
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1773 Session of
2013

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

SENATOR EICHELBERGER, LOCAL GOVERNMENT, IN SENATE, AS AMENDED,
JUNE 18, 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:

23 AN ACT

24 Amending the act of July 10, 1987 (P.L.246, No.47), entitled "An

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

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

16 Section 102. Purpose and legislative intent.

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

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

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

30 (i) Enact procedures to provide municipalities

1 showing early indicators of financial distress with
2 training and technical and financial assistance.

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

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

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

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

25 (2) Changing and deteriorating economic conditions,
26 developing technologies and attendant unemployment erode
27 local tax bases and threaten essential municipal services.
28 Under such circumstances, such distressed governmental units
29 may no longer be viable and that the citizens of those
30 communities should be granted the opportunity in accordance

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

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

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

15 (i) constitutes a fiscal emergency; and

16 (ii) signifies:

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

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

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

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

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

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

13 Section 103. Definitions.

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

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

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

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

28 "Chief executive officer." Mayor in a mayor-council form of
29 government or manager in a council-manager form of government of
30 a city operating under an optional form of government pursuant

1 to the act of July 15, 1957 (P.L.901, No.399), known as the
2 Optional Third Class City Charter Law; a mayor of a city of the
3 first class under the act of April 21, 1949 (P.L.665, No.155),
4 known as the First Class City Home Rule Act; or an individual
5 serving in such capacity as designated by a home rule charter or
6 optional plan pursuant to the act of April 13, 1972 (P.L.184,
7 No.62), known as the Home Rule Charter and Optional Plans Law.

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

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

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

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

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

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

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

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

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

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

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

1 and the remainder subject to disclosure as otherwise provided
2 by this act.

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

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

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

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

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

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

21 Section 121. Powers and duties of department.

22 (a) Compile financial data.--

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

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

1 applicable to the municipality's prior fiscal year.

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

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

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

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

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

1 application as provided in Chapter 1-A. If the municipality
2 adopts those recommendations, the department need take no
3 further action.

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

12 * * *

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

15 Section 122. Duties of Commonwealth agencies.

16 * * *

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

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

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

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

29 (2) It is the intent of this subsection that distressed
30 municipalities be considered for relief from regulatory

1 mandates that, due to financial distress or the
2 implementation of recovery measures, are unduly burdensome on
3 the municipality and would not undermine the regulatory
4 purposes of the agency if waived.

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

7 Section 123. Powers and duties of municipalities.

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

21 (b) File applications for grants and loans.--A financially
22 distressed municipality may apply to the secretary for emergency
23 financial aid in the form of a grant or loan pursuant to Chapter
24 3.

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

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

1 or both, beyond maximum rates provided by law.

2 (1.1) In addition to the right under paragraph (1), a
3 municipality may petition the court to INCREASE THE RATE OF A <--
4 LOCAL SERVICES TAX AND levy a payroll preparation tax as
5 provided in subsection (d).

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

19 (3) A petition filed by a city of the second class A or
20 a home rule municipality that was previously a city of the
21 second class A under this subsection may not include an
22 increase in a [tax] RATE OF TAXATION on nonresident income <--
23 THAT IS GREATER THAN AN INCREASE IN THE RATE OF TAXATION, <--
24 OVER THE HIGHEST RATE LEVIED IN THE PREVIOUS FISCAL YEAR, ON
25 RESIDENT INCOME. A PETITION SHALL NOT INCLUDE AN INCREASE IN
26 A RATE OF TAXATION ON NONRESIDENT INCOME unless the
27 municipality certifies to the court, with regard to those
28 provisions of the plan having a measurable fiscal impact,
29 that:

30 (i) the municipality has substantially implemented

1 the provisions which are within the authority of the
2 chief executive officer or governing body, including, but
3 not limited to, provisions of the plan that call for
4 increasing existing tax rates levied on residents and
5 increasing fees charged by the municipality;

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

12 (iii) the additional income from the aforementioned
13 actions is insufficient to balance the municipal budget,
14 necessitating additional revenue from an increase in the
15 tax on nonresident income.

16 (d) Additional tax options and limitations.--After a
17 municipality has adopted a plan under Subchapter C or C.1 of
18 Chapter 2 and with the approval of the court, it may adopt an
19 ordinance imposing THE FOLLOWING: <--

20 (1) A LOCAL SERVICES TAX PURSUANT TO CHAPTER 3 OF THE
21 ACT OF DECEMBER 31, 1965 (P.L.1257, NO.511), KNOWN AS THE
22 LOCAL TAX ENABLING ACT, AT A RATE NOT TO EXCEED \$156. A
23 MUNICIPALITY ADOPTING AN ORDINANCE UNDER THIS PARAGRAPH SHALL
24 BE PROHIBITED FROM IMPOSING ANY ADDITIONAL TAX ON EARNED
25 INCOME PURSUANT TO SUBSECTION (C). A MUNICIPALITY LEVYING THE
26 LOCAL SERVICES TAX AT A RATE IN EXCESS OF \$52 SHALL, BY
27 ORDINANCE, EXEMPT ANY PERSON FROM THE LOCAL SERVICES TAX
28 WHOSE TOTAL EARNED INCOME AND NET PROFITS FROM ALL SOURCES
29 WITHIN THE MUNICIPALITY IS LESS THAN \$15,600 FOR THE CALENDAR
30 YEAR IN WHICH THE LOCAL SERVICES TAX IS LEVIED. THIS

1 PARAGRAPH DOES NOT APPLY TO A MUNICIPALITY WHICH, ON THE
2 EFFECTIVE DATE OF THIS SUBSECTION, IS NOT AUTHORIZED TO
3 PETITION THE COURT OF COMMON PLEAS FOR THE IMPOSITION OF AN
4 EARNED INCOME TAX ON NONRESIDENTS.

5 (2) A payroll preparation tax pursuant to section 303 of <--
6 the act of December 31, 1965 (P.L.1257, No.511), known as The <--
7 Local Tax Enabling Act. A municipality imposing a tax under
8 this paragraph may levy a tax at a rate as provided in this
9 section and as certified by the coordinator and approved by
10 the court. When imposing a tax under this paragraph the
11 municipality may impose the tax not to exceed a rate that is
12 sufficient to produce revenues equal to revenues collected as
13 a result of a business privilege tax and a mercantile tax
14 under Chapter 3 of The Local Tax Enabling Act in the
15 preceding fiscal year. AFTER APPROVAL BY THE COURT OF THE TAX <--
16 AT THE RATE AS PROVIDED IN THIS SECTION, THE MUNICIPALITY MAY
17 LEVY THE TAX IN ANY SUBSEQUENT YEAR WITHOUT ADDITIONAL COURT
18 APPROVAL, INCLUDING ANY YEAR AFTER THE TERMINATION OF THE
19 MUNICIPALITY'S DISTRESSED STATUS, AT A RATE NOT TO EXCEED
20 THAT INITIALLY APPROVED BY THE COURT. A municipality adopting
21 a payroll preparation tax under this paragraph shall suspend <--
22 the levy of MAY NOT LEVY a business privilege tax or <--
23 mercantile tax until expiration of the payroll preparation <--
24 tax authorized under this paragraph at which time the
25 municipality may resume its levy of the business privilege
26 tax or mercantile tax. The authority provided by this
27 paragraph is limited to those municipalities levying a
28 business privilege or mercantile tax, on a flat-rate or
29 millage basis, in the year of the filing of a petition as
30 provided in subsection (c).

1 (E) LOCAL SERVICES TAX IN MUNICIPALITIES SUBJECT TO THIS ACT <--
2 WITH DISTRESSED PENSION SYSTEMS.--

3 (1) A FINANCIALLY DISTRESSED MUNICIPALITY THAT HAS ALSO
4 RECEIVED A DETERMINATION THAT IT HAS A FINANCIALLY DISTRESSED
5 PENSION SYSTEM UNDER SECTION 603 OF THE ACT OF DECEMBER 18,
6 1984 (P.L.1005, NO.205), KNOWN AS THE MUNICIPAL PENSION PLAN
7 FUNDING STANDARD AND RECOVERY ACT, MAY ADOPT AN ORDINANCE,
8 WITHOUT COURT APPROVAL, AND AS RECOMMENDED IN A PLAN ADOPTED
9 UNDER SUBCHAPTER C OR C.1 OF CHAPTER 2, IMPOSING A LOCAL
10 SERVICES TAX PURSUANT TO CHAPTER 3 OF THE LOCAL TAX ENABLING
11 ACT AT A RATE NOT TO EXCEED \$156, OR, IN A TAX YEAR DURING
12 WHICH THE INCOME OF NONRESIDENTS IS SUBJECT TO A TAX ABOVE
13 MAXIMUM RATES AS PROVIDED IN SECTION 607(F) OF THE MUNICIPAL
14 PENSION PLAN FUNDING STANDARD AND RECOVERY ACT, A RATE NOT TO
15 EXCEED \$104. A MUNICIPALITY ADOPTING AN ORDINANCE UNDER THIS
16 PARAGRAPH SHALL BE PROHIBITED FROM PETITIONING THE COURT FOR
17 AN INCREASE IN THE RATE OF TAXATION ON THE INCOME OF
18 NONRESIDENTS UNDER THIS SECTION. A MUNICIPALITY LEVYING THE
19 LOCAL SERVICES TAX AT A RATE IN EXCESS OF \$52 SHALL, BY
20 ORDINANCE, EXEMPT ANY PERSON FROM THE LOCAL SERVICES TAX
21 WHOSE TOTAL INCOME AND NET PROFITS FROM ALL SOURCES WITHIN
22 THE MUNICIPALITY IS LESS THAN \$15,600 FOR THE CALENDAR YEAR
23 IN WHICH THE LOCAL SERVICES TAX IS LEVIED. IN ADDITION TO THE
24 USES AUTHORIZED BY SECTION 330 OF THE LOCAL TAX ENABLING ACT,
25 REVENUE DERIVED FROM A RATE IN EXCESS OF \$52 MAY ONLY BE USED
26 FOR MUNICIPAL PURPOSES AS PROVIDED IN THE PLAN.

