

---

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

---

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, SEPTEMBER 23, 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. THIS <--  
27 PARAGRAPH DOES NOT APPLY TO A MUNICIPALITY WHICH, ON THE  
28 EFFECTIVE DATE OF THIS SUBSECTION, IS NOT AUTHORIZED TO  
29 PETITION THE COURT OF COMMON PLEAS FOR THE IMPOSITION OF AN  
30 EARNED INCOME TAX ON NONRESIDENTS.

1           (2) A MUNICIPALITY THAT HAS LEVIED A LOCAL SERVICES TAX  
2 PURSUANT TO PARAGRAPH (1) MAY CONTINUE TO LEVY A LOCAL  
3 SERVICES TAX AT A RATE IN EXCESS OF \$52 IN ACCORDANCE WITH  
4 PARAGRAPH (1) IN ANY SUBSEQUENT YEAR, PROVIDED THAT A TAX  
5 LEVIED FOR ANY YEAR AFTER A TERMINATION OF DISTRESSED STATUS  
6 SHALL BE AUTHORIZED SUBJECT TO ALL OF THE FOLLOWING:

7           (I) A PENSION PLAN OF THE MUNICIPALITY HAS UNFUNDED  
8 ACTUARIAL ACCRUED PENSION LIABILITY.

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

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

18 Section 141. Jurisdiction of court of common pleas.

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

28       (A.1) LEVY OF PAYROLL PREPARATION TAX.--THE COURT OF COMMON <--  
29 PLEAS OF EACH COUNTY SHALL HAVE JURISDICTION TO HEAR A PETITION  
30 FILED BY A MUNICIPALITY WHICH HAS ADOPTED A PLAN PURSUANT TO



1 SUBCHAPTER C OR C.1 OF CHAPTER 2 TO LEVY A PAYROLL PREPARATION  
2 TAX AUTHORIZED BY SECTION 123(C) (1.1).

3 (A.2) INCREASE IN LOCAL SERVICES TAX.--THE COURT OF COMMON  
4 PLEAS OF EACH COUNTY SHALL HAVE JURISDICTION TO HEAR A PETITION  
5 FILED BY A MUNICIPALITY WHICH HAS ADOPTED A PLAN PURSUANT TO  
6 SUBCHAPTER C OR C.1 OF CHAPTER 2 TO INCREASE THE RATE OF THE  
7 LOCAL SERVICES TAX IN ACCORDANCE WITH SECTION 123(C) (1.1).

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

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

22 CHAPTER 1-A

23 EARLY INTERVENTION PROGRAM

24 SUBCHAPTER A

25 PRELIMINARY PROVISIONS

26 Section 101-A. Definitions.

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

30 "Center." The Governor's Center for Local Government

1 Services of the Department of Community and Economic Development  
2 of the Commonwealth.

3 "Keystone Principles." The Keystone Principles and Criteria  
4 for Growth Investment and Resource Conservation adopted May 31,  
5 2005, by the Economic Development Cabinet to foster and measure  
6 the effectiveness of sustainable economic development and  
7 conservation of resources through the investment of Commonwealth  
8 funds in its municipalities.

9 "Program." The Early Intervention Program established by  
10 this chapter.

11 Section 102-A. Program objectives.

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

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

25 (2) Engage in a management review of its operations and  
26 provide recommendations that will enhance financial  
27 administration, management and service delivery of a  
28 municipality.

29 (3) Strengthen the ability of a municipality to develop,  
30 adopt, implement and monitor multiyear financial management

1 plans and to incorporate the process into its annual budget  
2 process.

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

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

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

13 (7) Further the integration of sound community and  
14 economic development strategies to encourage the economic  
15 growth of the tax base of a municipality over a multiyear  
16 period.

17 SUBCHAPTER B

18 ADMINISTRATIVE PROVISIONS

19 Section 103-A. Authorization.

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

25 Section 104-A. Grants.

26 (a) General rule.--A grant may be awarded by the center to a  
27 municipality or two or more municipalities cooperating together  
28 to ensure fiscal stability through the development and  
29 implementation of long-term financial, managerial and economic  
30 development strategies in an amount not exceeding \$200,000

1 during the first fiscal year that commences on the effective  
2 date of this section, adjusted for inflation in subsequent years  
3 by an amount not to exceed an annual cost-of-living adjustment  
4 calculated by applying the percentage change in the Consumer  
5 Price Index immediately prior to the date the adjustment is due  
6 to take effect. To be eligible for a grant for implementation  
7 funding, a municipality must meet the basic training  
8 requirements established in guidelines developed by the center.

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

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

17 (1) The development of multiyear financial management  
18 plan for a municipality.

19 (2) The development of multimunicipal or regional  
20 intergovernmental cooperation initiatives and cost-sharing  
21 strategies.

22 (3) A study to improve the management and operational  
23 practices and financial administration procedures of a  
24 municipality.

25 (4) A merger or consolidation feasibility study.

