benefit of the municipality.
- 30 (viii) Propose a reduction of debt due on specific

1 claims by an amortized or lump-sum payment considered to
2 be the most reasonable disposition of each claim possible
3 for the municipality considering the totality of
4 circumstances.

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

8 (4) Recommended changes in municipal ordinances or
9 rules.

10 (5) Recommendations for special audits or further
11 studies.

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

17 [(7) An analysis of whether the economic conditions of
18 the municipality are so severe that it is reasonable to
19 conclude that the municipality is no longer viable and should
20 consolidate or merge with an adjacent municipality or
21 municipalities.]

22 (7.1) An analysis of whether the economic conditions
23 within the municipality are so severe that it is no longer
24 viable and should consolidate or merge with an adjacent
25 municipality or municipalities in accordance with 53 Pa.C.S.
26 Ch. 7 (relating to alteration of territory or corporate
27 entity and dissolution) or disincorporate in accordance with
28 Chapter 4.

29 (8) An analysis of whether functional consolidation of
30 or privatization of existing municipal services is

1 appropriate and feasible and recommendations for where and
2 how this could be done.

3 (9) A capital budget which addresses infrastructure
4 deficiencies.

5 (10) Recommendations for greater use of Commonwealth
6 economic and community development programs.

7 (10.1) Recommendations for enhanced cooperation and
8 changes in land use planning and zoning, including regional
9 approaches that would promote economic development and
10 improve residential, commercial and industrial use
11 availability within and around the municipality.

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

17 (12) An analysis of current revenue sources and
18 recommendation to modify revenue sources, including the
19 subjects and rates of taxation of the distressed municipality
20 in accordance with section 123. Recommendations relating to a
21 modification of revenue sources shall be made with
22 consideration to the effect on economic development,
23 employment and an equitable distribution of tax burden. The
24 analysis and recommendations shall be presented to the court
25 in any proceeding under section 123. The analysis shall
26 address:

27 (i) The tax bases of current and recommended revenue
28 sources from both within and outside of the distressed
29 municipality.

30 (ii) Collection rates, methods and costs of existing

1 and, to the extent possible, proposed revenue sources,
2 including code enforcement and tax collection.

3 (iii) The current fee, charge, penalty and fine
4 provisions of municipal enactments related to municipal
5 services and police powers.

6 (iv) Revenue as defined in section 103.

7 Section 12. Section 242(a) of the act, amended December 19,
8 1988 (P.L.1272, No.157), is amended and the section is amended
9 by adding a subsection to read:

10 Section 242. Publication.

11 (a) Filing.--Within [90] 120 days of an executed contract
12 between the department and the coordinator, the coordinator
13 shall formulate a plan for relieving the municipality's
14 financial distress and shall deliver true and correct copies of
15 it to:

16 (1) The municipal clerk or municipal secretary, who
17 shall immediately place the copy on file for public
18 inspection in the municipal office.

19 (2) The secretary.

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

21 (4) The mayor.

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

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

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

26 * * *

27 (c.1) Solicitation of comments.--The coordinator shall, no
28 later than the date of filing, solicit comments on the
29 coordinator's plan to be presented at the public meeting from
30 such persons and entities which submitted timely comments under

1 section 221(d)(2).

2 * * *

3 Section 13. Section 245 of the act, amended December 19,
4 1988 (P.L.1272, No.157), is amended to read:

5 Section 245. Adoption by municipality.

6 Not later than 25 days following the coordinator's public
7 meeting, the municipal governing body shall either enact an
8 ordinance approving the implementation of the plan, including
9 enactment of necessary related ordinances and revisions to
10 ordinances, or shall reject the plan and proceed under section
11 246. If the ordinance takes effect in a municipality operating
12 under an optional plan form of government or a home rule
13 charter, the chief executive officer [may] shall issue an order
14 directing the implementation of the plan no later than seven
15 days from the enactment of the ordinance by the governing body.

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

17 Section 246. Preparation and action on alternate plan.

18 * * *

19 (d) Review by secretary.--

20 * * *

21 (3) If the secretary is of the opinion that the plan,
22 when implemented, will not overcome the municipality's
23 financial problems, the secretary shall inform the
24 municipality of the following:

25 (i) The secretary's determination.

26 (ii) The reasons for the determination.

27 (iii) The applicability of sections 251 and 264 to
28 the municipality.

29 (iv) The applicability of Chapters 6 and 7 to the
30 municipality.

1 Section 15. Section 247(a)(4) of the act, amended June 30,
2 1992 (P.L.336, No.69), is amended to read:

3 Section 247. Plan implementation.

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

7 * * *

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

10 * * *

11 Section ~~15.1~~ 16. The act is amended by adding a section to <--
12 read:

13 Section 247.1. Annual budget.

14 (a) Proposed budget.--Notwithstanding any provision of law
15 or home rule charter to the contrary, a municipality subject to
16 a plan under this chapter shall, at least 150 days prior to the
17 end of its current fiscal year, commence development of a
18 proposed annual budget for the next fiscal year that implements
19 the provisions of the plan or makes other changes to the
20 management of the municipality necessary to implement the
21 provisions of the plan. The proposed budget shall be prepared by
22 the governing body or the chief executive officer, as the case
23 may be.

24 (b) Coordinator review.--At least 90 days prior to the end
25 of the fiscal year, the governing body or chief executive
26 officer shall submit the proposed budget to the coordinator. The
27 coordinator shall review the proposed budget to verify that the
28 proposed budget conforms with the plan. The coordinator shall
29 make any modifications necessary to the proposed budget to meet
30 the objectives of the plan.

1 (c) Return of proposed budget.--After completion of the
2 coordinator's review, the coordinator shall, at least 45 days
3 before the end of the municipality's fiscal year, submit the
4 proposed budget, together with the coordinator's modifications,
5 if any, to the municipality for adoption in accordance with law.

6 (d) Notification to secretary.--Within 30 days of the
7 municipality's adoption of the budget, or the municipality's
8 failure to timely adopt a budget, the coordinator shall notify
9 the secretary whether or not the adopted budget, if any,
10 conforms to the plan. Upon a determination that the budget does
11 not conform to the plan, or that the municipality has not timely
12 adopted a budget, the secretary may take action as provided for
13 by this act.

14 Section ~~16~~ 17. Sections 248 and 250 of the act are amended <--
15 to read:

16 Section 248. Failure to adopt or implement plan.

17 If no plan is adopted or implemented pursuant to this
18 chapter, then sections 251 and 264 shall apply[.] and, upon a
19 written recommendation of the coordinator, the secretary may
20 request a determination of a fiscal emergency in accordance with
21 Chapter 6.

22 Section 250. Debt provisions.

23 Adoption of a plan in accordance with this subchapter and
24 Subchapter C.1 by ordinance is a condition precedent for the
25 approval of long-term debt or funding debt under [the act of
26 July 12, 1972 (P.L.781, No.185), known as the Local Government
27 Unit Debt Act] 53 Pa.C.S. Pt. VII Subpt. B (relating to
28 indebtedness and borrowing). A debt financing provision of the
29 plan may be waived by agreement of the lender and the
30 municipality; but any such waiving must be expressly set forth

1 in the indenture or contract securing the debt.

2 ~~Section 17. Section 252(a) of the act, amended July 5, 2012 <--~~
3 ~~(P.L.1104, No.133), is amended to read:~~

4 ~~Section 252. Plan not affected by certain collective bargaining~~
5 ~~agreements or settlements.~~

6 ~~(a) General rule. Except as provided in subsection (b), a~~
7 ~~collective bargaining agreement or arbitration settlement~~
8 ~~executed after the adoption of a plan under this subchapter or~~
9 ~~Subchapter C.1 shall not in any manner violate, expand or~~
10 ~~diminish its provisions.~~

11 * * *

12 Section 18. Section 253 of the act is ~~amended by adding a <--~~
13 ~~subsection to read:~~

14 ~~Section 253. Termination of status.~~

15 * * *

16 ~~(d) Duration of distressed status. Notwithstanding the~~
17 ~~provisions of this section, the duration of distressed status~~
18 ~~shall be limited as set forth in Subchapter C.1.~~

19 REPEALED: <--

20 [SECTION 253. TERMINATION OF STATUS.

21 (A) DETERMINATION BY SECRETARY.--FOLLOWING A DULY ADVERTISED
22 PUBLIC HEARING WITH NOTICES GIVEN AS PROVIDED IN SECTION 203,
23 THE SECRETARY MAY ISSUE A DETERMINATION THAT THE CONDITIONS
24 WHICH LED TO THE EARLIER DETERMINATION OF MUNICIPAL FINANCIAL
25 DISTRESS ARE NO LONGER PRESENT. THE DETERMINATION SHALL RESCIND
26 THE STATUS OF MUNICIPAL FINANCIAL DISTRESS AND SHALL INCLUDE A
27 STATEMENT OF FACTS AS PART OF THE FINAL ORDER.

28 (B) DETERMINATION UPON PETITION BY A MUNICIPALITY.--A
29 FINANCIALLY DISTRESSED MUNICIPALITY MAY PETITION THE SECRETARY
30 TO MAKE A DETERMINATION THAT THE CONDITIONS WHICH LED TO THE

1 EARLIER DETERMINATION OF MUNICIPAL FINANCIAL DISTRESS ARE NO
2 LONGER PRESENT. UPON RECEIVING THE PETITION, THE SECRETARY MAY
3 ISSUE A DETERMINATION TO RESCIND FOLLOWING A DULY ADVERTISED
4 PUBLIC HEARING WITH NOTICES GIVEN AS PROVIDED IN SECTION 203.

5 (C) FACTORS TO CONSIDER.--IN DETERMINING WHETHER THE
6 CONDITIONS WHICH LED TO THE EARLIER DETERMINATION OF MUNICIPAL
7 FINANCIAL DISTRESS ARE NO LONGER PRESENT, THE SECRETARY SHALL
8 CONSIDER THAT:

9 (1) MONTHLY REPORTS SUBMITTED BY THE COORDINATOR TO THE
10 DEPARTMENT UNDER SECTION 247(A) (3) INDICATE THAT TERMINATION
11 OF THE STATUS OF MUNICIPAL FINANCIAL DISTRESS IS APPROPRIATE.