27 (2) A MUNICIPALITY THAT HAS LEVIED A LOCAL SERVICES TAX
28 PURSUANT TO PARAGRAPH (1) MAY CONTINUE TO LEVY A LOCAL
29 SERVICES TAX AT A RATE IN EXCESS OF \$52 IN ACCORDANCE WITH
30 PARAGRAPH (1) IN ANY SUBSEQUENT YEAR, PROVIDED THAT A TAX

1 LEVIED FOR ANY YEAR AFTER A TERMINATION OF DISTRESSED STATUS
2 SHALL BE AUTHORIZED SUBJECT TO ALL OF THE FOLLOWING:

3 (I) A PENSION PLAN OF THE MUNICIPALITY HAS UNFUNDED
4 ACTUARIAL ACCRUED PENSION LIABILITY.

5 (II) ALL REVENUE DERIVED FROM THAT PORTION OF THE
6 RATE IN EXCESS OF \$52 SHALL BE USED SOLELY TO DEFRAY THE
7 MUNICIPALITY'S UNFUNDED ACTUARIAL ACCRUED PENSION
8 LIABILITY.

9 (III) THE LOCAL SERVICES TAX LEVIED AT A RATE IN
10 EXCESS OF \$52 MAY NOT BE LEVIED IN THE SAME YEAR THAT THE
11 INCOME OF NONRESIDENTS IS SUBJECT TO A TAX ABOVE MAXIMUM
12 RATES AS PROVIDED IN SECTION 607(F) OF THE MUNICIPAL
13 PENSION PLAN FUNDING STANDARD AND RECOVERY ACT.

14 Section 141. Jurisdiction of court of common pleas.

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

24 (A.1) LEVY OF PAYROLL PREPARATION TAX.--THE COURT OF COMMON <--
25 PLEAS OF EACH COUNTY SHALL HAVE JURISDICTION TO HEAR A PETITION
26 FILED BY A MUNICIPALITY WHICH HAS ADOPTED A PLAN PURSUANT TO
27 SUBCHAPTER C OR C.1 OF CHAPTER 2 TO LEVY A PAYROLL PREPARATION
28 TAX AUTHORIZED BY SECTION 123(C)(1.1).

29 (A.2) INCREASE IN LOCAL SERVICES TAX.--THE COURT OF COMMON
30 PLEAS OF EACH COUNTY SHALL HAVE JURISDICTION TO HEAR A PETITION

1 FILED BY A MUNICIPALITY WHICH HAS ADOPTED A PLAN PURSUANT TO
2 SUBCHAPTER C OR C.1 OF CHAPTER 2 TO INCREASE THE RATE OF THE
3 LOCAL SERVICES TAX IN ACCORDANCE WITH SECTION 123(C)(1.1).

4 (b) Involuntary compromises of delinquent taxes.--The court
5 of common pleas of each county may hear a petition filed by at
6 least two taxing authorities having taxing power over the
7 properties within a municipality which has adopted a [final]
8 plan pursuant to Subchapter C or C.1 of Chapter 2 if the
9 petition requests a compromise of delinquent taxes due on a
10 property in that municipality. The court may order the property
11 to be sold at a sheriff's sale and the proceeds to be divided
12 among all authorities which are owed taxes for the property
13 sold. If the property is sold at sheriff's sale and if the
14 proceeds are insufficient to satisfy tax liens on the property,
15 the court shall order a proration of the sale proceeds among the
16 taxing authorities which fixed the liens.

17 Section 7. The act is amended by adding a chapter to read:

18 CHAPTER 1-A
19 EARLY INTERVENTION PROGRAM
20 SUBCHAPTER A
21 PRELIMINARY PROVISIONS

22 Section 101-A. Definitions.

23 The following words and phrases when used in this chapter
24 shall have the meanings given them in this section unless the
25 context clearly indicates otherwise:

26 "Center." The Governor's Center for Local Government
27 Services of the Department of Community and Economic Development
28 of the Commonwealth.

29 "Keystone Principles." The Keystone Principles and Criteria
30 for Growth Investment and Resource Conservation adopted May 31,

1 2005, by the Economic Development Cabinet to foster and measure
2 the effectiveness of sustainable economic development and
3 conservation of resources through the investment of Commonwealth
4 funds in its municipalities.

5 "Program." The Early Intervention Program established by
6 this chapter.

7 Section 102-A. Program objectives.

8 The Early Intervention Program established by this chapter
9 provides a municipality with a preemptive step for the purpose
10 of seeking guidance and assistance from the Commonwealth to
11 develop long-term financial management, administrative, service
12 delivery and economic development strategies that the
13 municipality can implement to avert a fiscal crisis and provide
14 fiscal stability. The specific objectives of the Early
15 Intervention Program include the following and are meant to:

16 (1) Provide the resources to assist a municipality in
17 identifying, prioritizing and addressing the financial
18 difficulties confronting it, while ensuring its short-term
19 and long-term goals and objectives are adequately taken into
20 account.

21 (2) Engage in a management review of its operations and
22 provide recommendations that will enhance financial
23 administration, management and service delivery of a
24 municipality.

25 (3) Strengthen the ability of a municipality to develop,
26 adopt, implement and monitor multiyear financial management
27 plans and to incorporate the process into its annual budget
28 process.

29 (4) Implement a system of multiyear revenue and
30 expenditure trend analysis, monitoring and forecasting so

1 that a municipality can better anticipate and plan for future
2 financial circumstances.

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

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

9 (7) Further the integration of sound community and
10 economic development strategies to encourage the economic
11 growth of the tax base of a municipality over a multiyear
12 period.

13 SUBCHAPTER B

14 ADMINISTRATIVE PROVISIONS

15 Section 103-A. Authorization.

16 The Early Intervention Program is established to authorize
17 the center to provide guidance and assistance through grants to
18 a municipality seeking to ensure fiscal stability by developing
19 and implementing long-term financial, managerial and economic
20 development strategies.

21 Section 104-A. Grants.

22 (a) General rule.--A grant may be awarded by the center to a
23 municipality or two or more municipalities cooperating together
24 to ensure fiscal stability through the development and
25 implementation of long-term financial, managerial and economic
26 development strategies in an amount not exceeding \$200,000
27 during the first fiscal year that commences on the effective
28 date of this section, adjusted for inflation in subsequent years
29 by an amount not to exceed an annual cost-of-living adjustment
30 calculated by applying the percentage change in the Consumer

1 Price Index immediately prior to the date the adjustment is due
2 to take effect. To be eligible for a grant for implementation
3 funding, a municipality must meet the basic training
4 requirements established in guidelines developed by the center.

5 (b) Match.--The grant amount is subject to a 50% financial
6 match by the municipality to which the grant was provided,
7 unless the center determines a match by the municipality of a
8 lesser amount not less than 10% is warranted. The center may
9 authorize any portion of the municipality's financial match to
10 be offset by an in-kind match.

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

13 (1) The development of multiyear financial management
14 plan for a municipality.

15 (2) The development of multimunicipal or regional
16 intergovernmental cooperation initiatives and cost-sharing
17 strategies.

18 (3) A study to improve the management and operational
19 practices and financial administration procedures of a
20 municipality.

21 (4) A merger or consolidation feasibility study.

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

24 (6) Training and capacity-building activities that meet
25 basic requirements established in guidelines developed by the
26 center which assist the municipality in the implementation of
27 plan recommendations.

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

30 (8) AN AUDIT, PREPARED BY AN INDEPENDENT ACCOUNTANT OR <--

1 FIRM, AS REQUIRED BY SECTION 108-A.

2 Section 105-A. Application.

3 A program application must be submitted by the applicant
4 municipality on a form prescribed by the department utilizing
5 the electronic single application format and include or
6 demonstrate all of the following:

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

9 (2) The name of a contact person.

10 (3) The execution of a supporting resolution authorizing
11 the submission of the application and committing the
12 resources of the municipality or, in the case of a
13 multimunicipal application, municipalities.

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

17 (5) Any other information required by the department.

18 Section 106-A. Evaluation criteria.

19 The center shall evaluate a program application on the basis
20 of municipal financial characteristics and the quality of the
21 proposed program, including the extent to which the program is
22 estimated to improve the administrative, operational and
23 financial management capacity of the applicant municipality. The
24 following factors shall be considered in the evaluation:

25 (1) The current and projected financial condition of the
26 municipality.

27 (2) The economic and demographic condition of the
28 municipality.

29 (3) The proactive measures the municipality has taken to
30 manage its finances in a responsible manner, including

1 attempts to reduce expenditures, increase revenues, adopt
2 sound management practices, establish municipal priorities
3 and adhere to generally accepted financial management, budget
4 and financial reporting standards.