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

28 (6) Training and capacity-building activities that meet  
29 basic requirements established in guidelines developed by the  
30 center which assist the municipality in the implementation of

1 plan recommendations.

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

4 (8) AN AUDIT, PREPARED BY AN INDEPENDENT ACCOUNTANT OR <--  
5 FIRM, AS REQUIRED BY SECTION 108-A.

6 Section 105-A. Application.

7 A program application must be submitted by the applicant  
8 municipality on a form prescribed by the department utilizing  
9 the electronic single application format and include or  
10 demonstrate all of the following:

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

13 (2) The name of a contact person.

14 (3) The execution of a supporting resolution authorizing  
15 the submission of the application and committing the  
16 resources of the municipality or, in the case of a  
17 multimunicipal application, municipalities.

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

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

22 Section 106-A. Evaluation criteria.

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

29 (1) The current and projected financial condition of the  
30 municipality.

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

3           (3) The proactive measures the municipality has taken to  
4           manage its finances in a responsible manner, including  
5           attempts to reduce expenditures, increase revenues, adopt  
6           sound management practices, establish municipal priorities  
7           and adhere to generally accepted financial management, budget  
8           and financial reporting standards.

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

14           (5) The extent to which the municipality has  
15           demonstrated its willingness and commitment to improve its  
16           financial and administrative operation through the adoption  
17           and implementation of a multiyear financial management plan.

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

20           (7) Where applicable, the elements of the Keystone  
21           Principles shall be included as part of the evaluation  
22           criteria.

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

24 Section 107-A. Award.

25           The secretary shall announce by letter applications selected  
26           for funding. The contact person specified in the application  
27           shall be sent the offer letter. All funding decisions shall be  
28           made subject to the availability of funds.

29 Section 108-A. Guidelines.

30           The department shall establish guidelines consistent with

1 this chapter, particularly the program requirements and  
2 measurements to ensure a municipality is provided with adequate  
3 guidance. The program shall include a requirement of a financial  
4 audit of the municipality, prepared by an independent accountant  
5 or firm, for the fiscal year immediately preceding the  
6 application for funds under this chapter. The department may  
7 establish guidelines for the audit, and the requirement may be  
8 satisfied by any previous audit prepared in accordance with the  
9 guidelines.

10 Section 8. Section 203(c) and (g) of the act, amended June  
11 30, 1992 (P.L.336, No.69), are amended to read:

12 Section 203. Procedure for determination.

13 \* \* \*

14 (c) Investigation.--After receiving the request but before  
15 the public hearing, the secretary may make an investigation into  
16 the financial affairs of the municipality. The results of the  
17 investigation or any study previously conducted by the  
18 department OR WITH DEPARTMENT FUNDS under Chapter 1-A or section <--  
19 121 shall be placed in the record of the public hearing.

20 \* \* \*

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

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

28 Section 221. Designation.

29 \* \* \*

30 (d) Duties.--The coordinator shall [prepare and administer a

1 plan designed to relieve the financial distress of the  
2 municipality which he has been appointed to serve.];

3 (1) Present, at a public meeting within 45 days of the  
4 execution of the contract between the department and the  
5 coordinator, a list of the coordinator's preliminary  
6 findings, as to the financial condition of municipality. The  
7 list of findings shall include, but is not limited to, a  
8 quantification of all operating deficits for the current  
9 fiscal year and a projection of revenues and operating  
10 expenses for the next three fiscal years, all outstanding  
11 debt obligations, the cost and term of all outstanding  
12 contracts, and other relevant information.

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

18 (i) have participated in the early intervention  
19 process;

20 (ii) have provided consultation on behalf of the  
21 municipality relating to the issues associated with its  
22 distress; or

23 (iii) are elected officials or employees of the  
24 municipality or labor organizations representing  
25 employees of the municipality.

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



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

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

4 (2) Investigate the tax-exempt status of any property  
5 within a distressed municipality and advise the governing  
6 body of the municipality to appeal the assessment or exempt  
7 status of property within the distressed municipality.

8 (3) Solicit and negotiate payments in lieu of taxes from  
9 institutions of public charity and other tax-exempt property  
10 owners in the municipality AND RECOMMEND ACTION BY THE <--  
11 MUNICIPALITY.

12 Section 222. Access to information.

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

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

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

1 and furnish records and documents.

2 Section 223. Public and private meetings.

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

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

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

15 (a) Review of coordinator.--Beginning on July 1, 2015, the  
16 secretary, or his designee, shall conduct an annual review of  
17 each coordinator appointed under section 221 to assess whether  
18 the coordinator's performance has been in compliance with the: <--

19 (1) THE COORDINATOR'S PERFORMANCE HAS BEEN IN COMPLIANCE  
20 WITH THE requirements of the coordinator's contract, if any,  
21 and the provisions of this act.