12 (2) ACCRUED DEFICITS IN THE MUNICIPALITY HAVE BEEN
13 ELIMINATED.

14 (3) OBLIGATIONS ISSUED TO FINANCE ALL OR PART OF THE
15 MUNICIPALITY'S DEFICIT HAVE BEEN RETIRED.

16 (4) THE MUNICIPALITY HAS OPERATED, FOR A PERIOD OF AT
17 LEAST ONE YEAR, UNDER A POSITIVE CURRENT OPERATING FUND
18 BALANCE OR EQUITY, AS EVIDENCED BY THE MUNICIPALITY'S AUDITED
19 FINANCIAL STATEMENTS PREPARED IN ACCORDANCE WITH GENERALLY
20 ACCEPTED ACCOUNTING PRINCIPLES.]

21 Section 19. The act is amended by adding a subchapter to
22 read:

23 SUBCHAPTER C.1

24 DURATION OF DISTRESSED STATUS

25 Section 254. ~~Five year limitation~~ LIMITATION OF STATUS. <--

26 (a) Termination date.--

27 (1) Except as otherwise provided in this subchapter, no
28 municipality shall be subject to the provisions of this act
29 after five years from the effective date of an ordinance
30 enacted in accordance with section 245 or 246. No amendment

1 to a plan shall affect the termination date as determined
2 from the date of enactment of the original ordinance.

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

4 (i) prohibit a municipality from participating in an
5 early intervention program as provided in Chapter 1-A or
6 reentering distressed status in accordance with this act
7 after a termination of status in accordance with this
8 subchapter.

9 (ii) Prohibit termination of status proceedings in
10 accordance with section-253 255.1 prior to the <--
11 termination date as provided in this section.

12 (b) Distressed municipalities.--

13 (1) Municipalities operating pursuant to a recovery plan
14 on the effective date of this section shall be subject to a
15 termination date five years from the effective date of the
16 most recent recovery plan or amendment enacted in accordance
17 with this act, provided, however, that municipalities subject
18 to a plan that will remain in effect for one year or less on
19 the effective date of this subsection shall be subject to a
20 termination date three years from the termination date of the
21 current plan or plan amendment.

22 (2) If its distressed status has not been rescinded OR <--
23 HAS BEEN CONTINUED IN ACCORDANCE WITH SECTION 710.1, a
24 municipality operating under Chapter 7 shall be subject to a
25 FINAL termination date NO MORE THAN five years from the <--
26 termination date of receivership. SECTION 255 SHALL NOT APPLY <--
27 TO A TERMINATION OF STATUS UNDER THIS PARAGRAPH.

28 Section 255. Coordinator's report.

29 (a) General rule.--~~In~~ NOT LATER THAN 180 DAYS AFTER THE <--
30 BEGINNING OF the final year of distressed status as determined

1 in accordance with section 254(a) and ~~(b)~~ (B)(1), the <--
2 coordinator shall prepare a report stating the financial
3 condition of the municipality and include one of the following
4 findings:

5 (1) Conditions within the municipality warrant a
6 termination in status in accordance with section 253. 255.1. <--
7 A REPORT CONTAINING A RECOMMENDATION UNDER THIS PARAGRAPH
8 SHALL ADDRESS EACH OF THE FACTORS SET FORTH IN SECTION
9 255.1(C).

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

12 (3) Conditions as specified in section 261 exist and the <--
13 governing body should initiate proceedings for Federal debt
14 readjustment under Subchapter D.

15 ~~(4) The elected and appointed officials of the~~
16 ~~municipality have demonstrated a failure to adequately~~
17 ~~implement recovery measures and a receiver should be~~
18 ~~appointed in accordance with Chapter 7. For purposes of this~~
19 ~~paragraph, a failure to adequately implement recovery~~
20 ~~measures shall be considered a fiscal emergency. ARE SUCH~~ <--
21 THAT THE SECRETARY SHOULD REQUEST A DETERMINATION OF A FISCAL
22 EMERGENCY IN ACCORDANCE WITH CHAPTER 6.

23 ~~(5)~~ (4) A three-year exit plan in accordance with <--
24 section 256 is warranted.

25 (b) Filing and notice.--

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

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

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

12 (ii) The date and place of filing.

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

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

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

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

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

27 (d) Public meeting.--A meeting conducted by the coordinator
28 in the municipality shall be set for a date not later than 20
29 days after the date of filing the report. The coordinator shall
30 request in writing that the chief executive officer, each member

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

6 (e) Revision of report.--

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

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

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

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

22 SECTION 255.1. TERMINATION OF STATUS.

<--

23 (A) PUBLIC HEARING.--WITHIN 30 DAYS OF THE DATE FOR THE
24 FILING OF A FINAL REPORT CONTAINING A FINDING AS PROVIDED IN
25 SECTION 255(A) (1) THE SECRETARY SHALL CONDUCT A PUBLIC HEARING,
26 ADVERTISED WITH NOTICES GIVEN AS PROVIDED IN SECTION 203.

27 (B) DETERMINATION.--WITHIN 90 DAYS OF THE CONCLUSION OF THE
28 PUBLIC HEARING, THE SECRETARY SHALL ISSUE AN ADMINISTRATIVE
29 DETERMINATION OF WHETHER THE TERMINATION OF STATUS IS
30 APPROPRIATE AND REASONS FOR THE DETERMINATION. THE DETERMINATION

1 SHALL INCLUDE FINDINGS ADDRESSING EACH OF THE FACTORS IN
2 SUBSECTION (C) AND SHALL CONSIDER INFORMATION PROVIDED IN THE
3 REPORT OF THE COORDINATOR AND ANY ADDITIONAL INFORMATION
4 RECEIVED DURING THE PUBLIC HEARING.

5 (C) FACTORS TO CONSIDER.--IF THE SECRETARY CONCLUDES THAT
6 SUBSTANTIAL EVIDENCE SUPPORTS AN AFFIRMATIVE DETERMINATION FOR
7 EACH OF THE FOLLOWING FACTORS, THE DETERMINATION SHALL BE THAT
8 DISTRESSED STATUS WILL BE RESCINDED. THE SECRETARY SHALL
9 CONSIDER WHETHER:

10 (1) OPERATIONAL DEFICITS OF THE MUNICIPALITY HAVE BEEN
11 ELIMINATED AND THE FINANCIAL CONDITION OF THE MUNICIPALITY,
12 AS EVIDENCED BY AUDITED FINANCIAL STATEMENTS PREPARED IN
13 ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AND
14 PROJECTIONS OF FUTURE REVENUES AND EXPENDITURES, DEMONSTRATES
15 A REASONABLE PROBABILITY OF FUTURE BALANCED BUDGETS ABSENT
16 PARTICIPATION IN THIS ACT.

17 (2) OBLIGATIONS ISSUED TO FINANCE THE MUNICIPALITY'S
18 DEBT HAVE BEEN RETIRED, REDUCED OR REISSUED IN A MANNER THAT
19 HAS ADEQUATELY REFINANCED OUTSTANDING PRINCIPLE AND INTEREST
20 AND HAS PERMITTED TIMELY DEBT SERVICE AND REASONABLE
21 PROBABILITY OF CONTINUED TIMELY DEBT SERVICE ABSENT
22 PARTICIPATION IN THIS ACT.

23 (3) THE MUNICIPALITY HAS NEGOTIATED AND RESOLVED ALL
24 CLAIMS OR JUDGMENTS THAT WOULD HAVE PLACED THE MUNICIPALITY
25 IN IMMINENT JEOPARDY OF FINANCIAL DEFAULT.

26 (4) THE REASONABLY PROJECTED REVENUES OF THE
27 MUNICIPALITY ARE SUFFICIENT TO FUND ONGOING NECESSARY
28 EXPENDITURES, INCLUDING PENSION OBLIGATIONS AND THE
29 CONTINUATION OR NEGOTIATION OF COLLECTIVE BARGAINING
30 AGREEMENTS AND THE PROVISION OF MUNICIPAL SERVICES.

1 PROJECTIONS OF REVENUES SHALL INCLUDE ANY ANTICIPATED TAX OR
2 FEE INCREASES TO FUND ONGOING EXPENDITURES FOR THE FIRST FIVE
3 YEARS AFTER A TERMINATION OF DISTRESSED STATUS.

4 (D) APPEAL.--A LABOR ORGANIZATION THAT IS A PARTY TO A
5 COLLECTIVE BARGAINING AGREEMENT WITH A FINANCIALLY DISTRESSED
6 MUNICIPALITY AND ANY OTHER PARTY WITHSTANDING UNDER SECTION 202
7 MAY APPEAL THE DETERMINATION OF THE SECRETARY PURSUANT TO 2
8 PA.C.S. CH. 7 SUBCH. A (RELATING TO JUDICIAL REVIEW OF
9 COMMONWEALTH AGENCY ACTION).

10 (E) SUSPENSION OF SUBSEQUENT PROCEEDINGS.--THE COORDINATOR
11 AND SECRETARY SHALL NOT TAKE ANY ACTION UNDER SECTIONS 256 AND
12 257 UNTIL A FINAL DECISION IS ISSUED FOR ANY APPEAL UNDER
13 SUBSECTION (D) OR (F). THE DURATION OF DISTRESSED STATUS OF THE
14 MUNICIPALITY SHALL BE EXTENDED SUBJECT TO SUBSEQUENT ACTION IN
15 ACCORDANCE WITH SECTION 257.

16 (F) ACTION OF THE SECRETARY PRESERVED.--EXCEPT AS OTHERWISE
17 PROVIDED IN CHAPTERS 6 AND 7, THE SECRETARY MAY, FOLLOWING A
18 DULY ADVERTISED PUBLIC HEARING WITH NOTICES GIVEN AS PROVIDED IN
19 SECTION 203, AT ANY TIME ISSUE A DETERMINATION AS PROVIDED IN
20 THIS SECTION UPON WRITTEN RECOMMENDATION OF THE COORDINATOR
21 SETTING FORTH A DISCUSSION OF EACH OF THE FACTORS SPECIFIED IN
22 SUBSECTION (C). THE DETERMINATION MAY BE APPEALED IN ACCORDANCE
23 WITH SUBSECTION (D).