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

10 (5) The extent to which the municipality has
11 demonstrated its willingness and commitment to improve its
12 financial and administrative operation through the adoption
13 and implementation of a multiyear financial management plan.

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

16 (7) Where applicable, the elements of the Keystone
17 Principles shall be included as part of the evaluation
18 criteria.

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

20 Section 107-A. Award.

21 The secretary shall announce by letter applications selected
22 for funding. The contact person specified in the application
23 shall be sent the offer letter. All funding decisions shall be
24 made subject to the availability of funds.

25 Section 108-A. Guidelines.

26 The department shall establish guidelines consistent with
27 this chapter, particularly the program requirements and
28 measurements to ensure a municipality is provided with adequate
29 guidance. The program shall include a requirement of a financial
30 audit of the municipality, prepared by an independent accountant

1 or firm, for the fiscal year immediately preceding the
2 application for funds under this chapter. The department may
3 establish guidelines for the audit, and the requirement may be
4 satisfied by any previous audit prepared in accordance with the
5 guidelines.

6 Section 8. Section 203(c) and (g) of the act, amended June
7 30, 1992 (P.L.336, No.69), are amended to read:

8 Section 203. Procedure for determination.

9 * * *

10 (c) Investigation.--After receiving the request but before
11 the public hearing, the secretary may make an investigation into
12 the financial affairs of the municipality. The results of the
13 investigation or any study previously conducted by the
14 department OR WITH DEPARTMENT FUNDS under Chapter 1-A or section <--
15 121 shall be placed in the record of the public hearing.

16 * * *

17 (g) Appeal.--A determination by the secretary under this
18 [act] section is appealable pursuant to [Title 2 of the
19 Pennsylvania Consolidated Statutes (relating to administrative
20 law and procedure)] 2 Pa.C.S. Ch. 7 Subch. A (relating to
21 judicial review of Commonwealth agency action).

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

24 Section 221. Designation.

25 * * *

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

29 (1) Present, at a public meeting within 45 days of the
30 execution of the contract between the department and the

1 coordinator, a list of the coordinator's preliminary
2 findings, as to the financial condition of municipality. The
3 list of findings shall include, but is not limited to, a
4 quantification of all operating deficits for the current
5 fiscal year and a projection of revenues and operating
6 expenses for the next three fiscal years, all outstanding
7 debt obligations, the cost and term of all outstanding
8 contracts, and other relevant information.

9 (2) Solicit, not later than the date of the
10 coordinator's presentation described in paragraph (1),
11 comments IN WRITING relating to the issues associated with <--
12 the municipality's distress from such persons and entities
13 who:

14 (i) have participated in the early intervention
15 process;

16 (ii) have provided consultation on behalf of the
17 municipality relating to the issues associated with its
18 distress; or

19 (iii) are elected officials or employees of the
20 municipality or labor organizations representing
21 employees of the municipality.

22 (3) Consider all comments submitted within 30 days of
23 the coordinator's presentation described in paragraph (1)
24 before preparing and administering a plan designed to relieve
25 the financial distress of the municipality which the
26 coordinator has been appointed to serve.

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

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

30 (2) Investigate the tax-exempt status of any property

1 within a distressed municipality and advise the governing
2 body of the municipality to appeal the assessment or exempt
3 status of property within the distressed municipality.

4 (3) Solicit and negotiate payments in lieu of taxes from
5 institutions of public charity and other tax-exempt property
6 owners in the municipality AND RECOMMEND ACTION BY THE <--
7 MUNICIPALITY.

8 Section 222. Access to information.

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

11 (b) Enforcement where records in possession of official or
12 public employee.--If the coordinator believes that an official
13 or employee of the municipality or an authority is not answering
14 questions accurately or completely or is not furnishing
15 information requested, the coordinator may notify the official
16 or employee in writing to furnish answers to questions or to
17 furnish documents or records, or both. If the official or
18 employee refuses, the coordinator may seek a subpoena in the
19 court of common pleas to compel testimony and furnish records
20 and documents. An action in mandamus shall lie to enforce the
21 provisions of this section.

22 (c) Enforcement where records in possession of other
23 persons.--If the coordinator believes that a person is not
24 furnishing information related to municipal records and that
25 person is not subject to subsection (b), the coordinator may
26 seek a subpoena in the court of common pleas to compel testimony
27 and furnish records and documents.

28 Section 223. Public and private meetings.

29 (a) Public meetings authorized.--The coordinator may hold
30 public meetings as defined in [the act of July 3, 1986 (P.L.388,

1 No.84), known as the Sunshine Act] 65 Pa.C.S. Ch. 7 (relating to
2 open meetings), in connection with plan preparation.

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

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

11 (a) Review of coordinator.--Beginning on July 1, 2015, the
12 secretary, or his designee, shall conduct an annual review of
13 each coordinator appointed under section 221 to assess whether
14 the coordinator's performance has been in compliance with the
15 requirements of the coordinator's contract, if any, and the
16 provisions of this act.

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

20 Section 11. Section 241 of the act, amended or added June
21 30, 1992 (P.L.336, No. 69) and July 5, 2012 (P.L.1104, No.133)
22 and repealed in part October 13, 1994 (P.L.596, No.90), is
23 amended to read:

24 Section 241. Contents.

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

29 (1) Projections of revenues and expenditures for the
30 current year and the next [three] five years, both assuming

1 the continuation of present operations and as impacted by the
2 measures in the plan. The projections must include an
3 itemization of the following:

4 (i) Projected revenues, including:

5 (A) Local taxes.

6 (B) Licenses, permits and fines.

7 (C) Sales and rentals.

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

9 (E) Any other sources of projected revenue.

10 (ii) Projected expenditures, including:

11 (A) Debt service.

12 (B) Workforce.

13 (C) Elected and executive officials.

14 (D) Financial management.

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

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

19 (G) Other professional services.

20 (H) Public safety.

21 (I) Community and economic development.

22 (J) Any other applicable expenditures.

23 (2) Recommendations which will:

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

26 (ii) Eliminate deficits and deficit funds.

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

30 (iv) Balance the budget, avoid future deficits in

1 funds and maintain current payments of payroll, [fringe]
2 benefits and accounts through possible revenue
3 enhancement recommendations, including tax or fee
4 changes.

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

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

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

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

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

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

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

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

30 [(7) An analysis of whether the economic conditions of

1 the municipality are so severe that it is reasonable to
2 conclude that the municipality is no longer viable and should
3 consolidate or merge with an adjacent municipality or
4 municipalities.]

5 (7.1) An analysis of whether the economic conditions
6 within the municipality are so severe that it is no longer
7 viable and should consolidate or merge with an adjacent
8 municipality or municipalities in accordance with 53 Pa.C.S.
9 Ch. 7 (relating to alteration of territory or corporate
10 entity and dissolution) or disincorporate in accordance with
11 Chapter 4.

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

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

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

20 (10.1) Recommendations for enhanced cooperation and
21 changes in land use planning and zoning, including regional
22 approaches that would promote economic development and
23 improve residential, commercial and industrial use
24 availability within and around the municipality.

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

30 (12) An analysis of current revenue sources and

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

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

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

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

19 (iv) Revenue as defined in section 103.

20 Section 12. Section 242(a) of the act, amended December 19,
21 1988 (P.L.1272, No.157), is amended and the section is amended
22 by adding a subsection to read:

23 Section 242. Publication.

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

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

1 inspection in the municipal office.

2 (2) The secretary.

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

4 (4) The mayor.

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

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

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

9 * * *

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

15 * * *

16 Section 13. Section 245 of the act, amended December 19,
17 1988 (P.L.1272, No.157), is amended to read:

18 Section 245. Adoption by municipality.

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

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

30 Section 246. Preparation and action on alternate plan.

1 * * *

2 (d) Review by secretary.--

3 * * *

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

8 (i) The secretary's determination.

9 (ii) The reasons for the determination.

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

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

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

16 Section 247. Plan implementation.

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

20 * * *

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

23 * * *

24 Section 16. The act is amended by adding a section to read:
25 Section 247.1. Annual budget.

26 (a) Proposed budget.--Notwithstanding any provision of law
27 or home rule charter to the contrary, a municipality subject to
28 a plan under this chapter shall, at least ~~150~~ 120 days prior to <--
29 the end of its current fiscal year, commence development of a
30 proposed annual budget for the next fiscal year that implements

1 the provisions of the plan or makes other changes to the
2 management of the municipality necessary to implement the
3 provisions of the plan. The proposed budget shall be prepared by
4 the governing body or the chief executive officer, as the case
5 may be.

6 (b) Coordinator review.--At least ~~90~~ 75 days prior to the <--
7 end of the fiscal year, the governing body or chief executive
8 officer shall submit the proposed budget to the coordinator. The
9 coordinator shall review the proposed budget to verify that the
10 proposed budget conforms with the plan. The coordinator shall
11 make any modifications necessary to the proposed budget to meet
12 the objectives of the plan.

13 (c) Return of proposed budget.--After completion of the
14 coordinator's review, the coordinator shall, at least 45 days
15 before the end of the municipality's fiscal year, submit the
16 proposed budget, together with the coordinator's modifications,
17 if any, to the municipality for adoption in accordance with law.