22 (2) THE COORDINATOR HAS BEEN INEFFECTIVE IN PROVIDING <--  
23 ASSISTANCE NECESSARY TO DEVELOP AND IMPLEMENT THE PLAN.

24 (b) Termination of coordinator.--An unfavorable review under  
25 this section may constitute grounds for termination of the  
26 coordinator's contract for cause. <--

27 Section 11. Section 241 of the act, amended or added June  
28 30, 1992 (P.L.336, No. 69) and July 5, 2012 (P.L.1104, No.133)  
29 and repealed in part October 13, 1994 (P.L.596, No.90), is  
30 amended to read:

1 Section 241. Contents.

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

6 (1) Projections of revenues and expenditures for the  
7 current year and the next [three] five years, both assuming  
8 the continuation of present operations and as impacted by the  
9 measures in the plan. The projections must include an  
10 itemization of the following:

11 (i) Projected revenues, including:

12 (A) Local taxes.

13 (B) Licenses, permits and fines.

14 (C) Sales and rentals.

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

16 (E) Any other sources of projected revenue.

17 (ii) Projected expenditures, including:

18 (A) Debt service.

19 (B) Workforce.

20 (C) Elected and executive officials.

21 (D) Financial management.

22 (E) Infrastructure costs, including highways,  
23 roads and wastewater systems.

24 (F) Maintenance costs, including recycling and  
25 trash collection, disposal and removal.

26 (G) Other professional services.

27 (H) Public safety.

28 (I) Community and economic development.

29 (J) Any other applicable expenditures.

30 (2) Recommendations which will:

1 (i) Satisfy judgments, past due accounts payable,  
2 and past due and payable payroll and fringe benefits.

3 (ii) Eliminate deficits and deficit funds.

4 (iii) Restore to special fund accounts money from  
5 those accounts that was used for purposes other than  
6 those specifically authorized.

7 (iv) Balance the budget, avoid future deficits in  
8 funds and maintain current payments of payroll, [fringe]  
9 benefits and accounts through possible revenue  
10 enhancement recommendations, including tax or fee  
11 changes.

12 (v) Avoid a fiscal emergency condition in the  
13 future.

14 (vi) Enhance the ability of the municipality to  
15 negotiate new general obligation bonds, lease rental  
16 debt, funded debt and tax and revenue anticipation  
17 borrowing.

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

20 (viii) Propose a reduction of debt due on specific  
21 claims by an amortized or lump-sum payment considered to  
22 be the most reasonable disposition of each claim possible  
23 for the municipality considering the totality of  
24 circumstances.

25 (3) Possible changes in collective bargaining agreements  
26 and permanent and temporary staffing level changes or changes  
27 in organization.

28 (4) Recommended changes in municipal ordinances or  
29 rules.

30 (5) Recommendations for special audits or further

1 studies.

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

7 [(7) An analysis of whether the economic conditions of  
8 the municipality are so severe that it is reasonable to  
9 conclude that the municipality is no longer viable and should  
10 consolidate or merge with an adjacent municipality or  
11 municipalities.]

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

19 (8) An analysis of whether functional consolidation of  
20 or privatization of existing municipal services is  
21 appropriate and feasible and recommendations for where and  
22 how this could be done.

23 (9) A capital budget which addresses infrastructure  
24 deficiencies.

25 (10) Recommendations for greater use of Commonwealth  
26 economic and community development programs.

27 (10.1) Recommendations for enhanced cooperation and  
28 changes in land use planning and zoning, including regional  
29 approaches that would promote economic development and  
30 improve residential, commercial and industrial use

1 availability within and around the municipality.

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

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

17 (i) The tax bases of current and recommended revenue  
18 sources from both within and outside of the distressed  
19 municipality.

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

23 (iii) The current fee, charge, penalty and fine  
24 provisions of municipal enactments related to municipal  
25 services and police powers.

26 (iv) Revenue as defined in section 103.

27 Section 12. Section 242(a) of the act, amended December 19,  
28 1988 (P.L.1272, No.157), is amended and the section is amended  
29 by adding a subsection to read:

30 Section 242. Publication.

1 (a) Filing.--Within [90] 120 days of an executed contract  
2 between the department and the coordinator, the coordinator  
3 shall formulate a plan for relieving the municipality's  
4 financial distress and shall deliver true and correct copies of  
5 it to:

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

9 (2) The secretary.

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

11 (4) The mayor.

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

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

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

16 \* \* \*

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

22 \* \* \*

23 Section 13. Section 245 of the act, amended December 19,  
24 1988 (P.L.1272, No.157), is amended to read:

25 Section 245. Adoption by municipality.

26 Not later than 25 days following the coordinator's public  
27 meeting, the municipal governing body shall either enact an  
28 ordinance approving the implementation of the plan, including  
29 enactment of necessary related ordinances and revisions to  
30 ordinances, or shall reject the plan and proceed under section

1 246. If the ordinance takes effect in a municipality operating  
2 under an optional plan form of government or a home rule  
3 charter, the chief executive officer [may] shall issue an order  
4 directing the implementation of the plan no later than seven  
5 days from the enactment of the ordinance by the governing body.