24 Section 256. Exit plan.

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

1 (b) Contents of exit plan.--The exit plan prepared by the
2 coordinator shall contain such elements as may be necessary to
3 ensure termination of distressed status after three years,
4 including, but not limited to:

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

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

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

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

17 (c) Adoption of plan.--

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

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

29 (3) If the governing body fails to adopt and implement
30 the plan, the secretary shall, upon a written determination

1 ~~by the coordinator, request that the Governor declare a~~ <--
2 ~~fiscal emergency and initiate proceedings under Chapter 7-~~
3 ~~MAKE A DETERMINATION OF A FISCAL EMERGENCY IN ACCORDANCE WITH~~ <--
4 ~~CHAPTER 6.~~

5 (4) The requirements of this subsection shall be
6 suspended if the coordinator first provides a recommendation
7 to the secretary that the municipality should be
8 disincorporated under Chapter 4.

9 Section 257. Postreport procedures.

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

13 (1) Terminate the distressed status of the municipality
14 effective 90 days after filing a final report containing a <--
15 finding as provided in section 255(a)(1) A DETERMINATION OR <--
16 FINAL DECISION REQUIRING TERMINATION OF STATUS AS PROVIDED IN
17 SECTION 255.1.

18 (2) After filing a final report containing a
19 recommendation under section 255(a)(2), terminate the
20 distressed status of the municipality effective on the date
21 of a final order establishing an unincorporated district
22 under Chapter 4.

23 (3) After filing a final report containing a
24 recommendation under section 255(a)(3), authorize an <--
25 application of the governing body to proceed with a municipal
26 debt adjustment action under Subchapter D. The distressed
27 status of the municipality shall not be rescinded during the
28 term of the municipal debt adjustment plan.

29 ~~(4) After filing a final report containing a~~
30 ~~recommendation under section 255(a)(4), petition the Governor~~

~~to declare a fiscal emergency and initiate proceedings under
Chapter 7. REQUEST A DETERMINATION OF A FISCAL EMERGENCY IN
ACCORDANCE WITH CHAPTER 6.~~

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

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

~~(2) petition the Governor to initiate proceedings under
Chapter 7 REQUEST A DETERMINATION OF A FISCAL EMERGENCY IN
ACCORDANCE WITH CHAPTER 6.~~

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

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

~~(2) terminate the distressed status of the municipality
effective on the date of a final order establishing an
unincorporated district under Chapter 4. TERMINATE THE
DISTRESSED STATUS OF THE MUNICIPALITY.~~

Section 20. Section 261(a)(4) of the act, amended July 5,
2012 (P.L.1104, No.133), is amended AND THE SECTION IS AMENDED
BY ADDING A SUBSECTION to read:

Section 261. Filing municipal debt adjustment under Federal
law.

1 (a) [Authorization.--In the event one of the following <--
2 conditions is present, a] GENERAL AUTHORIZATION.--A municipality <--
3 is hereby authorized to apply to the department to file a
4 municipal debt adjustment action pursuant to the Bankruptcy Code
5 (11 U.S.C. § 101 et seq.), IF AT LEAST ONE OF THE FOLLOWING <--
6 CONDITIONS IS PRESENT:

7 * * *

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

12 (A.1) FILING AFTER DETERMINATION OF DISTRESS.--THE <--
13 MUNICIPALITY'S AUTHORIZATION UNDER SUBSECTION (A) SHALL CONTINUE
14 AFTER THE ISSUANCE OF A DECLARATION OF DISTRESS UNDER SECTION
15 203, SO LONG AS THE MUNICIPALITY IS NOT IN A STATE OF FISCAL
16 EMERGENCY PURSUANT TO A DECLARATION UNDER SECTION 602. A
17 MUNICIPALITY THAT IS IN A STATE OF FISCAL EMERGENCY SHALL NOT BE
18 AUTHORIZED UNDER SUBSECTION (A) TO APPLY TO THE DEPARTMENT TO
19 FILE A MUNICIPAL DEBT ADJUSTMENT.

20 * * *

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

23 Section 281. Eligibility.

24 If a municipality has been determined to be distressed under
25 section 203(f) and is not subject to funding restrictions under
26 section 251 or 264, it shall be eligible for economic and
27 community development assistance as provided in section 282.
28 Merger or consolidation [under Chapter 4] of a distressed
29 municipality with a municipality may not be deemed to diminish
30 the successor municipality's eligibility or priority status for

1 economic assistance under this chapter.

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

5 Section 282. Priority.

6 * * *

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

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

15 * * *

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

17 CHAPTER 4

18 [CONSOLIDATION OR MERGER OF] COLLECTIVE <--

19 BARGAINING IN MERGED OR CONSOLIDATED

20 MUNICIPALITIES AND ECONOMICALLY NONVIABLE

21 MUNICIPALITIES

22 Section 24. Chapter 4 of the act is amended by adding
23 subchapters to read:

24 SUBCHAPTER C

25 DISINCORPORATION OF NONVIABLE MUNICIPALITIES

26 Section 431. Definitions

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

30 "Administrator." A service district administrator appointed

1 pursuant to section 434.

2 "District." An unincorporated service district created by
3 section 441.

4 "District advisory committee." A service district advisory
5 committee established by section 442.

6 "Governing standards." Provisions within an essential
7 service SERVICES plan providing for certain conduct of residents <--
8 and property owners as provided by section 436(c).

9 "Municipality." A county, city, borough, incorporated town,
10 township or home rule municipality that does not provide police
11 service or fire service through its employees. The term does not
12 include a city of the first class.

13 "Restricted Account." An account established in the State
14 Treasury as provided by section 445.1.
15 Section 431.1. Determination of nonviability.

16 (a) General rule.--Upon recommendation of a coordinator
17 appointed under Chapter 2 or a receiver appointed under Chapter
18 7, the secretary shall consider whether all of the following
19 conditions have been met in determining that a municipality is
20 nonviable:

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

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

27 (3) Efforts to merge or consolidate the municipality
28 with a neighboring municipality are unachievable or will not
29 result in viability.

30 (b) Notice and recommendation.--If the secretary determines

1 that a municipality is nonviable under all of the conditions
2 provided in subsection (a), the secretary shall provide notice
3 to the governing body of the municipality of the secretary's
4 determination and recommend that the municipality be
5 disincorporated under this subchapter.

6 Section 432. Procedure for disincorporation.

7 (a) Ordinance.--Within 45 days of a determination of
8 nonviability under section 431.1, the governing body may enact
9 an ordinance, subject to review by the court of common pleas
10 under section 433, that will initiate the disincorporation of
11 the municipality. The ordinance shall be advertised as required
12 by law but it may not become effective until the court has
13 issued its decree under section 433.

14 (b) Petition by electors.--If the governing body of the
15 municipality fails to pass an ordinance authorized under
16 subsection (a), then a petition signed by registered electors of
17 the municipality comprising at least 51% of the number of
18 electors voting for the office of Governor in the last
19 gubernatorial general election may be submitted to the court
20 within 60 days of the failure of the governing body to enact an
21 ordinance as provided in subsection (a).

22 (c) Action filed by secretary.--If no ordinance is filed for
23 review under subsection (a) and no petition is filed under
24 subsection (b) with the court within the time specified, the
25 secretary may file an action in the court of common pleas
26 petitioning the court to issue a decree under section 433(e),
27 provided that one of the following conditions has been met:

28 (1) the municipality has adopted a plan or amended plan
29 under Chapter 2 which recommends that the municipality be
30 disincorporated; or

1 (2) the municipality refuses to adopt a plan or amended
2 plan proposed by a coordinator under Chapter 2 which
3 recommends that the municipality be disincorporated.
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 REQUEST A DETERMINATION OF A FISCAL EMERGENCY <--
25 IN ACCORDANCE WITH CHAPTER 6;

26 (iii) conditions within the municipality warrant a
27 termination in status in accordance with section 253 <--
28 255.1; or <--

29 (iv) conditions as set forth in section 261 exist
30 and, if so, that the governing body should initiate

1 proceedings for federal debt readjustment under

2 Subchapter D of Chapter 2.

3 Section 434. Service district administrator.

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

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

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

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

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

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

30 (3) Engage in any conduct prohibited by the act of July

1 19, 1957 (P.L.1017, No.451), known as the State Adverse
2 Interest Act, or 65 Pa.C.S. Ch. 11 (relating to ethics
3 standards and financial disclosure).

4 (e) Liability.--

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

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

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

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

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

24 (ii) The repayment of debt, bonds or other
25 obligations before disincorporation.

26 (iii) Any other action necessary to implement the
27 disincorporation.

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

30 (3) To identify essential services which should be

1 provided to the residents and property owners of the district
2 after the municipality is disincorporated.

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

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

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

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

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

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

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

23 (11) To seek enforcement of any provision of this
24 subchapter and Subchapter D.

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

28 Section 435. Powers and duties of municipality.

29 (a) General rule.--After the review of the court of common
30 pleas resulting in a decree under section 433(e), but not less

1 than 30 days before the date set by the administrator for
2 disincorporation to take effect, the governing body of the
3 municipality shall:

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

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

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

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

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

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

30 (2) If the governing body adopts recommended governing

1 standards, the following shall apply:

2 (i) No later than 30 days following a decree of the
3 court of common pleas under section 433(e), the governing
4 body shall provide written notice to the administrator
5 that the governing body intends to adopt an ordinance
6 containing recommended governing standards for the
7 inclusion in the essential services plan.

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

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

22 Section 436. Essential services plan.

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

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

1 municipality participates in a regional police or fire
2 department through an intergovernmental cooperation
3 agreement, the essential services plan may provide for
4 continued service from that regional department by contract
5 or by renegotiating the intergovernmental cooperation
6 agreement.

7 (2) Local emergency management in accordance with the
8 plan and program of the Pennsylvania Emergency Management
9 Agency. The administrator shall consult with the emergency
10 management organization of the county where the district is
11 located to develop a plan which serves the district in a
12 substantially similar manner as plans required for a
13 political subdivision under 35 Pa.C.S. Ch. 75 Subch. A
14 (relating to general provisions). The plan shall include a
15 procedure for a declaration of a disaster emergency to be
16 made in the district and the designation of a local
17 coordinator of emergency management. The administrator is
18 authorized to negotiate any contracts which are necessary to
19 provide for the execution of a plan formed under this
20 paragraph.