18 (d) Notification to secretary.--Within 30 days of the
19 municipality's adoption of the budget, or the municipality's
20 failure to timely adopt a budget, the coordinator shall notify
21 the secretary whether or not the adopted budget, if any,
22 conforms to the plan. Upon a determination that the budget does
23 not conform to the plan, or that the municipality has not timely
24 adopted a budget, the secretary may take action as provided for
25 by this act.

26 Section 17. Sections 248 and 250 of the act are amended to
27 read:

28 Section 248. Failure to adopt or implement plan.

29 If no plan is adopted or implemented pursuant to this
30 chapter, then sections 251 and 264 shall apply[.] and, upon a

1 written recommendation of the coordinator, the secretary may
2 request a determination of a fiscal emergency in accordance with
3 Chapter 6.

4 Section 250. Debt provisions.

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

14 Section 18. Section 253 of the act is repealed:

15 [Section 253. Termination of status.

16 (a) Determination by secretary.--Following a duly advertised
17 public hearing with notices given as provided in section 203,
18 the secretary may issue a determination that the conditions
19 which led to the earlier determination of municipal financial
20 distress are no longer present. The determination shall rescind
21 the status of municipal financial distress and shall include a
22 statement of facts as part of the final order.

23 (b) Determination upon petition by a municipality.--A
24 financially distressed municipality may petition the secretary
25 to make a determination that the conditions which led to the
26 earlier determination of municipal financial distress are no
27 longer present. Upon receiving the petition, the secretary may
28 issue a determination to rescind following a duly advertised
29 public hearing with notices given as provided in section 203.

30 (c) Factors to consider.--In determining whether the

1 conditions which led to the earlier determination of municipal
2 financial distress are no longer present, the secretary shall
3 consider that:

4 (1) Monthly reports submitted by the coordinator to the
5 department under section 247(a)(3) indicate that termination
6 of the status of municipal financial distress is appropriate.

7 (2) Accrued deficits in the municipality have been
8 eliminated.

9 (3) Obligations issued to finance all or part of the
10 municipality's deficit have been retired.

11 (4) The municipality has operated, for a period of at
12 least one year, under a positive current operating fund
13 balance or equity, as evidenced by the municipality's audited
14 financial statements prepared in accordance with generally
15 accepted accounting principles.]

16 Section 19. The act is amended by adding a subchapter to
17 read:

18 SUBCHAPTER C.1

19 DURATION OF DISTRESSED STATUS

20 Section 254. Limitation of status.

21 (a) Termination date.--

22 (1) Except as otherwise provided in this subchapter, no
23 municipality shall be subject to the provisions of this act
24 after five years from the effective date of an ordinance
25 enacted in accordance with section 245 or 246. No amendment
26 to a plan shall affect the termination date as determined
27 from the date of enactment of the original ordinance.

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

29 (i) prohibit a municipality from participating in an
30 early intervention program as provided in Chapter 1-A or

1 reentering distressed status in accordance with this act
2 after a termination of status in accordance with this
3 subchapter.

4 (ii) Prohibit termination of status proceedings in
5 accordance with section 255.1 prior to the termination
6 date as provided in this section.

7 (b) Distressed municipalities.--

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

17 (2) If its distressed status has not been rescinded or
18 has been continued in accordance with section 710.1, a
19 municipality operating under Chapter 7 shall be subject to a
20 final termination date no more than five years from the
21 termination date of receivership. Section 255 shall not apply
22 to a termination of status under this paragraph.

23 Section 255. Coordinator's report.

24 (a) General rule.--Not later than 180 days after the
25 beginning of the final year of distressed status as determined
26 in accordance with section 254(a) and (b)(1), the coordinator
27 shall ~~prepare~~ COMPLETE a report stating the financial condition <--
28 of the municipality and include one of the following findings:

29 (1) Conditions within the municipality warrant a
30 termination in status in accordance with section 255.1. A

1 report containing a recommendation under this paragraph shall
2 address each of the factors set forth in section 255.1(c).

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

5 (3) Conditions are such that the secretary should
6 request a determination of a fiscal emergency in accordance
7 with Chapter 6.

8 (4) A three-year exit plan in accordance with section
9 256 is warranted.

10 (b) Filing and notice.--

11 (1) The report shall be filed with the same parties as
12 provided in section 242(a). The date of filing shall be the
13 date on which the municipal clerk or municipal secretary
14 places a true and correct copy of the report on file for
15 public inspection in the municipal office.

16 (2) On the date of filing, notice that the report has
17 been filed and is open for public inspection in the municipal
18 office shall be published by the coordinator in the county
19 legal reporter and in one or more newspapers with general
20 circulation serving the area in which the municipality is
21 located. The department shall pay for the cost of the
22 publication of the notice. The notice shall contain the
23 following information:

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

27 (ii) The date and place of filing.

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

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

3 (v) A summary of the report and findings of the
4 coordinator.

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

7 (c) Written comments.--Written comments on the report may be
8 filed with the coordinator. Written comments shall be made no
9 later than 15 days after the date of filing. Written comments
10 judged by the coordinator to have value to the plan may be used
11 to develop a revised report.

12 (d) Public meeting.--A meeting conducted by the coordinator
13 in the municipality shall be set for a date not later than 20
14 days after the date of filing the report. The coordinator shall
15 request in writing that the chief executive officer, each member
16 of the municipal governing body and the chief financial officer
17 of the municipality be present at the coordinator's meeting.
18 Comments on the plan shall be received by the coordinator at
19 that time. The coordinator has the discretion whether to
20 consider comments made on the report.

21 (e) Revision of report.--

22 (1) Nothing in this section shall be construed to
23 preclude the coordinator from revising a report of his own
24 initiative.

25 (2) Neither the secretary nor the chief executive
26 officer or the governing body, as appropriate, may revise the
27 coordinator's report.

28 (3) If the coordinator decides to revise the report, the
29 coordinator shall consult with the secretary and either the
30 chief executive officer or the governing body throughout the

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

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

7 Section 255.1. Termination of status.

8 (a) Public hearing.--Within 30 days of the date for the
9 filing of a final report containing a finding as provided in
10 section 255(a)(1) the secretary shall conduct a public hearing,
11 advertised with notices given as provided in section 203.

12 (b) Determination.--Within 90 days of the conclusion of the
13 public hearing, the secretary shall issue an administrative
14 determination of whether the termination of status is
15 appropriate and reasons for the determination. The determination
16 shall include findings addressing each of the factors in
17 subsection (c) and shall consider information provided in the
18 report of the coordinator and any additional information
19 received during the public hearing.

20 (c) Factors to consider.--If the secretary concludes that
21 substantial evidence supports an affirmative determination for
22 each of the following factors, the determination shall be that
23 distressed status will be rescinded. The secretary shall
24 consider whether:

25 (1) Operational deficits of the municipality have been
26 eliminated and the financial condition of the municipality,
27 as evidenced by audited financial statements prepared in
28 accordance with generally accepted accounting principles and
29 projections of future revenues and expenditures, demonstrates
30 a reasonable probability of future balanced budgets absent

1 participation in this act.

2 (2) Obligations issued to finance the municipality's
3 debt have been retired, reduced or reissued in a manner that
4 has adequately refinanced outstanding principle and interest
5 and has permitted timely debt service and reasonable
6 probability of continued timely debt service absent
7 participation in this act.

8 (3) The municipality has negotiated and resolved all
9 claims or judgments that would have placed the municipality
10 in imminent jeopardy of financial default.

11 (4) The reasonably projected revenues of the
12 municipality are sufficient to fund ongoing necessary
13 expenditures, including pension AND DEBT obligations and the <--
14 continuation or negotiation of collective bargaining
15 agreements and the provision of municipal services.
16 Projections of revenues shall include any anticipated tax or
17 fee increases to fund ongoing expenditures for the first five
18 years after a termination of distressed status.

19 (d) Appeal.--A labor organization that is a party to a <--
20 collective bargaining agreement with a financially distressed
21 municipality and any other party withstanding under section 202
22 may appeal the THE determination of the secretary MAY BE <--
23 APPEALED pursuant to 2 Pa.C.S. Ch. 7 Subch. A (relating to
24 judicial review of Commonwealth agency action)- BY ANY OF THE <--
25 FOLLOWING:

26 (1) THE GOVERNING BODY OF THE MUNICIPALITY.

27 (2) A CREDITOR OF THE MUNICIPALITY.

28 (3) TEN PERCENT OF THE NUMBER OF ELECTORS OF THE
29 MUNICIPALITY THAT VOTED AT THE LAST MUNICIPAL ELECTION.

30 (4) TEN PERCENT OF THE BENEFICIARIES OF A PENSION FUND

1 OF THE MUNICIPALITY.

2 (5) TEN PERCENT OF THE EMPLOYEES OF THE MUNICIPALITY.

3 (6) TRUSTEES OR PAYING AGENTS OF A MUNICIPAL BOND
4 INDENTURE.

5 (7) ELECTED AUDITORS, ELECTED CONTROLLERS OR APPOINTED
6 INDEPENDENT AUDITORS.

7 (8) A TRUSTEE OF THE MUNICIPAL PENSION FUND.

8 (9) THE CHIEF EXECUTIVE OFFICER OF ANY CITY.

9 (10) A LABOR ORGANIZATION THAT IS A PARTY TO A
10 COLLECTIVE BARGAINING AGREEMENT WITH THE MUNICIPALITY.