6 Section 14. Section 246(d)(3) of the act is amended to read:  
7 Section 246. Preparation and action on alternate plan.

8 \* \* \*

9 (d) Review by secretary.--

10 \* \* \*

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

15 (i) The secretary's determination.

16 (ii) The reasons for the determination.

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

19 (iv) The applicability of Chapters 6 and 7 to the  
20 municipality.

21 Section 15. Section 247(a)(4) of the act, amended June 30,  
22 1992 (P.L.336, No.69), is amended to read:

23 Section 247. Plan implementation.

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

27 \* \* \*

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

30 \* \* \*



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

3 (a) Proposed budget.--Notwithstanding any provision of law  
4 or home rule charter to the contrary, a municipality subject to  
5 a plan under this chapter shall, at least ~~150~~ 120 days prior to <--  
6 the end of its current fiscal year, commence development of a  
7 proposed annual budget for the next fiscal year that implements  
8 the provisions of the plan or makes other changes to the  
9 management of the municipality necessary to implement the  
10 provisions of the plan. The proposed budget shall be prepared by  
11 the governing body or the chief executive officer, as the case  
12 may be.

13 (b) Coordinator review.--At least ~~90~~ 75 days prior to the <--  
14 end of the fiscal year, the governing body or chief executive  
15 officer shall submit the proposed budget to the coordinator. The  
16 coordinator shall review the proposed budget to verify that the  
17 proposed budget conforms with the plan. The coordinator shall  
18 make any modifications necessary to the proposed budget to meet  
19 the objectives of the plan.

20 (c) Return of proposed budget.--After completion of the  
21 coordinator's review, the coordinator shall, at least 45 days  
22 before the end of the municipality's fiscal year, submit the  
23 proposed budget, together with the coordinator's modifications,  
24 if any, to the municipality for adoption in accordance with law.

25 (d) Notification to secretary.--Within 30 days of the  
26 municipality's adoption of the budget, or the municipality's  
27 failure to timely adopt a budget, the coordinator shall notify  
28 the secretary whether or not the adopted budget, if any,  
29 conforms to the plan. Upon a determination that the budget does  
30 not conform to the plan, or that the municipality has not timely

1 adopted a budget, the secretary may take action as provided for  
2 by this act.

3 Section 17. Sections 248 and 250 of the act are amended to  
4 read:

5 Section 248. Failure to adopt or implement plan.

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

11 Section 250. Debt provisions.

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

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

22 [Section 253. Termination of status.

23 (a) Determination by secretary.--Following a duly advertised  
24 public hearing with notices given as provided in section 203,  
25 the secretary may issue a determination that the conditions  
26 which led to the earlier determination of municipal financial  
27 distress are no longer present. The determination shall rescind  
28 the status of municipal financial distress and shall include a  
29 statement of facts as part of the final order.

30 (b) Determination upon petition by a municipality.--A

1 financially distressed municipality may petition the secretary  
2 to make a determination that the conditions which led to the  
3 earlier determination of municipal financial distress are no  
4 longer present. Upon receiving the petition, the secretary may  
5 issue a determination to rescind following a duly advertised  
6 public hearing with notices given as provided in section 203.

7 (c) Factors to consider.--In determining whether the  
8 conditions which led to the earlier determination of municipal  
9 financial distress are no longer present, the secretary shall  
10 consider that:

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

14 (2) Accrued deficits in the municipality have been  
15 eliminated.

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

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

23 Section 19. The act is amended by adding a subchapter to  
24 read:

25 SUBCHAPTER C.1

26 DURATION OF DISTRESSED STATUS

27 Section 254. Limitation of status.

28 (a) Termination date.--

29 (1) Except as otherwise provided in this subchapter, no  
30 municipality shall be subject to the provisions of this act

1 after five years from the effective date of an ordinance  
2 enacted in accordance with section 245 or 246. No amendment  
3 to a plan shall affect the termination date as determined  
4 from the date of enactment of the original ordinance.

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

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

11 (ii) Prohibit termination of status proceedings in  
12 accordance with section 255.1 prior to the termination  
13 date as provided in this section.

14 (b) Distressed municipalities.--

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

24 (2) If its distressed status has not been rescinded or  
25 has been continued in accordance with section 710.1, a  
26 municipality operating under Chapter 7 shall be subject to a  
27 final termination date no more than five years from the  
28 termination date of receivership. Section 255 shall not apply  
29 to a termination of status under this paragraph.

30 Section 255. Coordinator's report.

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

6 (1) Conditions within the municipality warrant a  
7 termination in status in accordance with section 255.1. A  
8 report containing a recommendation under this paragraph shall  
9 address each of the factors set forth in section 255.1(c).

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

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

15 (4) A three-year exit plan in accordance with section  
16 256 is warranted.