21 (3) Payment of the lawful financial obligations of the
22 unincorporated service district, including any transferred
23 current obligation of the municipality and service of any
24 debt incurred by the municipality in the manner provided by
25 Subchapter D, after the disincorporation of the municipality.

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

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

29 (i) Payment of outstanding debt obligations.

30 (ii) Provision of services by an entity contracting

1 with the unincorporated service district.

2 (iii) Possession of title by the Commonwealth as
3 provided by Subchapter D.

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

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

8 (8) Establishment of the date of disincorporation of the
9 municipality as provided for by section 439.

10 (9) Establishment of the name of the district. A
11 district established by this act shall be named "The
12 Unincorporated District of"

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

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

15 (2) Terminate an obligation to repay any debt, except
16 that the plan may designate the unincorporated service
17 district as the servicer of a debt and may specify that a
18 debt secured by the collection of taxes shall be secured by
19 the assessment of fees sufficient to satisfy the service
20 obligations of the debt.

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

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

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

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

30 (i) Rules and conduct related to the maintenance of

1 property, conduct in public places and the parking of
2 vehicles in public places which shall protect the health,
3 safety and welfare of the residents and property owners
4 of the district to the extent such rules and conduct
5 could have been adopted by the municipality by ordinance.

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

9 (2) If the governing body of the municipality adopts
10 recommended governing standards as provided in section
11 435(c), the administrator shall include the recommended
12 governing standards in the essential services plan unless the
13 administrator finds that the recommended governing standards
14 are unlawful, unconstitutional or would substantially impede
15 the administration of the essential services plan.

16 Section 437. Proposed essential services plan.

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

20 (1) The municipal clerk or municipal secretary, who
21 shall immediately place the copy on file for public
22 inspection in the municipal office.

23 (2) The secretary.

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

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

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

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

28 (b) Date of filing.--For purposes of this section, the date
29 of filing the proposed essential services plan shall be the date
30 on which the municipal clerk or municipal secretary places a

1 true and correct copy of the proposed essential services plan on
2 file for public inspection in the municipal office.

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

4 (1) On the date of filing, notice that a proposed
5 essential services plan has been filed and is open for public
6 inspection in the municipal office shall be published by the
7 administrator in the county legal reporter and in one or more
8 newspapers with general circulation serving the area in which
9 the municipality is located. The cost for publishing the
10 notice shall be borne by the department. The notice shall
11 contain the following:

12 (i) A statement that a proposed essential services
13 plan has been filed regarding the provision of essential
14 services to the residents and property owners of the
15 unincorporated service district which shall succeed the
16 municipality after disincorporation.

17 (ii) The date and place of filing.

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

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

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

24 (2) Notice of an administrator's public meeting on the
25 proposed essential services plan shall be published by the
26 administrator in the county legal reporter and in one or more
27 newspapers with general circulation serving the area in which
28 the municipality is located. The department shall bear the
29 cost for publishing the notice. The notice shall contain the
30 following:

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

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

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

8 (d) Comment period.--Written comments on the proposed
9 essential services plan may be filed with the administrator.

10 Written comments shall be made no later than 15 days after the
11 date of filing. Written comments judged by the administrator to
12 have value to the proposed essential services plan may be used
13 to develop revisions for a final essential services plan.

14 (e) Administrator's public meeting.--A meeting conducted by
15 the administrator in the municipality shall be set for a date no
16 later than 20 days after the date of filing the proposed
17 essential services plan. The administrator shall request in
18 writing that the chief executive officer, each member of the
19 municipal governing body and the chief financial officer of the
20 municipality to be present at the service administrator's
21 meeting. At that meeting, the administrator shall:

22 (1) Present a summary of the proposed essential services
23 plan.

24 (2) Receive public comment on the proposed essential
25 services plan.

26 (3) Allow the members of the governing body of the
27 municipality to present written and oral comments requesting
28 revisions of the proposed essential services plan.

29 Section 438. Final essential services plan.

30 (a) Amendment of plan.--

1 (1) The administrator shall consider all timely
2 submitted written comments, comments presented at the public
3 meeting and requests for revision in the amendment of the
4 publicly presented proposed essential services plan before
5 publishing a final essential services plan.

6 (2) In the event that the administrator does not
7 incorporate the requests for revision by the members of the
8 governing body of the municipality regarding the levels of
9 services provided under the proposed essential services plan
10 or the basis for the calculation of fees assessed under the
11 proposed essential services plan, the administrator shall
12 state in the proposed essential services plan why the
13 requested revisions were not feasible to incorporate in the
14 final essential services plan.

15 (b) Notice of final essential services plan.--Within 45 days
16 of the public meeting the administrator shall file the final
17 essential services plan with the persons listed in section
18 437(a) and provide notice of the publication of the final
19 essential services plan in the manner provided in section
20 437(c) (1) (i), (ii) and (v).

21 (c) Appeal.--

22 (1) Any person aggrieved by the final essential services
23 plan may appeal the plan to the court of common pleas within
24 30 days of notice of the filing of the final essential
25 services plan. For purposes of this section, notice shall
26 constitute the date that the person received actual notice of
27 the final essential services plan, or the date that notice of
28 the filing of the final essential services plan is first
29 published in a newspaper with general circulation serving the
30 area in which the municipality is located.

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

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

7 Section 439. Disincorporation of municipality.

8 (a) Effects of disincorporation.--On the date of
9 disincorporation, the following shall occur:

10 (1) Notwithstanding any other provision of law, the
11 terms of office of all elected officials of the municipality
12 shall end and no person shall be elected or appointed to fill
13 any vacancy of office.

14 (2) All ordinances of the municipality shall be
15 nullified.

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

19 (4) The municipality shall be deemed by operation of law
20 to be disincorporated. The area formerly contained within the
21 municipality shall be an unincorporated service district as
22 provided under Subchapter D.

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

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

28 (2) Provide notice of assessments to the property owners
29 of the unincorporated service district according to the
30 procedure provided in section 443(b) which may be a partial

1 year assessment as provided by section 443(e).

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

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

8 (1) Adopt a zoning ordinance which applies to the
9 unincorporated service district and adopts the substantive
10 provisions of the municipality's zoning ordinance, if any, as
11 it was in effect before nullification by subsection (a)(2).

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

16 (3) Unless the county has adopted a subdivision and land
17 development ordinance prior to the date of disincorporation
18 of the municipality, adopt a subdivision and land development
19 ordinance which shall apply to any unincorporated service
20 district within the county.

21 (4) Provide for the administration of the zoning
22 ordinance and the subdivision and land development ordinance
23 as they apply to the unincorporated service district and any
24 other provisions of the act of July 31, 1968 (P.L.805,
25 No.247), known as the Pennsylvania Municipalities Planning
26 Code, that may be applicable.

27 (5) Amend the county's comprehensive plan to the extent
28 necessary to be consistent with the requirements of this
29 subsection.

30 (d) Property succession.--Immediately following

1 disincorporation the area formerly contained within the
2 municipality shall, by operation of law, be deemed an
3 unincorporated service district under Subchapter D, the
4 Commonwealth shall succeed in title to all property, including
5 all real property, personal property and moneys in any municipal
6 account, of the disincorporated municipality to be held in trust
7 for the benefit of the residents and property owners of the
8 unincorporated service district as provided under Subchapter D.

9 SUBCHAPTER D

10 UNINCORPORATED SERVICE DISTRICT

11 Section 441. Establishment of unincorporated service district.

12 (a) General rule.--The area formerly contained within a
13 municipality shall, after disincorporation under Subchapter C,
14 become an unincorporated service district. The district shall be
15 an entity of the Commonwealth established for the special
16 purpose of providing essential services to the citizens living
17 within the district until such time as the district is
18 incorporated as a municipality or made a part of a merged or
19 consolidated with an existing municipality under section 447.

20 (b) Authorized administrative authority.--All powers
21 providing for the administration of the district shall be vested
22 in the department through the administrator as provided in this
23 subchapter. The district advisory committee shall not possess
24 the corporate powers of the governing body of any municipality
25 or any authority, except as provided by this subchapter.

26 (c) Corporate powers prohibited.--Nothing in this subchapter
27 shall be construed as authorizing the district to exercise
28 corporate powers for the administration of a local government,
29 including the power to levy taxes, establish elected or
30 appointed offices and purchase, sell or convey property, except

1 that the residents of the district may incorporate a
2 municipality or merge or consolidate with an existing
3 municipality as provided for in section 447.

4 (d) Assets held by Commonwealth in trust.--

5 (1) All assets not sold by the municipality during the
6 process of its disincorporation shall be conveyed to the
7 Commonwealth to be held in trust for the benefit of the
8 residents and property owners of the district.

9 (2) The administrator shall serve as trustee of the
10 property and provide for the repair and maintenance of all
11 real property and roadways held in trust for the benefit of
12 the residents and property owners of the district through the
13 collection of assessments under this subchapter and
14 administration of payments distributed to the district as
15 provided in subsection (f).

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

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

25 (1) All debt incurred by the municipality before the
26 establishment of the district shall be held by the district
27 for administration by the administrator. Any such debt shall
28 be secured by the assets conveyed to the Commonwealth and
29 held in trust under subsection (d) and serviced by fees
30 collected under this subchapter.

1 (2) Nothing in this section shall be construed to
2 authorize the Commonwealth to guarantee any debt incurred by
3 a municipality or district with the full faith and credit of
4 the Commonwealth, revenues from the General Fund or any other
5 source of revenue not derived from fees assessed for the
6 administration of this subchapter or gains from the sale of
7 assets of the former municipality.

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

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

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

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

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

27 (h) Relationship with existing municipal and other
28 authorities preserved.--

29 (1) All authorities established to provide services to
30 the residents and property owners of a municipality prior to

1 disincorporation shall continue to serve the residents and
2 property owners of a district, and all members of the
3 authority appointed by the governing body of the municipality
4 prior to disincorporation shall continue to serve out the
5 remainder of the members' terms.