11 (e) Suspension of subsequent proceedings.--The coordinator
12 and secretary shall not take any action under sections 256 and
13 257 until a final decision is issued for any appeal under
14 subsection (d) or (f). The duration of distressed status of the
15 municipality shall be extended subject to subsequent action in
16 accordance with section 257.

17 (f) Action of the secretary preserved.--Except as otherwise
18 provided in chapters 6 and 7, the secretary may, following a
19 duly advertised public hearing with notices given as provided in
20 section 203, at any time issue a determination as provided in
21 this section upon written recommendation of the coordinator
22 setting forth a discussion of each of the factors specified in
23 subsection (c). The determination may be appealed in accordance
24 with subsection (d).

25 Section 256. Exit plan.

26 (a) General rule.--If recommended in a final report under
27 section 255, the coordinator shall within 90 days of the public
28 meeting referred to in section 255 OR THE FILING OF THE FINAL <--
29 REPORT UNDER SECTION 255(E) (4), WHICHEVER IS LATER, prepare an
30 exit plan for the municipality. The exit plan shall be subject

1 to the same filing, notice, public meeting and revision
2 procedures as specified in section 255.

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

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

9 (2) Functional consolidation of or privatization of
10 existing municipal services.

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

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

19 (c) Adoption of plan.--

20 (1) Not later than 45 days following the coordinator's
21 public meeting TO HEAR COMMENTS ON THE EXIT PLAN, the <--
22 municipal governing body shall enact an ordinance approving
23 the implementation of the plan, including enactment of
24 necessary related ordinances and revisions to ordinances.

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

1 (3) If the governing body fails to adopt and implement
2 the plan, the secretary shall, upon a written determination
3 by the coordinator, request that the Governor make a
4 determination of a fiscal emergency in accordance with
5 Chapter 6.

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

10 Section 257. Postreport procedures.

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

14 (1) Terminate the distressed status of the municipality
15 effective 90 days after a determination or final decision
16 requiring termination of status as provided in section 255.1.

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

22 (3) After filing a final report containing a
23 recommendation under section 255(a)(3), request a
24 determination of a fiscal emergency in accordance with
25 Chapter 6.

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

29 (1) issue a determination in accordance with section
30 255.1; or

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

3 (c) Postexit plan procedures.--If three years have elapsed
4 since the adoption of an exit plan without a recommendation as
5 provided in subsection (b), the secretary shall terminate the
6 distressed status of the municipality.

7 Section 20. Section 261(a)(4) of the act, amended July 5,
8 2012 (P.L.1104, No.133), is amended and the section is amended
9 by adding a subsection to read:

10 Section 261. Filing municipal debt adjustment under Federal
11 law.

12 (a) [Authorization.--In the event one of the following
13 conditions is present, a] General authorization.--A municipality
14 is hereby authorized to apply to the department to file a
15 municipal debt adjustment action pursuant to the Bankruptcy Code
16 (11 U.S.C. § 101 et seq.), if at least one of the following
17 conditions is present:

18 * * *

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

23 (a.1) Filing after determination of distress.--The
24 municipality's authorization under subsection (a) shall continue
25 after the issuance of a declaration of distress under section
26 203, so long as the municipality is not in a state of fiscal
27 emergency pursuant to a declaration under section 602. A
28 municipality that is in a state of fiscal emergency shall not be
29 authorized under subsection (a) to apply to the department to
30 file a municipal debt adjustment.

1 * * *

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

4 Section 281. Eligibility.

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

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

16 Section 282. Priority.

17 * * *

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

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

26 * * *

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

28 CHAPTER 4

29 [CONSOLIDATION OR MERGER OF] ECONOMICALLY NONVIABLE

30 MUNICIPALITIES

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

3 SUBCHAPTER C

4 DISINCORPORATION OF NONVIABLE MUNICIPALITIES

5 Section 431. Definitions

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

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

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

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

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

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

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

24 Section 431.1. Determination of nonviability.

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

30 (1) The municipality is unable to function as a general

1 purpose unit of government to provide essential services to
2 its residents and property owners.

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

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

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

15 Section 432. Procedure for disincorporation.

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

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

1 Section 433. Judicial review of ordinance or petition.

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

- 13 (1) the governing body of the municipality;
14 (2) a taxpayer of the municipality;
15 (3) any creditor or bondholder of the municipality; or
16 (4) any collective bargaining unit or contractor of the
17 municipality.

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

25 (c) Hearing proceedings.--

26 (1) The governing body of the municipality and all other
27 individuals and entities which have filed exceptions under
28 subsection (a) shall be parties to the proceedings and shall
29 be entitled to present testimony or other evidence relevant
30 to the nonviability of the municipality or relevant to

1 exceptions timely filed, provided that the court, in its
2 discretion, may consolidate testimony related to similar
3 exceptions.

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

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

14 (i) The effect of disincorporation, including
15 provisions for services that would be continued to be
16 provided to residents and property owners of the proposed
17 disincorporated area.

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

20 (iii) The effect of the disincorporation on any
21 bonds, other obligations or agreements of the
22 municipality.

23 (d) Costs and fees.--Court costs and filing fees associated
24 with proceedings under this subchapter shall be paid by the
25 department.

26 (e) Judicial decree.--

27 (1) The court shall issue a decree approving the
28 validity of the ordinance or granting the petition unless it
29 finds, by clear and convincing evidence, that the
30 municipality should continue to exist as a separate municipal

1 corporation because of a reasonable expectation that the
2 municipality is viable.

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

8 Section 433.1. Failure to initiate disincorporation.

9 (a) Conditions prior to determination.--The secretary shall
10 issue a determination under subsection (b) within 30 days of
11 either:

12 (1) the final day for filing a petition under section
13 432(b), if judicial review under section 433 has not been
14 initiated; or

15 (2) a final adjudication pursuant to a hearing held
16 under section 433 finding that the municipality should
17 continue to exist as a separate municipal corporation because
18 of a reasonable expectation that the municipality is viable.

19 (b) Determination.--The secretary shall determine whether:

20 (1) the recovery plan for the municipality shall remain
21 in effect subject to the limitations of chapter 2, subchapter
22 C.1 and, if the coordinator has previously issued a report
23 pursuant to section 255, the secretary shall direct the
24 coordinator to prepare an exit plan according to section 256;

25 (2) the elected and appointed officials of the
26 municipality have demonstrated a failure to adequately
27 implement recovery measures and, if so, request a
28 determination of a fiscal emergency in accordance with
29 Chapter 6;

30 (3) conditions within the municipality warrant a

1 termination in status in accordance with section 255.1; or

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

5 Section 434. Service district administrator.

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

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

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

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

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

30 (2) Seek election as a public official or political

1 party officer for one year after the person's service as
2 administrator has ended.

3 (3) Engage in any conduct prohibited by the act of July
4 19, 1957 (P.L.1017, No.451), known as the State Adverse
5 Interest Act, or 65 Pa.C.S. Ch. 11 (relating to ethics
6 standards and financial disclosure).

7 (e) Liability.--

8 (1) The administrator shall not be liable personally for
9 any obligations of the municipality or unincorporated service
10 district.

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

19 (f) Powers and duties.--Notwithstanding any other provision
20 of law, the administrator shall have the following powers and
21 duties:

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

24 (i) The sale, conveyance, assignment or other use or
25 disposition of the municipality's assets as provided by
26 law.

27 (ii) The repayment of debt, bonds or other
28 obligations before disincorporation.

29 (iii) Any other action necessary to implement the
30 disincorporation.

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

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

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

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

12 (6) To apply for grants, loans or payments under any
13 economic and community development program funded by the
14 Commonwealth.

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

18 (8) To meet and consult with the municipal governing
19 body before disincorporation and the district advisory
20 committee after the establishment of the district.

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

23 (10) To contract for professional services to aid in the
24 administrator's duties under this subchapter and Subchapter
25 D.

26 (11) To seek enforcement of any provision of this
27 subchapter and Subchapter D.

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

1 Section 435. Powers and duties of municipality.

2 (a) General rule.--After the review of the court of common
3 pleas resulting in a decree under section 433(e), but not less
4 than 30 days before the date set by the administrator for
5 disincorporation to take effect, the governing body of the
6 municipality shall:

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

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

19 (3) Provide for the appointment of the district advisory
20 committee to assist the administrator after the
21 disincorporation of the municipality.

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

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

29 (1) The governing body of the municipality may adopt
30 recommended governing standards which may be included by the

1 administrator in the essential services plan as the governing
2 standards of the district.

3 (2) If the governing body adopts recommended governing
4 standards, the following shall apply:

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

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

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

25 Section 436. Essential services plan.

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

1 (1) Negotiation of contracts for the provision of vital
2 and necessary services, not otherwise provided by an
3 authority, as defined under Chapters 6 and 7. If the
4 municipality participates in a regional police or fire
5 department through an intergovernmental cooperation
6 agreement, the essential services plan may provide for
7 continued service from that regional department by contract
8 or by renegotiating the intergovernmental cooperation
9 agreement.

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

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

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

30 (5) Disposition of all municipal property by sale, lease

1 or conveyance for any of the following purposes:

2 (i) Payment of outstanding debt obligations.

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

5 (iii) Possession of title by the Commonwealth as
6 provided by Subchapter D.