17 (b) Filing and notice.--

18 (1) The report shall be filed with the same parties as  
19 provided in section 242(a). The date of filing shall be the  
20 date on which the municipal clerk or municipal secretary  
21 places a true and correct copy of the report on file for  
22 public inspection in the municipal office.

23 (2) On the date of filing, notice that the report has  
24 been filed and is open for public inspection in the municipal  
25 office shall be published by the coordinator in the county  
26 legal reporter and in one or more newspapers with general  
27 circulation serving the area in which the municipality is  
28 located. The department shall pay for the cost of the  
29 publication of the notice. The notice shall contain the  
30 following information:

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

4           (ii) The date and place of filing.

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

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

10          (v) A summary of the report and findings of the  
11 coordinator.

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

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

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

28          (e) Revision of report.--

29           (1) Nothing in this section shall be construed to  
30 preclude the coordinator from revising a report of his own

1 initiative.

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

5 (3) If the coordinator decides to revise the report, the  
6 coordinator shall consult with the secretary and either the  
7 chief executive officer or the governing body throughout the  
8 revision of the report and shall give consideration to  
9 comments they may propose.

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

14 Section 255.1. Termination of status.

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

19 (b) Determination.--Within 90 days of the conclusion of the  
20 public hearing, the secretary shall issue an administrative  
21 determination of whether the termination of status is  
22 appropriate and reasons for the determination. The determination  
23 shall include findings addressing each of the factors in  
24 subsection (c) and shall consider information provided in the  
25 report of the coordinator and any additional information  
26 received during the public hearing.

27 (c) Factors to consider.--If the secretary concludes that  
28 substantial evidence supports an affirmative determination for  
29 each of the following factors, the determination shall be that  
30 distressed status will be rescinded. The secretary shall

1 consider whether:

2 (1) Operational deficits of the municipality have been  
3 eliminated and the financial condition of the municipality,  
4 as evidenced by audited financial statements prepared in  
5 accordance with generally accepted accounting principles and  
6 projections of future revenues and expenditures, demonstrates  
7 a reasonable probability of future balanced budgets absent  
8 participation in this act.

9 (2) Obligations issued to finance the municipality's  
10 debt have been retired, reduced or reissued in a manner that  
11 has adequately refinanced outstanding principle and interest  
12 and has permitted timely debt service and reasonable  
13 probability of continued timely debt service absent  
14 participation in this act.

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

18 (4) The reasonably projected revenues of the  
19 municipality are sufficient to fund ongoing necessary  
20 expenditures, including pension AND DEBT obligations and the <--  
21 continuation or negotiation of collective bargaining  
22 agreements and the provision of municipal services.  
23 Projections of revenues shall include any anticipated tax or  
24 fee increases to fund ongoing expenditures for the first five  
25 years after a termination of distressed status.

26 (d) Appeal.--A labor organization that is a party to a <--  
27 collective bargaining agreement with a financially distressed  
28 municipality and any other party withstanding under section 202  
29 may appeal the THE determination of the secretary MAY BE <--  
30 APPEALED pursuant to 2 Pa.C.S. Ch. 7 Subch. A (relating to



1 judicial review of Commonwealth agency action)- BY ANY OF THE  
2 FOLLOWING:

3 (1) THE GOVERNING BODY OF THE MUNICIPALITY.

4 (2) A CREDITOR OF THE MUNICIPALITY.

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

7 (4) TEN PERCENT OF THE BENEFICIARIES OF A PENSION FUND  
8 OF THE MUNICIPALITY.

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

10 (6) TRUSTEES OR PAYING AGENTS OF A MUNICIPAL BOND  
11 INDENTURE.

12 (7) ELECTED AUDITORS, ELECTED CONTROLLERS OR APPOINTED  
13 INDEPENDENT AUDITORS.

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

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

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

18 (e) Suspension of subsequent proceedings.--The coordinator  
19 and secretary shall not take any action under sections 256 and  
20 257 until a final decision is issued for any appeal under  
21 subsection (d) or (f). The duration of distressed status of the  
22 municipality shall be extended subject to subsequent action in  
23 accordance with section 257.

24 (f) Action of the secretary preserved.--Except as otherwise  
25 provided in chapters 6 and 7, the secretary may, following a  
26 duly advertised public hearing with notices given as provided in  
27 section 203, at any time issue a determination as provided in  
28 this section upon written recommendation of the coordinator  
29 setting forth a discussion of each of the factors specified in  
30 subsection (c). The determination may be appealed in accordance

1 with subsection (d).

2 Section 256. Exit plan.

3 (a) General rule.--If recommended in a final report under  
4 section 255, the coordinator shall within 90 days of the public  
5 meeting referred to in section 255 OR THE FILING OF THE FINAL <--  
6 REPORT UNDER SECTION 255(E) (4), WHICHEVER IS LATER, prepare an  
7 exit plan for the municipality. The exit plan shall be subject  
8 to the same filing, notice, public meeting and revision  
9 procedures as specified in section 255.