6 (2) Notwithstanding the provisions of 53 Pa.C.S. § 5607
7 (relating to purposes and powers) or any other provision of
8 law, subsequent appointments to the authority board which
9 would otherwise be made by the governing body of the
10 municipality shall be made by the administrator in
11 consultation with the district advisory committee.

12 (i) Governing standards enforceable.--

13 (1) The governing standards included in the essential
14 services plan shall be enforceable by the filing of a civil
15 action by the administrator or any aggrieved property owner
16 or resident of the district.

17 (2) A violation of the governing standards shall
18 constitute a public nuisance.

19 (3) A magisterial district court or another court of
20 competent jurisdiction presiding over a civil action brought
21 under this subsection may find relief for the filing party
22 according to the relief provided for in the essential
23 services plan or any other relief which is available by law
24 for the abatement of a public nuisance.

25 (j) Pennsylvania Construction Code applicable.--

26 (1) The act of November 10, 1999 (P.L.491, No.45), known
27 as the Pennsylvania Construction Code Act, shall apply to all
28 construction, alteration, repair and occupancy of all
29 buildings within the district as though the district were a
30 municipality which opted not to adopt the uniform

1 construction code by ordinance.

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

7 (k) Incurrence of debt limited.--The district shall not
8 incur debts not provided for in subsection (e), except that the
9 administrator may utilize such mechanisms as are necessary to
10 incur temporary debts, or make purchases on credit, on behalf of
11 and for the limited purpose of managing the cash flow for the
12 district. All obligations incurred under this subsection shall
13 be satisfied in full within one year and secured only by the
14 anticipation of the collection of assessments under section 443.
15 Section 442. Service district advisory committee.

16 (a) Establishment.--Each service district shall establish a
17 service district advisory committee.

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

23 (c) Appointment by governing body.--At least 30 days prior
24 to the date of disincorporation, the governing body of the
25 former municipality shall appoint three members of the district
26 advisory committee. The governing body shall designate that one
27 appointee serve a term of one year, one appointee serve a term
28 of two years and one appointee serve a term of three years.

29 (d) Vacancy.--At the expiration of the term of a member of
30 the district advisory committee, the remaining members of the

1 committee shall appoint a person to fill the vacancy. In the
2 event that the remaining members of the committee are unable to
3 agree on a person to fill the vacancy or there is more than one
4 vacancy, the administrator shall select a person or persons to
5 fill the vacancy. All persons appointed to fill a vacancy on the
6 district advisory committee shall have a term of three years
7 beginning on the date of appointment.

8 (e) Advise administrator.--The district advisory committee
9 shall, at least once every three months, meet with the
10 administrator and may make recommendations to the administrator
11 for revisions to the essential services plan, including
12 revisions to the levels of services provided to the residents
13 and property owners of the district and methodology of rate
14 calculation. The administrator shall consider all
15 recommendations of the district advisory committee.

16 (f) Advise county on land use issues.--The district advisory
17 committee may provide recommendations on behalf of the residents
18 and property owners of the district to any county official
19 regarding any land use-related matter.

20 (g) Advise department on incorporation.--The district
21 advisory committee may provide recommendations to the department
22 at any time that the residents of the district and the
23 department consider the feasibility of incorporating as a viable
24 municipality or merger or consolidation with an existing
25 municipality.

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

27 (1) Amendments to the governing standards may be
28 recommended by a majority vote of the district advisory
29 committee or by a petition signed by registered electors of
30 the municipality comprising at least 10% of the number of

1 electors voting for the office of Governor in the last
2 gubernatorial general election.

3 (2) Upon receipt of a recommendation made under this
4 subsection, the administrator shall include the recommended
5 amendments to the governing standard as a proposed plan
6 amendment under section 444, unless the administrator finds
7 that the recommended amendment of the governing standards is
8 unlawful, unconstitutional or would substantially impede the
9 administration of the essential services plan.

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

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

15 Section 443. Assessments.

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

20 (1) The cost of all essential services provided to the
21 district.

22 (2) The service of all debts held in trust by the
23 Commonwealth which were incurred by the former municipality
24 prior to disincorporation.

25 (3) The necessary construction, maintenance or repair of
26 facilities or properties which have been conveyed to the
27 Commonwealth and are held in trust for the benefit of the
28 district.

29 (4) Reimbursement to the department of its reasonable
30 costs of administration of the district, including, but not

1 limited to, the compensation of the administrator and the
2 collection of assessments authorized under this section.

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

9 (b) Establishment of assessment.--

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

14 (2) The administrator shall provide written personal
15 notice to each property owner of each property of the
16 assessment due for the ensuing year no later than November 1
17 of the year preceding the year for which the assessment
18 applies.

19 (3) As used in this subsection, "personal notice" shall
20 mean and include notice upon the owner of a property either
21 by personal service upon the owner or by certified mail to
22 the owner at the owner's last known address or where service,
23 after a reasonable attempt, shall not have been successfully
24 made by either of these two methods, then by leaving notice
25 at or upon the property.

26 (c) Appeal of assessment.--Any person wishing to challenge
27 the reasonableness of the assessment may file a suit in the
28 court of common pleas within 30 days of receiving the notice
29 provided in subsection (b).

30 (d) Payment of assessments.--Payment of the assessment in

1 full shall be due no later than March 1, unless the
2 administrator has provided for installment payments in
3 accordance with subsection (e).

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

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

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

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

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

21 (f) First year assessment.--The administrator may provide
22 for a partial assessment for the calendar year in which the
23 disincorporation of the municipality occurs. The due date for a
24 partial year assessment and installment schedule may be set by
25 the administrator, provided that no assessment shall be due
26 sooner than 60 days after the administrator provides written
27 personal notice of the assessment under the procedure in
28 subsection (a).

29 (g) Delinquent assessments.--Assessments remaining unpaid on
30 December 31 of the year in which they are due shall be

1 delinquent and subject to interest at a rate of 10% per year
2 from the date of filing as a lien in accordance with the act of
3 May 16, 1923 (P.L.207, No.153), referred to as the Municipal
4 Claim and Tax Lien Law.

5 (h) Liens.--An assessment, together with all charges,
6 expenses and fees, including reasonable attorney fees necessary
7 for its collection, shall be a lien upon the real property
8 benefited. The lien shall have the same priority and may be
9 collected in the same manner as a municipal lien in accordance
10 with the Municipal Claim and Tax Lien Law or through a civil
11 action initiated by the administrator.

12 (i) Limited assessment of public property.--An assessment
13 under this section on property held by the Federal Government,
14 the Commonwealth and any other public property shall be limited
15 to an assessment for those services which are directly consumed
16 by the property, including, but not limited to, water service,
17 sewer service and waste collection.

18 Section 444. Amendment of essential services plan.

19 (a) Periodic review.--No less than once per year, the
20 administrator shall meet with the district advisory committee to
21 consider the adequacy of the essential services plan and
22 consider any request for revision of the essential services plan
23 made by the district advisory committee.

24 (b) Filing of amendment.--The administrator may file a
25 proposed essential services plan amendment with the secretary
26 and each member of the district advisory committee at any time.
27 The district advisory committee may request a public meeting to
28 consider the amendment within five days of the filing of a
29 proposed essential services plan amendment.

30 (c) Notice of amendment.--No later than the date that the

1 administrator files the proposed essential services plan
2 amendment, the administrator shall provide notice to the public
3 of the amended essential services plan using the procedure
4 provided for by section 437(c) (1). If the district advisory
5 committee requests a public hearing, the administrator shall
6 schedule a public meeting within 30 days of the date that the
7 proposed essential services plan amendment was filed and provide
8 notice of the public meeting using the procedure provided for by
9 section 437(c) (2).

10 (d) Comment period.--Written comments on the proposed
11 essential services plan amendment may be filed with the
12 administrator. Written comments must be made no later than 15
13 days after the date of filing. Written comments judged by the
14 administrator to have value to the essential services plan may
15 be used to develop revisions for a final essential services plan
16 amendment.

17 (e) Administrator's public meeting.--If a public meeting is
18 scheduled at the request of the district advisory committee, the
19 administrator shall request in writing that the members of the
20 district advisory committee be present at the administrator's
21 meeting. At that meeting, the administrator shall:

22 (1) Present a summary of the proposed essential services
23 plan amendment.

24 (2) Receive public comment on the proposed essential
25 services plan amendment.

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

29 (f) Final essential services plan amendment.--The
30 administrator shall consider all timely submitted written

1 comments, comments presented at the public meeting and requests
2 for revision in the amendment of the publicly presented proposed
3 essential services plan before filing a final essential services
4 plan amendment. In the event that the administrator does not
5 incorporate the requests for revision by the district advisory
6 committee regarding the levels of services provided under the
7 essential services plan or the basis for the calculation of fees
8 assessed under the essential services plan, the administrator
9 shall state in the essential services plan amendment why the
10 requested revisions were not feasible to incorporate in the
11 final essential services plan.

12 (g) Emergency essential services plan amendment.--
13 Notwithstanding the requirements provided by this section for
14 the adoption of a final essential services plan amendment, where
15 the secretary finds that there is or will be an imminent threat
16 to public safety, human health or the environment, the secretary
17 may provide a waiver to the administrator allowing the
18 administrator to immediately publish an emergency essential
19 services plan amendment. An emergency essential services plan
20 amendment shall take effect immediately.

21 (h) Notice of final essential services plan amendment.--The
22 administrator shall provide notice of the publication of the
23 final essential services plan amendment or emergency essential
24 services plan amendment in the manner provided in section 437(c)
25 (1)(i), (ii) and (v). Upon providing notice as required by this
26 chapter, the administrator may execute any contract necessary to
27 administer the essential services plan, as amended.

28 (i) Appeal.--

29 (1) Any person aggrieved by a final essential services
30 plan amendment or emergency essential services plan amendment

1 may appeal the final essential services plan amendment to the
2 court of common pleas within 30 days of notice of the filing
3 of the final essential services plan amendment.

4 (2) For purposes of this section, notice shall
5 constitute the date that the person received actual notice of
6 the final essential services plan amendment, or the date that
7 notice of the filing of the final essential services plan
8 amendment is first published in a newspaper with general
9 circulation serving the area in which the municipality is
10 located.