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

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

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

13 (9) Establishment of the name of the district. A
14 district established by this act shall be named "The
15 Unincorporated District of"

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

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

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

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

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

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

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

3 (i) Rules and conduct related to the maintenance of
4 property, conduct in public places and the parking of
5 vehicles in public places which shall protect the health,
6 safety and welfare of the residents and property owners
7 of the district to the extent such rules and conduct
8 could have been adopted by the municipality by ordinance.

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

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

19 Section 437. Proposed essential services plan.

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

23 (1) The municipal clerk or municipal secretary, who
24 shall immediately place the copy on file for public
25 inspection in the municipal office.

26 (2) The secretary.

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

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

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

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

1 (b) Date of filing.--For purposes of this section, the date
2 of filing the proposed essential services plan shall be the date
3 on which the municipal clerk or municipal secretary places a
4 true and correct copy of the proposed essential services plan on
5 file for public inspection in the municipal office.

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

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

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

20 (ii) The date and place of filing.

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

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

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

27 (2) Notice of an administrator's public meeting on the
28 proposed essential services plan shall be published by the
29 administrator in the county legal reporter and in one or more
30 newspapers with general circulation serving the area in which

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

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

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

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

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

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

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

25 (1) Present a summary of the proposed essential services
26 plan.

27 (2) Receive public comment on the proposed essential
28 services plan.

29 (3) Allow the members of the governing body of the
30 municipality to present written and oral comments requesting

1 revisions of the proposed essential services plan.

2 Section 438. Final essential services plan.

3 (a) Amendment of plan.--

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

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

18 (b) Notice of final essential services plan.--Within 45 days
19 of the public meeting the administrator shall file the final
20 essential services plan with the persons listed in section
21 437(a) and provide notice of the publication of the final
22 essential services plan in the manner provided in section
23 437(c) (1) (i), (ii) and (v).

24 (c) Appeal.--

25 (1) Any person aggrieved by the final essential services
26 plan may appeal the plan to the court of common pleas within
27 30 days of notice of the filing of the final essential
28 services plan. For purposes of this section, notice shall
29 constitute the date that the person received actual notice of
30 the final essential services plan, or the date that notice of

1 the filing of the final essential services plan is first
2 published in a newspaper with general circulation serving the
3 area in which the municipality is located.

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

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

10 Section 439. Disincorporation of municipality.

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

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

17 (2) All ordinances of the municipality shall be
18 nullified.

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

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

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

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

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

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

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

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

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

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

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

30 (5) Amend the county's comprehensive plan to the extent

1 necessary to be consistent with the requirements of this
2 subsection.

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

12 SUBCHAPTER D

13 UNINCORPORATED SERVICE DISTRICT

14 Section 441. Establishment of unincorporated service district.

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

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

29 (c) Corporate powers prohibited.--Nothing in this subchapter
30 shall be construed as authorizing the district to exercise

1 corporate powers for the administration of a local government,
2 including the power to levy taxes, establish elected or
3 appointed offices and purchase, sell or convey property, except
4 that the residents of the district may incorporate a
5 municipality or merge or consolidate with an existing
6 municipality as provided for in section 447.

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

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

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

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

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

28 (1) All debt incurred by the municipality before the
29 establishment of the district shall be held by the district
30 for administration by the administrator. Any such debt shall

1 be secured by the assets conveyed to the Commonwealth and
2 held in trust under subsection (d) and serviced by fees
3 collected under this subchapter.

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

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

12 (1) A district shall be eligible to receive any
13 financial grant, loan or payment and participate in any
14 program for which it was eligible when it was a municipality,
15 including, but not limited to, EMERGENCY GRANTS AND LOANS <--
16 UNDER CHAPTER 3, payments distributed pursuant to the act of
17 June 1, 1956 (1955 P.L.1944, No.655), referred to as the
18 Liquid Fuels Tax Municipal Allocation Law, all programs
19 administered by the Pennsylvania Infrastructure Investment
20 Authority and all economic and community development programs
21 funded by the Commonwealth.

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

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

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

1 (h) Relationship with existing municipal and other
2 authorities preserved.--

3 (1) All authorities established to provide services to
4 the residents and property owners of a municipality prior to
5 disincorporation shall continue to serve the residents and
6 property owners of a district, and all members of the
7 authority appointed by the governing body of the municipality
8 prior to disincorporation shall continue to serve out the
9 remainder of the members' terms.

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

16 (i) Governing standards enforceable.--

17 (1) The governing standards included in the essential
18 services plan shall be enforceable by the filing of a civil
19 action by the administrator or any aggrieved property owner
20 or resident of the district.

21 (2) A violation of the governing standards shall
22 constitute a public nuisance.

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

29 (j) Pennsylvania Construction Code applicable.--

30 (1) The act of November 10, 1999 (P.L.491, No.45), known

1 as the Pennsylvania Construction Code Act, shall apply to all
2 construction, alteration, repair and occupancy of all
3 buildings within the district as though the district were a
4 municipality which opted not to adopt the uniform
5 construction code by ordinance.

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

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

20 (a) Establishment.--Each service district shall establish a
21 service district advisory committee.

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

27 (c) Appointment by governing body.--At least 30 days prior
28 to the date of disincorporation, the governing body of the
29 former municipality shall appoint three members of the district
30 advisory committee. The governing body shall designate that one

1 appointee serve a term of one year, one appointee serve a term
2 of two years and one appointee serve a term of three years.

3 (d) Vacancy.--At the expiration of the term of a member of
4 the district advisory committee, the remaining members of the
5 committee shall appoint a person to fill the vacancy. In the
6 event that the remaining members of the committee are unable to
7 agree on a person to fill the vacancy or there is more than one
8 vacancy, the administrator shall select a person or persons to
9 fill the vacancy. All persons appointed to fill a vacancy on the
10 district advisory committee shall have a term of three years
11 beginning on the date of appointment.

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

20 (f) Advise county on land use issues.--The district advisory
21 committee may provide recommendations on behalf of the residents
22 and property owners of the district to any county official
23 regarding any land use-related matter.

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

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

1 (1) Amendments to the governing standards may be
2 recommended by a majority vote of the district advisory
3 committee or by a petition signed by registered electors of
4 the municipality comprising at least 10% of the number of
5 electors voting for the office of Governor in the last
6 gubernatorial general election.

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

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

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

19 Section 443. Assessments.

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

24 (1) The cost of all essential services provided to the
25 district.

26 (2) The service of all debts held in trust by the
27 Commonwealth which were incurred by the former municipality
28 prior to disincorporation.

29 (3) The necessary construction, maintenance or repair of
30 facilities or properties which have been conveyed to the

1 Commonwealth and are held in trust for the benefit of the
2 district.

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

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

13 (b) Establishment of assessment.--

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

18 (2) The administrator shall provide written personal
19 notice to each property owner of each property of the
20 assessment due for the ensuing year no later than November 1
21 of the year preceding the year for which the assessment
22 applies.

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

30 (c) Appeal of assessment.--Any person wishing to challenge

1 the reasonableness of the assessment may file a suit in the
2 court of common pleas within 30 days of receiving the notice
3 provided in subsection (b).

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

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

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

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

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

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

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

1 personal notice of the assessment under the procedure in
2 subsection (a).

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

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

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

22 Section 444. Amendment of essential services plan.

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

28 (b) Filing of amendment.--The administrator may file a
29 proposed essential services plan amendment with the secretary
30 and each member of the district advisory committee at any time.

1 The district advisory committee may request a public meeting to
2 consider the amendment within five days of the filing of a
3 proposed essential services plan amendment.

4 (c) Notice of amendment.--No later than the date that the
5 administrator files the proposed essential services plan
6 amendment, the administrator shall provide notice to the public
7 of the amended essential services plan using the procedure
8 provided for by section 437(c)(1). If the district advisory
9 committee requests a public hearing, the administrator shall
10 schedule a public meeting within 30 days of the date that the
11 proposed essential services plan amendment was filed and provide
12 notice of the public meeting using the procedure provided for by
13 section 437(c)(2).

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

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

26 (1) Present a summary of the proposed essential services
27 plan amendment.

28 (2) Receive public comment on the proposed essential
29 services plan amendment.

30 (3) Allow the members of the district advisory committee

1 to present written and oral comments requesting revisions of
2 the proposed essential services plan amendment.

3 (f) Final essential services plan amendment.--The
4 administrator shall consider all timely submitted written
5 comments, comments presented at the public meeting and requests
6 for revision in the amendment of the publicly presented proposed
7 essential services plan before filing a final essential services
8 plan amendment. In the event that the administrator does not
9 incorporate the requests for revision by the district advisory
10 committee regarding the levels of services provided under the
11 essential services plan or the basis for the calculation of fees
12 assessed under the essential services plan, the administrator
13 shall state in the essential services plan amendment why the
14 requested revisions were not feasible to incorporate in the
15 final essential services plan.

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

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

1 administer the essential services plan, as amended.

2 (i) Appeal.--

3 (1) Any person aggrieved by a final essential services
4 plan amendment or emergency essential services plan amendment
5 may appeal the final essential services plan amendment to the
6 court of common pleas within 30 days of notice of the filing
7 of the final essential services plan amendment.

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

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

18 (4) No appeal of a final essential services plan
19 amendment shall constitute an automatic stay of any portion
20 of the essential services plan.