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

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

16 (2) Functional consolidation of or privatization of  
17 existing municipal services.

18 (3) The execution, approval, modification, rejection,  
19 renegotiation or termination of contracts or agreements of  
20 the distressed municipality, provided, however, that the  
21 provisions of section 252 shall apply to any exit plan  
22 adopted in accordance with this subchapter.

23 (4) Changes in the form of municipal government or the  
24 configuration of elected or appointed municipal officials and  
25 employees as permitted by law.

26 (c) Adoption of plan.--

27 (1) Not later than 45 days following the coordinator's  
28 public meeting TO HEAR COMMENTS ON THE EXIT PLAN, the <--  
29 municipal governing body shall enact an ordinance approving  
30 the implementation of the plan, including enactment of

1 necessary related ordinances and revisions to ordinances.

2 (2) If the ordinance takes effect in a municipality  
3 operating under an optional plan form of government or a home  
4 rule charter, the chief executive officer shall issue an  
5 order directing the implementation of the plan no later than  
6 seven days from the enactment of the ordinance by the  
7 governing body.

8 (3) If the governing body fails to adopt and implement  
9 the plan, the secretary shall, upon a written determination  
10 by the coordinator, request that the Governor make a  
11 determination of a fiscal emergency in accordance with  
12 Chapter 6.

13 (4) The requirements of this subsection shall be  
14 suspended if the coordinator first provides a recommendation  
15 to the secretary that the municipality should be  
16 disincorporated under Chapter 4.

17 Section 257. Postreport procedures.

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

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

24 (2) After filing a final report containing a  
25 recommendation under section 255(a)(2), terminate the  
26 distressed status of the municipality effective on the date  
27 of a final order establishing an unincorporated district  
28 under Chapter 4.

29 (3) After filing a final report containing a  
30 recommendation under section 255(a)(3), request a

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

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

6 (1) issue a determination in accordance with section  
7 255.1; or

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

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

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

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

19 (a) [Authorization.--In the event one of the following  
20 conditions is present, a] General authorization.--A municipality  
21 is hereby authorized to apply to the department to file a  
22 municipal debt adjustment action pursuant to the Bankruptcy Code  
23 (11 U.S.C. § 101 et seq.), if at least one of the following  
24 conditions is present:

25 \* \* \*

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

30 (a.1) Filing after determination of distress.--The

1 municipality's authorization under subsection (a) shall continue  
2 after the issuance of a declaration of distress under section  
3 203, so long as the municipality is not in a state of fiscal  
4 emergency pursuant to a declaration under section 602. A  
5 municipality that is in a state of fiscal emergency shall not be  
6 authorized under subsection (a) to apply to the department to  
7 file a municipal debt adjustment.

8 \* \* \*

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

11 Section 281. Eligibility.

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

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

23 Section 282. Priority.

24 \* \* \*

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

30 (b.1) Release of funds to unincorporated district.--Funds

1 granted to an unincorporated district shall be released to the  
2 administrator in accordance with section 441.

3 \* \* \*

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

5 CHAPTER 4

6 [CONSOLIDATION OR MERGER OF] ECONOMICALLY NONVIABLE  
7 MUNICIPALITIES

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

10 SUBCHAPTER C

11 DISINCORPORATION OF NONVIABLE MUNICIPALITIES

12 Section 431. Definitions

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

16 "Administrator." A service district administrator appointed  
17 pursuant to section 434.

18 "District." An unincorporated service district created by  
19 section 441.

20 "District advisory committee." A service district advisory  
21 committee established by section 442.

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

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

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

1 Section 431.1. Determination of nonviability.

2 (a) General rule.--Upon recommendation of a coordinator  
3 appointed under Chapter 2 or a receiver appointed under Chapter  
4 7, the secretary shall consider whether all of the following  
5 conditions have been met in determining that a municipality is  
6 nonviable:

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

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

13 (3) Efforts to merge or consolidate the municipality  
14 with a neighboring municipality are unachievable or will not  
15 result in viability.

16 (b) Notice and recommendation.--If the secretary determines  
17 that a municipality is nonviable under all of the conditions  
18 provided in subsection (a), the secretary shall provide notice  
19 to the governing body of the municipality of the secretary's  
20 determination and recommend that the municipality be  
21 disincorporated under this subchapter.

22 Section 432. Procedure for disincorporation.

23 (a) Ordinance.--Within 45 days of a determination of  
24 nonviability under section 431.1, the governing body may enact  
25 an ordinance, subject to review by the court of common pleas  
26 under section 433, that will initiate the disincorporation of  
27 the municipality. The ordinance shall be advertised as required  
28 by law but it may not become effective until the court has  
29 issued its decree under section 433.