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

14 (4) No appeal of a final essential services plan
15 amendment shall constitute an automatic stay of any portion
16 of the essential services plan.

17 (5) The appeal shall be sustained only where the court
18 finds that the final essential services plan amendment is
19 unlawful or unconstitutional, or the conduct of the
20 administrator is arbitrary or capricious.

21 Section 445. Unincorporated Service District Trust Fund.

22 (a) Establishment.--There is hereby established a special
23 fund in the State Treasury, separate and apart from all other
24 public moneys or funds of the Commonwealth, to be known as the
25 Unincorporated Service District Trust Fund. The purpose of this
26 fund shall be to hold moneys from unincorporated service
27 districts and pay for the expenses and obligations of
28 administrators, unincorporated service districts and the
29 department pursuant to Subchapter C. The department shall
30 allocate funds specific to a district in a restricted account

1 pursuant to section 445.1.

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

6 Section 445.1. Restricted accounts.

7 (a) Establishment.--There is established in the
8 Unincorporated Service District Trust Fund a restricted account
9 for each unincorporated service district. The administrator for
10 each district shall deposit all moneys collected by assessments,
11 delinquent municipal tax receipts, and proceeds from the sale of
12 municipal assets authorized under this subchapter into the
13 restricted account not later than 30 days after collection. Any
14 interest accrued on the account shall be credited to the account
15 for purposes of meeting the requirements of this subchapter. The
16 restricted account shall be used to pay for the expenses and
17 obligations of the administrator and the unincorporated service
18 district. The department may pay for the compensation and
19 expenses of the administrator from the restricted account.

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

24 Section 446. Audit.

25 The Auditor General shall conduct an annual audit of the
26 district. The audit shall include a review of the services
27 rendered under the essential services plan, the proceeds
28 generated by the assessments levied pursuant to section 443 and
29 all transactions made by the administrator on behalf of the
30 district.

1 Section 447. Merger and consolidation; incorporation of
2 municipal corporation.

3 (a) Merger and consolidation.--

4 (1) For the limited purpose of merging or consolidating
5 with one or more surrounding municipalities under 53 Pa.C.S.
6 Ch. 7 Subch. C (relating to consolidation and merger), the
7 residents of the district may file a petition with the county
8 board of elections as provided in 53 Pa.C.S. §§ 735 (relating
9 to initiative of electors seeking consolidation or merger
10 without new home rule charter) and 735.1 (relating to
11 initiative of electors seeking consolidation or merger with
12 new home rule charter).

13 (2) Residents of the district may be nominated to, and
14 serve on, a commission formed to study merger or
15 consolidation of the district with one or more
16 municipalities.

17 (3) Upon favorable action by the electorate on
18 consolidation or merger, the administrator, in consultation
19 with the district advisory committee, may enter into a merger
20 or consolidation agreement with the governing bodies of other
21 municipalities in accordance with 53 Pa.C.S. § 737 (relating
22 to consolidation or merger agreement) and shall provide for
23 the transition of the district into a consolidated or merged
24 municipality with the same powers and duties as provided by
25 law to governing bodies of municipalities.

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

29 (b) Incorporation as municipality.--If the secretary
30 determines that the district could be incorporated as a viable

1 municipality, the residents of the district may establish or
2 incorporate the territory of the district as a municipality as
3 provided by law.

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

8 (d) Assets in trust.--All assets conveyed to the
9 Commonwealth to be held in trust, not otherwise transferred
10 under the essential services plan or sold to repay the debt of
11 the former municipality, shall be conveyed to a merged,
12 consolidated or subsequently incorporated municipality,
13 including the territory of the district.

14 (e) Assumption of debt.--All debt obligations held in trust
15 by the Commonwealth on behalf of the former municipality for
16 service by a district shall be assumed by a merged, consolidated
17 or subsequently incorporated municipality, including the
18 territory of the district.

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

20 [CHAPTER 5

21 FUNDING

22 Section 501. Appropriation.

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

28 (1) \$500,000 shall be used by the department for
29 administrative expenses necessary to carry out the provisions
30 of this act.

1 (2) \$4,500,000 shall be used to provide grants and loans
2 to municipalities determined to be financially distressed
3 pursuant to this act.]

4 Section 26. Chapter 6 heading of the act, added October 20,
5 2011 (P.L.318, No.79), is amended to read:

6 CHAPTER 6

7 FISCAL EMERGENCIES IN [CITIES OF THE
8 THIRD CLASS] MUNICIPALITIES

9 Section 27. Sections 601, 602 and 603 of the act, renumbered
10 and added October 20, 2011 (P.L.318, No.79), are amended to
11 read:

12 Section 601. Definitions.

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

16 "Authority." A municipal authority, parking authority or any
17 other authority or corporate entity that is directly or
18 indirectly controlled by a distressed [city] municipality or to
19 which a distressed [city] municipality has power of appointment.
20 The term shall not include a joint municipal authority.

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

22 "Debt obligations." Any obligation to pay money, including
23 amounts owed for payments relating to lease rental debt, debt
24 service, bonds, notes, guarantees for bonds or notes, trust
25 indentures, contracts or other agreements.

26 "Distressed [city] municipality." A [city] municipality
27 which has been determined to be financially distressed under
28 section 203(f).

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

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

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

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

7 (1) Police and fire services.

8 (2) Ambulance and rescue services.

9 (3) Water supply and distribution.

10 (4) Wastewater services.

11 (5) Refuse collection and disposal.

12 (6) Snow removal.

13 (7) Payroll and pension obligations.

14 (8) Fulfillment of payment of debt obligations or any
15 other financial obligations.

16 Section 602. Declaration of fiscal emergency.

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

19 (1) (i) is insolvent or is projected to be insolvent
20 within 180 days or less; [or] AND <--

21 (ii) is unable to ensure the continued provision of
22 vital and necessary services; [and] OR <--

23 (2) [(i)] has failed to adopt or implement; <--

24 (I) the coordinator's plan in accordance with
25 Subchapter C or C.1 of Chapter 2; or

26 (ii) [has failed to adopt or implement] an <--
27 alternative plan that the secretary has approved under
28 section 246.

29 (b) Governor.--Upon making a determination that a state of
30 fiscal emergency exists, the Governor may declare a state of

1 fiscal emergency within the distressed [city] municipality.

2 Immediately upon making the declaration, the Governor shall:

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

7 (2) Direct the secretary to, within ten days of the
8 Governor's declaration, develop an emergency action plan to
9 ensure that vital and necessary services are maintained
10 within the [city] municipality during the state of fiscal
11 emergency.

12 (c) Secretary.--In developing the emergency action plan, the
13 secretary shall consider the financial plan prepared by the
14 coordinator under Subchapter C of Chapter 2 and any other
15 available plan or information the secretary deems appropriate
16 and may employ financial or legal experts to assist in
17 addressing the fiscal emergency. Notwithstanding any law to the
18 contrary, the employment of such experts shall not be subject to
19 contractual competitive bidding procedures.

20 Section 603. Notification by the secretary.

21 (a) Notice.--Upon completion of the emergency action plan,
22 the secretary shall cause the plan to be posted on the
23 department's publicly accessible Internet website and shall
24 provide written notice of the emergency action plan by overnight
25 delivery service, providing proof of receipt, to all members of
26 the governing body and, if applicable, the chief executive
27 officer of the distressed [city] municipality.

28 (b) Publication.--The secretary shall publish once in a
29 newspaper of general circulation notice that the emergency
30 action plan has been completed. The notice shall specify the

1 publicly accessible Internet address of the department's website
2 where the plan is posted.

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

6 Section 604. Powers of the Governor.

7 (a) Powers.--During the state of fiscal emergency, the
8 Governor may exercise the authority of the elected or appointed
9 officials of the distressed [city] municipality or authority as
10 necessary to ensure the provision of vital and necessary
11 services and may delegate the authority to the secretary or a
12 designee of the secretary. The emergency powers of the Governor
13 shall include the following:

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

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

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

23 (4) The power to modify the emergency action plan as
24 necessary to ensure the provision of vital and necessary
25 services.

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

29 (b) Orders.--The Governor may issue an order to an elected
30 or appointed official of the distressed [city] municipality or

1 an authority to implement any provision of the emergency action
2 plan or refrain from taking any action that would interfere with
3 the powers granted to the Governor or the goals of the plan. An
4 order issued under this subsection shall be enforceable under
5 section 606.

6 (c) Authorization prohibited.--Neither this chapter nor the
7 emergency action plan shall be interpreted to authorize the
8 Governor to:

9 (1) Unilaterally levy taxes.

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

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

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

16 (3) Unilaterally impair or modify existing bonds, notes,
17 municipal securities or other lawful contractual or legal
18 obligations of the distressed [city] municipality or
19 authority[, except as otherwise ordered by a court of <--
20 competent jurisdiction]. <--

21 (4) Authorize the use of the proceeds of the sale,
22 lease, conveyance, assignment or other use or disposition of
23 the assets of the distressed [city] municipality or
24 authorities in a manner contrary to section 707.

25 (5) Pledge the full faith and credit of the
26 Commonwealth.

27 Section 605. Elected and appointed officials.

28 During a fiscal emergency, the authorities and appointed and
29 elected officials of the distressed [city] municipality shall
30 continue to carry out the duties of their respective offices,

1 except that no decision or action shall conflict with an
2 emergency action plan, order or exercise of power by the
3 Governor under section 604.

4 Section 606. Mandamus.

5 The Governor may petition Commonwealth Court to issue a writ
6 of mandamus upon any elected or appointed official of the
7 distressed [city] municipality or authority to secure compliance
8 with an order issued under section 604(b). The court shall grant
9 the relief requested within 14 days of the filing of the
10 petition if it determines that the order was issued in
11 compliance with this chapter.

12 Section 607. Consent agreement.

13 (a) Negotiations.--Within eight days of the declaration of a
14 fiscal emergency, the governing body and, if applicable, the
15 chief executive officer of the distressed [city] municipality
16 shall convene a special public meeting to negotiate a consent
17 agreement. The meeting shall be attended by the secretary or
18 secretary's designee. Negotiations among creditors and any of
19 the parties in this subsection shall be conducted in accordance
20 with section 223(b).