21 (5) The appeal shall be sustained only where the court
22 finds that the final essential services plan amendment is
23 unlawful or unconstitutional, or the conduct of the
24 administrator is arbitrary or capricious.

25 Section 445. Unincorporated Service District Trust Fund.

26 (a) Establishment.--There is hereby established a special
27 fund in the State Treasury, separate and apart from all other
28 public moneys or funds of the Commonwealth, to be known as the
29 Unincorporated Service District Trust Fund. The purpose of this
30 fund shall be to hold moneys from unincorporated service

1 districts and pay for the expenses and obligations of
2 administrators, unincorporated service districts and the
3 department pursuant to Subchapter C. The department shall
4 allocate funds specific to a district in a restricted account
5 pursuant to section 445.1.

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

10 Section 445.1. Restricted accounts.

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

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

28 Section 446. Audit.

29 The Auditor General shall conduct an annual audit of the
30 district. The audit shall include a review of the services

1 rendered under the essential services plan, the proceeds
2 generated by the assessments levied pursuant to section 443 and
3 all transactions made by the administrator on behalf of the
4 district.

5 Section 447. Merger and consolidation; incorporation of
6 municipal corporation.

7 (a) Merger and consolidation.--

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

17 (2) Residents of the district may be nominated to, and
18 serve on, a commission formed to study merger or
19 consolidation of the district with one or more
20 municipalities.

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

30 (4) The administrator may expend district funds to the

1 extent authorized by law for the purpose of merger,
2 consolidation or incorporation as provided in subsection (b).

3 (b) Incorporation as municipality.--If the secretary
4 determines that the district could be incorporated as a viable
5 municipality, the residents of the district may establish or
6 incorporate the territory of the district as a municipality as
7 provided by law.

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

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

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

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

24 [CHAPTER 5

25 FUNDING

26 Section 501. Appropriation.

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

1 as follows:

2 (1) \$500,000 shall be used by the department for
3 administrative expenses necessary to carry out the provisions
4 of this act.

5 (2) \$4,500,000 shall be used to provide grants and loans
6 to municipalities determined to be financially distressed
7 pursuant to this act.]

8 Section 26. Chapter 6 heading of the act, added October 20,
9 2011 (P.L.318, No.79), is amended to read:

10 CHAPTER 6

11 FISCAL EMERGENCIES IN [CITIES OF THE
12 THIRD CLASS] MUNICIPALITIES

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

16 Section 601. Definitions.

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

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

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

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

30 "Distressed [city] municipality." A [city] municipality

1 which has been determined to be financially distressed under
2 section 203(f).

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

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

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

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 602. Declaration of fiscal emergency.

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

23 (1) (i) is insolvent or is projected to be insolvent
24 within 180 days or less; [or] and

25 (ii) is unable to ensure the continued provision of
26 vital and necessary services; [and] or

27 (2) [(i)] has failed to adopt or implement:

28 (i) the coordinator's plan in accordance with
29 Subchapter C or C.1 of Chapter 2; or

30 (ii) [has failed to adopt or implement] an

1 alternative plan that the secretary has approved under
2 section 246.

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

6 Immediately upon making the declaration, the Governor shall:

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

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

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

24 Section 603. Notification by the secretary.

25 (a) Notice.--Upon completion of the emergency action plan,
26 the secretary shall cause the plan to be posted on the
27 department's publicly accessible Internet website and shall
28 provide written notice of the emergency action plan by overnight
29 delivery service, providing proof of receipt, to all members of
30 the governing body and, if applicable, the chief executive

1 officer of the distressed [city] municipality.

2 (b) Publication.--The secretary shall publish once in a
3 newspaper of general circulation notice that the emergency
4 action plan has been completed. The notice shall specify the
5 publicly accessible Internet address of the department's website
6 where the plan is posted.

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

10 Section 604. Powers of the Governor.

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

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

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

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

27 (4) The power to modify the emergency action plan as
28 necessary to ensure the provision of vital and necessary
29 services.

30 (5) Any other power of the elected or appointed

1 officials of the distressed [city] municipality or authority
2 to ensure the provision of vital and necessary services.

3 (b) Orders.--The Governor may issue an order to an elected
4 or appointed official of the distressed [city] municipality or
5 an authority to implement any provision of the emergency action
6 plan or refrain from taking any action that would interfere with
7 the powers granted to the Governor or the goals of the plan. An
8 order issued under this subsection shall be enforceable under
9 section 606.

10 (c) Authorization prohibited.--Neither this chapter nor the
11 emergency action plan shall be interpreted to authorize the
12 Governor to:

13 (1) Unilaterally levy taxes.

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

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

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

20 (3) Unilaterally impair or modify existing bonds, notes,
21 municipal securities or other lawful contractual or legal
22 obligations of the distressed [city] municipality or
23 authority[, except as otherwise ordered by a court of
24 competent jurisdiction].

25 (4) Authorize the use of the proceeds of the sale,
26 lease, conveyance, assignment or other use or disposition of
27 the assets of the distressed [city] municipality or
28 authorities in a manner contrary to section 707.

29 (5) Pledge the full faith and credit of the
30 Commonwealth.

1 Section 605. Elected and appointed officials.

2 During a fiscal emergency, the authorities and appointed and
3 elected officials of the distressed [city] municipality shall
4 continue to carry out the duties of their respective offices,
5 except that no decision or action shall conflict with an
6 emergency action plan, order or exercise of power by the
7 Governor under section 604.

8 Section 606. Mandamus.

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

16 Section 607. Consent agreement.

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

25 (b) Contents.--

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

30 (2) The consent agreement shall include all of the

1 following:

2 (i) Continued provision of vital and necessary
3 services.

4 (ii) Payment of the lawful financial obligations of
5 the distressed [city] municipality and authority. This
6 subparagraph includes debt obligations, municipal
7 securities, lease rental obligations, legal obligations
8 and consensual modifications of existing obligations,
9 except as otherwise ordered by a court of competent
10 jurisdiction.

11 (iii) Timely deposit of required payments to the
12 pension fund for the distressed [city] municipality and
13 each authority or the fund in which the distressed [city]
14 municipality and each authority participates.

15 (iv) Legislative and administrative actions to be
16 taken by the elected or appointed officials of the
17 distressed [city] municipality during the term of the
18 consent agreement.

19 (3) The consent agreement may include:

20 (i) The sale, lease, conveyance, assignment or other
21 use or disposition of the assets of the distressed [city]
22 municipality or authority.

23 (ii) Approval, modification, rejection,
24 renegotiation or termination of contracts or agreements
25 of the distressed [city] municipality or authorities.

26 (iii) Execution of new contracts or agreements.

27 (4) The consent agreement may not include any of the
28 following:

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

1 (ii) Provisions that unilaterally abrogate, alter or
2 otherwise interfere with a lien, charge, covenant or
3 relative priority, that is:

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

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

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

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

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

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

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

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

28 (3) If the secretary determines that the consent
29 agreement is sufficient to overcome the distressed [city's]
30 municipality's financial distress and approves the agreement,

1 the governing body shall enact the consent agreement in the
2 form of an ordinance within seven days of approval by the
3 secretary.

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

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

13 (1) Failure of the governing body of the distressed
14 [city] municipality to convene or the failure of a quorum of
15 the governing body to participate in a special public meeting
16 required by subsection (a).

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

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

23 (4) Enactment by the distressed [city] municipality of
24 an amendment to the ordinance enacted in subsection (c) in
25 violation of subsection (e).

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

28 (f) Collective bargaining.--A collective bargaining
29 agreement or arbitration settlement executed following the
30 enactment of an ordinance under this section may not in any

1 manner violate, expand or diminish the provisions of the consent
2 agreement, provided, however, that the provisions of section 252
3 shall apply to any consent agreement adopted in accordance with
4 this subchapter.

5 Section 608. Termination of fiscal emergency and suspension of
6 powers.

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

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

12 (2) is able to ensure the continued provision of vital
13 and necessary services after the termination of the fiscal
14 emergency.

15 (b) Governor's powers.--The emergency powers of the Governor
16 under this chapter shall be suspended upon the enactment and
17 continued implementation of an ordinance under section 607 or
18 entry of a judicial order appointing a receiver under section
19 702.

20 Section 609. Restrictions.

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

28 (b) Municipal debt adjustment.--A distressed [city]
29 municipality subject to this chapter or Chapter 7 may not file a
30 municipal debt adjustment action under the Bankruptcy Code (11

1 U.S.C. § 101 et seq.) except to the extent authorized under
2 Chapter 7.

3 Section 610. Applicability.

4 (a) Statement.--

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

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

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

13 Section 29. Chapter 7 heading of the act, added October 20,
14 2011 (P.L.318, No.79), is amended to read:

15 CHAPTER 7

16 RECEIVERSHIP IN [CITIES OF THE
17 THIRD CLASS] MUNICIPALITIES

18 Section 30. Sections 701, 702, 703, 704, 705(g), 706, 707,
19 708 and 709 of the act, added October 20, 2011 (P.L.318, No.79),
20 are amended to read:

21 Section 701. Definitions.

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

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

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

1 "Debt obligations." Any obligation to pay money, including
2 amounts owed for payments relating to lease rental debt, debt
3 service, bonds, notes, guarantees for bonds or notes, trust
4 indentures, contracts or other agreements.