30 (b) Petition by electors.--If the governing body of the

1 municipality fails to pass an ordinance authorized under  
2 subsection (a), then a petition signed by registered electors of  
3 the municipality comprising at least 51% of the number of  
4 electors voting for the office of Governor in the last  
5 gubernatorial general election may be submitted to the court  
6 within 60 days of the failure of the governing body to enact an  
7 ordinance as provided in subsection (a).

8 Section 433. Judicial review of ordinance or petition.

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

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

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



1 subsection (a).

2 (c) Hearing proceedings.--

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

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

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

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

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

27 (iii) The effect of the disincorporation on any  
28 bonds, other obligations or agreements of the  
29 municipality.

30 (d) Costs and fees.--Court costs and filing fees associated

1 with proceedings under this subchapter shall be paid by the  
2 department.

3 (e) Judicial decree.--

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

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

15 Section 433.1. Failure to initiate disincorporation.

16 (a) Conditions prior to determination.--The secretary shall  
17 issue a determination under subsection (b) within 30 days of  
18 either:

19 (1) the final day for filing a petition under section  
20 432(b), if judicial review under section 433 has not been  
21 initiated; or

22 (2) a final adjudication pursuant to a hearing held  
23 under section 433 finding that the municipality should  
24 continue to exist as a separate municipal corporation because  
25 of a reasonable expectation that the municipality is viable.

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

27 (1) the recovery plan for the municipality shall remain  
28 in effect subject to the limitations of chapter 2, subchapter  
29 C.1 and, if the coordinator has previously issued a report  
30 pursuant to section 255, the secretary shall direct the

1 coordinator to prepare an exit plan according to section 256;

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

7 (3) conditions within the municipality warrant a  
8 termination in status in accordance with section 255.1; or

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

12 Section 434. Service district administrator.

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

20 (b) Compensation and expenses.--The administrator's  
21 compensation and reimbursement for actual and necessary expenses  
22 shall be paid by the Commonwealth. The date and amount of  
23 compensation shall be established by the secretary. The  
24 department may require the compensation and expenses of the  
25 administrator to be reimbursed by an assessment for  
26 administrative costs under Subchapter D.

27 (c) Revocation and vacancy.--The secretary may the elected  
28 and appointed officials of the revoke the appointment of an  
29 administrator at any time. A vacancy in the office of the  
30 administrator by way of revocation or resignation shall be

1 filled in the same manner as the original appointment.

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

3 (1) Seek or hold a position as any other elected or  
4 appointed public official within this Commonwealth or as a  
5 political party officer during the term of the  
6 administrator's tenure.

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

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

14 (e) Liability.--

15 (1) The administrator shall not be liable personally for  
16 any obligations of the municipality or unincorporated service  
17 district.

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

26 (f) Powers and duties.--Notwithstanding any other provision  
27 of law, the administrator shall have the following powers and  
28 duties:

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

1           (i) The sale, conveyance, assignment or other use or  
2           disposition of the municipality's assets as provided by  
3           law.

4           (ii) The repayment of debt, bonds or other  
5           obligations before disincorporation.

6           (iii) Any other action necessary to implement the  
7           disincorporation.

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

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

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

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

19          (6) To apply for grants, loans or payments under any  
20          economic and community development program funded by the  
21          Commonwealth.

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

25          (8) To meet and consult with the municipal governing  
26          body before disincorporation and the district advisory  
27          committee after the establishment of the district.

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

30          (10) To contract for professional services to aid in the

1 administrator's duties under this subchapter and Subchapter  
2 D.

3 (11) To seek enforcement of any provision of this  
4 subchapter and Subchapter D.

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

8 Section 435. Powers and duties of municipality.

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

14 (1) Enact a budget in the municipality's projected final  
15 year that funds the municipality's functions until the date  
16 of disincorporation and provides for the payment of every  
17 current obligation of the municipality before the date of  
18 disincorporation. All remaining municipal funds as of the  
19 date of disincorporation shall be transferred to the  
20 municipality's restricted account.

21 (2) Provide for the transfer and administration of any  
22 municipal pension obligation to a private or public pension  
23 fund. Nothing in this paragraph shall be construed to  
24 authorize a modification of the pension benefits due to any  
25 current or past employee of the municipality.

26 (3) Provide for the appointment of the district advisory  
27 committee to assist the administrator after the  
28 disincorporation of the municipality.

29 (b) Corporate powers reserved.--After the review of the  
30 court of common pleas resulting in a decree under section 433(e)

1 until the date of disincorporation, the governing body shall  
2 retain all corporate powers otherwise authorized by law, except  
3 that it shall not take any action inconsistent with the  
4 administrator's plan for disincorporation.

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

6 (1) The governing body of the municipality may adopt  
7 recommended governing standards which may be included by the  
8 administrator in the essential services plan as the governing  
9 standards of the district.

10 (2) If the governing body adopts recommended governing  
11 standards, the following shall apply:

12 (i) No later than 30 days following a decree of the  
13 court of common pleas under section 433(e), the governing  
14 body shall provide written notice to the administrator  
15 that the governing body intends to adopt an ordinance  
16 containing recommended governing standards for the  
17 inclusion in the essential services plan.