21 (b) Contents.--

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

26 (2) The consent agreement shall include all of the
27 following:

28 (i) Continued provision of vital and necessary
29 services.

30 (ii) Payment of the lawful financial obligations of

1 the distressed [city] municipality and authority. This
2 subparagraph includes debt obligations, municipal
3 securities, lease rental obligations, legal obligations
4 and consensual modifications of existing obligations,
5 except as otherwise ordered by a court of competent
6 jurisdiction.

7 (iii) Timely deposit of required payments to the
8 pension fund for the distressed [city] municipality and
9 each authority or the fund in which the distressed [city]
10 municipality and each authority participates.

11 (iv) Legislative and administrative actions to be
12 taken by the elected or appointed officials of the
13 distressed [city] municipality during the term of the
14 consent agreement.

15 (3) The consent agreement may include:

16 (i) The sale, lease, conveyance, assignment or other
17 use or disposition of the assets of the distressed [city]
18 municipality or authority.

19 (ii) Approval, modification, rejection,
20 renegotiation or termination of contracts or agreements
21 of the distressed [city] municipality or authorities.

22 (iii) Execution of new contracts or agreements.

23 (4) The consent agreement may not include any of the
24 following:

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

27 (ii) Provisions that unilaterally abrogate, alter or
28 otherwise interfere with a lien, charge, covenant or
29 relative priority, that is:

30 (A) held by a holder of a debt obligation of a

1 distressed [city] municipality; and

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

4 (iii) Provisions that unilaterally impair or modify
5 existing bonds, notes, municipal securities or other
6 lawful contractual or legal obligations of the distressed
7 [city] municipality or authority[, except as otherwise <--
8 ordered by a court of competent jurisdiction]. <--

9 (iv) Provisions that authorize the use of the
10 proceeds of the sale, lease, conveyance, assignment or
11 other use or disposition of the assets of the distressed
12 [city] municipality or authorities in a manner contrary
13 to section 707.

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

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

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

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

24 (3) If the secretary determines that the consent
25 agreement is sufficient to overcome the distressed [city's]
26 municipality's financial distress and approves the agreement,
27 the governing body shall enact the consent agreement in the
28 form of an ordinance within seven days of approval by the
29 secretary.

30 (4) The ordinance shall provide that, in the event of a

1 breach or unilateral modification of the consent decree by
2 the governing body or an elected or appointed official, the
3 Governor may institute or reinstitute proceedings under
4 Chapter 7.

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

9 (1) Failure of the governing body of the distressed
10 [city] municipality to convene or the failure of a quorum of
11 the governing body to participate in a special public meeting
12 required by subsection (a).

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

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

19 (4) Enactment by the distressed [city] municipality of
20 an amendment to the ordinance enacted in subsection (c) in
21 violation of subsection (e).

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

24 (f) Collective bargaining.--A collective bargaining
25 agreement or arbitration settlement executed following the
26 enactment of an ordinance under this section may not in any
27 manner violate, expand or diminish the provisions of the consent
28 agreement, PROVIDED, HOWEVER, THAT THE PROVISIONS OF SECTION 252 <--
29 SHALL APPLY TO ANY CONSENT AGREEMENT ADOPTED IN ACCORDANCE WITH
30 THIS SUBCHAPTER.

1 Section 608. Termination of fiscal emergency and suspension of
2 powers.

3 (a) [Financial] Fiscal emergency.--A fiscal emergency shall
4 end upon certification by the secretary that the [city is no
5 longer financially distressed.] municipality:

6 (1) is solvent and is not projected to be insolvent
7 within 180 days or less; and

8 (2) is able to ensure the continued provision of vital
9 and necessary services after the termination of the fiscal
10 emergency.

11 (b) Governor's powers.--The emergency powers of the Governor
12 under this chapter shall be suspended upon the enactment and
13 continued implementation of an ordinance under section 607 or
14 entry of a judicial order appointing a receiver under section
15 702.

16 Section 609. Restrictions.

17 (a) Earned income tax on nonresidents.--A distressed [city]
18 municipality subject to this chapter or Chapter 7 may not
19 petition a court of common pleas for an increase in the rate of
20 an earned income tax imposed on nonresident workers under
21 section 123(c) [until the secretary terminates the distress
22 status of the city under section 253] unless the conditions
23 under section 710.1(c) are met.

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

29 Section 610. Applicability.

30 (a) Statement.--

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

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

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

9 Section 29. Chapter 7 heading of the act, added October 20,
10 2011 (P.L.318, No.79), is amended to read:

11 CHAPTER 7

12 RECEIVERSHIP IN [CITIES OF THE
13 THIRD CLASS] MUNICIPALITIES

14 Section 30. Sections 701, 702, 703, 704, 705(g), 706, 707,
15 708 and 709 of the act, added October 20, 2011 (P.L.318, No.79),
16 are amended to read:

17 Section 701. Definitions.

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

21 "Authority." A municipal authority, parking authority or any
22 other authority or corporate entity that is directly or
23 indirectly controlled by a distressed [city] municipality or to
24 which a distressed [city] municipality has power of appointment.
25 The term shall not include a joint municipal authority.

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

27 "Debt obligations." Any obligation to pay money, including
28 amounts owed for payments relating to lease rental debt, debt
29 service, bonds, notes, guarantees for bonds or notes, trust
30 indentures, contracts or other agreements.

1 "Distressed [city] municipality." A [city] municipality
2 which has been determined to be financially distressed under
3 section 203(f).

4 "Fiscal emergency." A determination made by the Governor
5 under section 602(b) ~~or as provided in Subchapter C.1 of Chapter~~ <--
6 2.

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

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

- 11 (1) Police and fire services.
- 12 (2) Ambulance and rescue services.
- 13 (3) Water supply and distribution.
- 14 (4) Wastewater services.
- 15 (5) Refuse collection and disposal.
- 16 (6) Snow removal.
- 17 (7) Payroll and pension obligations.
- 18 (8) Fulfillment of payment of debt obligations or any
19 other financial obligations.

20 Section 702. Receivership.

21 (a) Receiver.--Following the issuance of a declaration of
22 fiscal emergency under section 602(b) ~~or as provided in~~ <--
23 ~~Subchapter C.1 of Chapter 2~~, the Governor may direct the
24 secretary to file a petition in Commonwealth Court to appoint
25 the individual named in the petition as a receiver for the
26 distressed [city] municipality. The court shall have no
27 authority to appoint anyone other than the individual named in
28 the petition as the receiver.

29 (b) Service and notice.--

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

1 (i) the governing body of the distressed [city]
2 municipality;

3 (ii) the chief executive officer of the distressed
4 [city] municipality; and

5 (iii) the governing body of each authority.

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

8 (c) Hearing.--Upon notification of the Governor of the
9 failure of the distressed [city] municipality to adopt a valid
10 ordinance under section 607 ~~or a notification by the secretary~~ <--
11 ~~as provided in Subchapter C.1 of Chapter 2~~, Commonwealth Court
12 shall conduct a hearing within 15 days on the petition.

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

17 (1) Thirty days have passed since the declaration of a
18 fiscal emergency.

19 (2) There has been a failure by:

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

22 (ii) the governing body of the distressed [city]
23 municipality to implement an ordinance under section 607;
24 [or]

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

28 (iv) (Reserved).

29 (3) A fiscal emergency under section 602(a) ~~or~~ <--
30 ~~Subchapter C.1 of Chapter 2~~ continues to exist.

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

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

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

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

8 (4) direct the receiver to develop a recovery plan
9 within 30 days under section 703 and submit it to the court,
10 the secretary, the governing body and, if applicable, the
11 chief executive officer of the distressed [city]
12 municipality; and

13 (5) require and empower the receiver to implement the
14 emergency action plan developed by the secretary under
15 section 602 until a recovery plan developed by the receiver
16 is approved by the court under section 703.

17 (f) Additional actions.--

18 (1) The Governor may direct the secretary to file a
19 petition in Commonwealth Court to appoint an individual named
20 in the petition as a receiver for the distressed [city]
21 municipality if the distressed [city] municipality fails to
22 comply with or has amended the ordinance without the approval
23 of the secretary under section 607(d)(3) or (4).

24 (2) The court shall conduct a hearing on the petition
25 under paragraph (1) within 15 days of the filing of the
26 petition.

27 (3) No later than 60 days following the filing of the
28 petition under paragraph (1), the court shall issue an order
29 under subsection (e) if it finds by a preponderance of the
30 evidence that the distressed [city] municipality has failed

1 to comply with section 607(d)(3) or (4).

2 Section 703. Recovery plan.

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

8 (b) Contents.--The receiver shall consider the plan prepared
9 by the coordinator under section 241 and any other existing
10 alternate plans in the development of the recovery plan. The
11 following shall apply:

12 (1) The recovery plan shall provide for all of the
13 following:

14 (i) Continued provision of vital and necessary
15 services.

16 (ii) Payment of the lawful financial obligations of
17 the distressed [city] municipality and authorities. This
18 subparagraph includes debt obligations, municipal
19 securities, lease rental obligations, legal obligations
20 and consensual modifications of existing obligations.

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

24 (2) The recovery plan may include:

25 (i) the sale, lease, conveyance, assignment or other
26 use or disposition of the assets of the distressed [city]
27 municipality or authority;

28 (ii) the approval, modification, rejection,
29 renegotiation or termination of contracts or agreements
30 of the distressed [city] municipality or authorities,

1 except to the extent prohibited by the Constitutions of
2 the United States and Pennsylvania;

3 (iii) the execution of new contracts or agreements;

4 and

5 (iv) other information the receiver deems
6 appropriate.

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

9 (1) Unilaterally levy taxes.

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

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

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

16 (3) Unilaterally impair or modify existing bonds, notes,
17 municipal securities or other lawful contractual or legal
18 obligations of the distressed [city] municipality or
19 authority[, except as otherwise ordered by a court of <--
20 competent jurisdiction]. <--

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

25 (d) Confirmation.--Commonwealth Court shall conduct a
26 hearing on the recovery plan within 30 days of the receipt of
27 the plan from the receiver. The court shall confirm the plan
28 within 60 days of the receipt of the plan unless it finds clear
29 and convincing evidence that the plan is arbitrary, capricious
30 or wholly inadequate to alleviate the fiscal emergency in the

1 distressed [city] municipality.