5 "Distressed [city] municipality." A [city] municipality
6 which has been determined to be financially distressed under
7 section 203(f).

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

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

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

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

23 Section 702. Receivership.

24 (a) Receiver.--Following the issuance of a declaration of
25 fiscal emergency under section 602(b), the Governor may direct
26 the secretary to file a petition in Commonwealth Court to
27 appoint the individual named in the petition as a receiver for
28 the distressed [city] municipality. The court shall have no
29 authority to appoint anyone other than the individual named in
30 the petition as the receiver.

1 (b) Service and notice.--

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

3 (i) the governing body of the distressed [city]
4 municipality;

5 (ii) the chief executive officer of the distressed
6 [city] municipality; and

7 (iii) the governing body of each authority.

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

10 (c) Hearing.--Upon notification of the Governor of the
11 failure of the distressed [city] municipality to adopt a valid
12 ordinance under section 607, Commonwealth Court shall conduct a
13 hearing within 15 days on the petition.

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

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

20 (2) There has been a failure by:

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

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

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

29 (iv) (Reserved).

30 (3) A fiscal emergency under section 602(a) continues to

1 exist.

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

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

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

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

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

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

18 (f) Additional actions.--

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

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

28 (3) No later than 60 days following the filing of the
29 petition under paragraph (1), the court shall issue an order
30 under subsection (e) if it finds by a preponderance of the

1 evidence that the distressed [city] municipality has failed
2 to comply with section 607(d)(3) or (4).

3 Section 703. Recovery plan.

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

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

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

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

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

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

25 (2) The recovery plan may include:

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

29 (ii) the approval, modification, rejection,
30 renegotiation or termination of contracts or agreements

1 of the distressed [city] municipality or authorities,
2 except to the extent prohibited by the Constitutions of
3 the United States and Pennsylvania;

4 (iii) the execution of new contracts or agreements;
5 and

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

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

10 (1) Unilaterally levy taxes.

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

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

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

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

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

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

1 or wholly inadequate to alleviate the fiscal emergency in the
2 distressed [city] municipality.

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

11 Section 704. Confirmation.

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

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

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

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

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

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

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

6 (c) Collective bargaining.--A collective bargaining
7 agreement or arbitration settlement executed after confirmation
8 of a recovery plan may not, in any manner, violate, expand or
9 diminish the provisions of the recovery plan, provided, however,
10 that the provisions of section 252 shall apply to any recovery
11 plan adopted in accordance with this chapter.

12 Section 705. Receiver.

13 * * *

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

23 Section 706. Powers, duties and prohibited actions.

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

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

29 (2) To modify the recovery plan as necessary to achieve
30 financial stability of the distressed [city] municipality and

1 authorities in accordance with section 703.

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

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

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

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

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

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

30 (9) [After July 1, 2012, to] To file a municipal debt

1 adjustment action under the Bankruptcy Code (11 U.S.C. § 101
2 et seq.) and to act on the [city's] municipality's behalf in
3 the proceeding. The power under this paragraph shall only be
4 exercised upon the written authorization of the secretary.
5 The filing of a municipal debt adjustment action under this
6 paragraph and any plan of the receiver accepted by the
7 Federal court shall be considered a modification of the
8 recovery plan, except that the modification shall not be
9 subject to judicial review under section 709. A recovery plan
10 submitted to and approved by the Federal court under a
11 Federal municipal debt adjustment action may include Federal
12 remedies not otherwise available under this chapter.

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

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

20 (12) TO MAKE A RECOMMENDATION TO THE SECRETARY THAT THE <--
21 MUNICIPALITY BE DISINCORPORATED IN ACCORDANCE WITH CHAPTER 4.

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

25 (1) Unilaterally levy taxes.

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

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

30 (ii) granted by the contract, law, rule or

1 regulation governing the debt obligation.

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

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

11 Section 707. Use or disposition of assets.

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

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

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

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

3 Section 708. Elected and appointed officials.

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

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

8 (2) refrain from taking any action that would interfere
9 with the powers granted to the receiver or the goals of the
10 recovery plan.

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

13 Section 709. Judicial actions.

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

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

26 Section 30.1. Section 710 of the act is amended ~~by adding a~~ <--
27 ~~subsection~~ to read:

28 Section 710. Termination of receivership.

29 * * *

30 (A) TIME.--EXCEPT AS PROVIDED UNDER SUBSECTION (B) OR (C), <--

1 THE RECEIVERSHIP UNDER THIS CHAPTER SHALL EXPIRE TWO YEARS AFTER
2 THE APPOINTMENT OF THE RECEIVER.

3 (B) EXTENSION.--THE SECRETARY MAY PETITION COMMONWEALTH
4 COURT FOR ONE OR MORE EXTENSIONS OF THE RECEIVERSHIP. THE COURT
5 SHALL GRANT EACH EXTENSION [FOR] OF UP TO ANOTHER TWO YEARS IF
6 THE SECRETARY ESTABLISHES BY A PREPONDERANCE OF THE EVIDENCE
7 THAT FURTHER IMPLEMENTATION OF THE RECOVERY PLAN IS NECESSARY
8 TO END THE FISCAL EMERGENCY.

9 (c) Termination of fiscal emergency.--Notwithstanding the
10 date of expiration of receivership under subsection (a) or an
11 extension of receivership under subsection (b), the receivership
12 shall terminate upon the secretary's termination of a fiscal
13 emergency under section 608(a).

14 Section 31. The act is amended by adding a section to read:
15 Section 710.1. Continuation of recovery plan.

16 (a) Administrative determination required.--Within 30 days
17 of the termination or expiration of the receivership under
18 section 710, the secretary shall issue one of the following
19 administrative determinations:

20 (1) conditions within the municipality warrant a
21 termination in status in accordance with section 255.1; or

22 (2) the municipality continues to be financially
23 distressed.

24 (b) Appointment of coordinator.--Upon a determination under
25 subsection (a)(2), a recovery plan adopted under section 703 AND <--
26 CONFIRMED BY COMMONWEALTH COURT shall remain in effect and SHALL <--
27 be deemed to be a plan adopted under Chapter 2. The secretary
28 shall appoint a coordinator in accordance with section 221. The
29 receiver may be appointed as coordinator. The coordinator shall
30 implement the recovery plan under section 247(a) subject to the

1 following:

2 (1) The plan shall be subject to amendment in accordance
3 with section 249, provided that nothing in this section shall
4 authorize the impairment of existing lawful contractual or
5 legal obligations of the distressed municipality except where
6 otherwise permitted by law.

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

12 (3) The plan shall terminate as provided in section
13 254(b) (2) .

14 ~~(c) Conditions for increasing taxes on nonresident income. <--~~
15 ~~Notwithstanding any other provision of law, a municipality~~
16 ~~exiting receivership and subject to a determination under~~
17 ~~subsection (a) (2) shall be subject to the same requirements as a~~
18 ~~city of the second class A under section 123(c) (3) before being~~
19 ~~authorized to increase the rate of taxation on nonresident~~
20 ~~income.~~

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

24 Section 711. Municipal financial recovery advisory committee.

25 (a) Establishment.--[There is established a] A municipal
26 financial recovery advisory committee is established to meet and
27 consult with the receiver in carrying out the duties under this
28 chapter. The sole function of the advisory committee shall be to
29 provide recommendations and feedback to the receiver on the
30 implementation of the recovery plan.

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

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

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

7 (3) One member appointed by the county commissioners of
8 the county where the distressed [city] municipality is
9 located.

10 (4) One member appointed by the Governor.

11 * * *

12 Section 712. Applicability.

13 (a) Statement.--

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

16 * * *

17 Section 33. This act shall apply as follows:

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

21 (2) The amendment or addition of sections 608, 710 and
22 710.1(a) and (b) of the act shall not apply to a municipality
23 that entered receivership prior to the effective date of this
24 section and shall not supersede or constitute grounds to
25 modify any order of court issued prior to the effective date
26 of this section.

27 SECTION 34. FOR TAX YEARS BEGINNING AFTER THE EFFECTIVE DATE <--
28 OF THIS SECTION, A FINANCIALLY DISTRESSED MUNICIPALITY SHALL BE
29 PROHIBITED FROM USING THE SPECIAL TAXING AUTHORITY IN SECTION
30 607(F) OF THE ACT OF DECEMBER 18, 1984 (P.L.1005, NO.205), KNOWN

1 AS THE MUNICIPAL PENSION PLAN FUNDING STANDARD AND RECOVERY ACT,
2 TO IMPOSE AN INCREASE IN THE RATE OF TAXATION ON NONRESIDENT
3 INCOME UNLESS AN EQUAL OR GREATER INCREASE IN THE RATE OF
4 TAXATION ON RESIDENT INCOME, OVER THE HIGHEST RATE LEVIED IN THE
5 PREVIOUS FISCAL YEAR, IS IMPOSED IN THE SAME TAX YEAR.

6 SECTION 35. THE ADDITION OF SECTION 255.1 OF THE ACT SHALL
7 NOT APPLY TO DETERMINATIONS ISSUED BY THE SECRETARY OF COMMUNITY
8 AND ECONOMIC DEVELOPMENT PRIOR TO THE EFFECTIVE DATE OF THIS
9 SECTION OR TO APPEALS PENDING ON THE EFFECTIVE DATE OF THIS
10 SECTION.

11 Section ~~34~~ 36. This act shall take effect in 60 days.

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