2 (e) Modification of plan.--The receiver shall notify the
3 Commonwealth Court of any modification to the plan. The court
4 may conduct a hearing on the modification within 30 days of its
5 receipt. The court shall confirm the modification within 60 days
6 of receipt of notification of the modification unless it finds
7 clear and convincing evidence that the recovery plan as modified
8 is arbitrary, capricious or wholly inadequate to alleviate the
9 fiscal emergency in the distressed [city] municipality.

10 Section 704. Confirmation.

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

14 (1) imposing on the elected and appointed officials of
15 the distressed [city] municipality or an authority a
16 mandatory duty to undertake the acts set forth in the
17 recovery plan;

18 (2) suspending the authority of the elected and
19 appointed officials of the distressed [city] municipality or
20 an authority to exercise power on behalf of the distressed
21 [city] municipality or authority pursuant to law, charter,
22 ordinance, rule or regulation to the extent that the power
23 would interfere with the powers granted to the receiver or
24 the goals of the recovery plan; and

25 (3) superseding the emergency action plan developed by
26 the secretary under section 602.

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

30 (1) change the form of government of the distressed

1 [city] municipality or an authority; or

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

5 (c) Collective bargaining.--A collective bargaining
6 agreement or arbitration settlement executed after confirmation
7 of a recovery plan may not, in any manner, violate, expand or
8 diminish the provisions of the recovery plan, PROVIDED, HOWEVER, <--
9 THAT THE PROVISIONS OF SECTION 252 SHALL APPLY TO ANY RECOVERY
10 PLAN ADOPTED IN ACCORDANCE WITH THIS CHAPTER.

11 Section 705. Receiver.

12 * * *

13 (g) Liability.--The receiver shall not be liable personally
14 for any obligations of the distressed [city] municipality or
15 authority. It is declared to be the intent of the General
16 Assembly that the receiver shall enjoy sovereign and official
17 immunity as provided in 1 Pa.C.S. § 2310 (relating to sovereign
18 immunity reaffirmed; specific waiver) and shall remain immune
19 from suit except as provided by and subject to the provisions of
20 42 Pa.C.S. Ch. 85 Subchs. A (relating to general provisions) and
21 B (relating to actions against Commonwealth parties).

22 Section 706. Powers, duties and prohibited actions.

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

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

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

1 (3) To require the distressed [city] municipality or
2 authority to negotiate intergovernmental cooperation
3 agreements between the distressed [city] municipality and
4 other political subdivisions in order to eliminate and avoid
5 deficits, maintain sound budgetary practices and avoid
6 interruption of municipal services.

7 (4) To submit quarterly reports to the governing body
8 and, if applicable, the chief executive officer of the
9 distressed [city] municipality and to the department. The
10 reports shall be posted on [the] a publicly accessible
11 Internet website [for] maintained by the distressed [city]
12 municipality.

13 (5) To require the distressed [city] municipality or
14 authority to cause the sale, lease, conveyance, assignment or
15 other use or disposition of the distressed [city's]
16 municipality's or authority's assets in accordance with
17 section 707.

18 (6) To approve, disapprove, modify, reject, terminate or
19 renegotiate contracts and agreements with the distressed
20 [city] municipality or authority, except to the extent
21 prohibited by the Constitutions of the United States and
22 Pennsylvania.

23 (7) To direct the distressed [city] municipality or
24 authority to take any other action to implement the recovery
25 plan.

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

29 (9) [After July 1, 2012, to] To file a municipal debt
30 adjustment action under the Bankruptcy Code (11 U.S.C. § 101

1 et seq.) and to act on the [city's] municipality's behalf in
2 the proceeding. The power under this paragraph shall only be
3 exercised upon the written authorization of the secretary.
4 The filing of a municipal debt adjustment action under this
5 paragraph and any plan of the receiver accepted by the
6 Federal court shall be considered a modification of the
7 recovery plan, except that the modification shall not be
8 subject to judicial review under section 709. A recovery plan
9 submitted to and approved by the Federal court under a
10 Federal municipal debt adjustment action may include Federal
11 remedies not otherwise available under this chapter.

12 (10) To meet and consult with the advisory committee
13 under section 711.

14 (11) To employ financial or legal experts deemed
15 necessary to develop and implement the recovery plan.
16 Notwithstanding any law to the contrary, the employment of
17 such experts shall not be subject to contractual competitive
18 bidding procedures.

19 (b) Authorization prohibited.--Neither this chapter nor the
20 recovery plan shall be interpreted to authorize the receiver to
21 do any of the following:

22 (1) Unilaterally levy taxes.

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

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

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

29 (3) Unilaterally impair or modify existing bonds, notes,
30 municipal securities or other lawful contractual or legal

1 obligations of the distressed [city] municipality or
2 authority[, except as otherwise ordered by a court of <--
3 competent jurisdiction]. <--

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

8 Section 707. Use or disposition of assets.

9 (a) Use of proceeds.--The proceeds from any sale, lease,
10 conveyance, assignment or other use or disposition of assets of
11 the distressed [city] municipality or authority shall be applied
12 to the payment of outstanding debt obligations owed by the
13 distressed [city] municipality or authority, subject to any
14 lien, charge, covenant, restriction, contract, law, rule or
15 regulation, that encumbers or is otherwise applicable to the
16 assets. Proceeds remaining after payment of outstanding debt
17 obligations owed by the distressed [city] municipality or
18 authority may be used by the receiver to restructure or provide
19 escrow for the payment of future debt obligations or to meet
20 operating and capital needs of the distressed [city]
21 municipality or authority.

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

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

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

30 Section 708. Elected and appointed officials.

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

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

5 (2) refrain from taking any action that would interfere
6 with the powers granted to the receiver or the goals of the
7 recovery plan.

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

10 Section 709. Judicial actions.

11 (a) Action by receiver.--The receiver may petition
12 Commonwealth Court to issue a writ of mandamus upon any elected
13 or appointed official of the distressed [city] municipality or
14 authority to secure compliance with an order issued under
15 section 708. The court shall grant or deny the relief within 14
16 days of the filing of the petition. The court shall grant the
17 relief requested if it determines that the order was issued in
18 compliance with this chapter.

19 (b) Action by elected or appointed officials.--Any elected
20 or appointed official of a distressed [city] municipality or
21 authority may petition Commonwealth Court to enjoin any action
22 of the receiver that is contrary to this chapter.

23 Section 30.1. Section 710 of the act is amended by adding a
24 subsection to read:

25 Section 710. Termination of receivership.

26 * * *

27 (c) Termination of fiscal emergency.--Notwithstanding the
28 date of expiration of receivership under subsection (a) or an
29 extension of receivership under subsection (b), the receivership
30 shall terminate upon the secretary's termination of a fiscal

1 emergency under section 608(a).

2 Section 31. The act is amended by adding a section to read:

3 Section 710.1. Continuation of recovery plan.

4 (a) Administrative determination required.--Within 30 days
5 of the termination or expiration of the receivership under
6 section 710, the secretary shall issue one of the following
7 administrative determinations:

8 (1) conditions within the municipality warrant a
9 termination in status in accordance with section ~~253~~ 255.1; <--
10 or

11 (2) the municipality continues to be financially
12 distressed.

13 (b) Appointment of coordinator.--Upon a determination under
14 subsection (a) (2), a recovery plan adopted under section 703
15 shall remain in effect and be deemed to be a plan adopted under
16 Chapter 2. The secretary shall appoint a coordinator in
17 accordance with section 221. The receiver may be appointed as
18 coordinator. The coordinator shall implement the recovery plan
19 under section 247(a) subject to the following:

20 (1) The plan shall be subject to amendment in accordance
21 with section 249, provided that nothing in this section shall
22 authorize the impairment of existing lawful contractual or
23 legal obligations of the distressed municipality except where
24 otherwise permitted by law.

25 (2) The coordinator may exercise the same powers and
26 duties of this chapter as a receiver for the purposes of
27 issuing orders under section 708, and seek enforcement of
28 such orders under section 709. The Commonwealth Court shall
29 retain jurisdiction to hear an action under this paragraph.

30 (3) The plan shall terminate as provided in section

1 ~~254(b) (2), subject to further proceedings in accordance with~~ <--
2 ~~Chapter 2, Subchapter C.1.~~

3 (c) Conditions for increasing taxes on nonresident income.--

4 Notwithstanding any other provision of law, a municipality
5 exiting receivership and subject to a determination under
6 subsection (a) (2) shall be subject to the same requirements as a
7 city of the second class A under section 123(c) (3) before being
8 authorized to increase the rate of taxation on nonresident
9 income.

10 Section 32. Sections 711(a) and (b) and 712(a) (1) of the
11 act, added October 20, 2011 (P.L.312, No.79), are amended to
12 read:

13 Section 711. Municipal financial recovery advisory committee.

14 (a) Establishment.--[There is established a] A municipal
15 financial recovery advisory committee is established to meet and
16 consult with the receiver in carrying out the duties under this
17 chapter. The sole function of the advisory committee shall be to
18 provide recommendations and feedback to the receiver on the
19 implementation of the recovery plan.

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

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

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

26 (3) One member appointed by the county commissioners of
27 the county where the distressed [city] municipality is
28 located.

29 (4) One member appointed by the Governor.

30 * * *

1 Section 712. Applicability.

2 (a) Statement.--

3 (1) This chapter shall apply only to distressed [cities]
4 municipalities.

5 * * *

6 Section 33. This act shall apply as follows:

7 (1) The addition of section 122(c) of the act shall
8 apply to any and all regulations in effect on the effective
9 date of this section.

10 (2) The amendment or addition of sections 608, 710 and
11 710.1(a) and (b) of the act shall not apply to a municipality
12 that entered receivership prior to the effective date of this
13 section and shall not supersede or constitute grounds to
14 modify any order of court issued prior to the effective date
15 of this section.

16 Section 34. This act shall take effect in 60 days.