18 (ii) No later than 60 days following the notice  
19 provided under subparagraph (i), the governing body shall  
20 adopt an ordinance containing recommended governing  
21 standards for inclusion in the essential services plan.  
22 The ordinance may incorporate, by reference, any  
23 previously enacted ordinance of the municipality.

24 (d) Powers of district advisory committee authorized.--After  
25 the review of the court of common pleas resulting in a decree  
26 under section 433(e) but prior to the date of disincorporation,  
27 in addition to the powers provided for under this subchapter,  
28 the governing body of the municipality may advise the  
29 administrator in the manner provided for the district advisory  
30 committee under Subchapter D in the formation and amendment of

1 the essential services plan.

2 Section 436. Essential services plan.

3 (a) Formation.--The administrator shall, within 90 days  
4 following appointment and in consultation with the department,  
5 develop an essential services plan to provide essential services  
6 after the date of disincorporation. The essential services plan  
7 shall provide for:

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

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



1       (3) Payment of the lawful financial obligations of the  
2 unincorporated service district, including any transferred  
3 current obligation of the municipality and service of any  
4 debt incurred by the municipality in the manner provided by  
5 Subchapter D, after the disincorporation of the municipality.

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

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

9           (i) Payment of outstanding debt obligations.

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

12          (iii) Possession of title by the Commonwealth as  
13 provided by Subchapter D.

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

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

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

20       (9) Establishment of the name of the district. A  
21 district established by this act shall be named "The  
22 Unincorporated District of ....."

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

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

25           (2) Terminate an obligation to repay any debt, except  
26 that the plan may designate the unincorporated service  
27 district as the servicer of a debt and may specify that a  
28 debt secured by the collection of taxes shall be secured by  
29 the assessment of fees sufficient to satisfy the service  
30 obligations of the debt.

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

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

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

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

10           (i) Rules and conduct related to the maintenance of  
11 property, conduct in public places and the parking of  
12 vehicles in public places which shall protect the health,  
13 safety and welfare of the residents and property owners  
14 of the district to the extent such rules and conduct  
15 could have been adopted by the municipality by ordinance.

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

19           (2) If the governing body of the municipality adopts  
20 recommended governing standards as provided in section  
21 435(c), the administrator shall include the recommended  
22 governing standards in the essential services plan unless the  
23 administrator finds that the recommended governing standards  
24 are unlawful, unconstitutional or would substantially impede  
25 the administration of the essential services plan.

26 Section 437. Proposed essential services plan.

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

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

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

3 (2) The secretary.

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

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

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

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

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

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

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

22 (i) A statement that a proposed essential services  
23 plan has been filed regarding the provision of essential  
24 services to the residents and property owners of the  
25 unincorporated service district which shall succeed the  
26 municipality after disincorporation.

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  
30 relating to the proposed essential services plan.

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

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

4           (2) Notice of an administrator's public meeting on the  
5           proposed essential services plan shall be published by the  
6           administrator in the county legal reporter and in one or more  
7           newspapers with general circulation serving the area in which  
8           the municipality is located. The department shall bear the  
9           cost for publishing the notice. The notice shall contain the  
10          following:

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

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

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

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

24           (e) Administrator's public meeting.--A meeting conducted by  
25           the administrator in the municipality shall be set for a date no  
26           later than 20 days after the date of filing the proposed  
27           essential services plan. The administrator shall request in  
28           writing that the chief executive officer, each member of the  
29           municipal governing body and the chief financial officer of the  
30           municipality to be present at the service administrator's

1 meeting. At that meeting, the administrator shall:

2 (1) Present a summary of the proposed essential services  
3 plan.

4 (2) Receive public comment on the proposed essential  
5 services plan.

6 (3) Allow the members of the governing body of the  
7 municipality to present written and oral comments requesting  
8 revisions of the proposed essential services plan.

9 Section 438. Final essential services plan.

10 (a) Amendment of plan.--

11 (1) The administrator shall consider all timely  
12 submitted written comments, comments presented at the public  
13 meeting and requests for revision in the amendment of the  
14 publicly presented proposed essential services plan before  
15 publishing a final essential services plan.

16 (2) In the event that the administrator does not  
17 incorporate the requests for revision by the members of the  
18 governing body of the municipality regarding the levels of  
19 services provided under the proposed essential services plan  
20 or the basis for the calculation of fees assessed under the  
21 proposed essential services plan, the administrator shall  
22 state in the proposed essential services plan why the  
23 requested revisions were not feasible to incorporate in the  
24 final essential services plan.

25 (b) Notice of final essential services plan.--Within 45 days  
26 of the public meeting the administrator shall file the final  
27 essential services plan with the persons listed in section  
28 437(a) and provide notice of the publication of the final  
29 essential services plan in the manner provided in section  
30 437(c) (1) (i), (ii) and (v).

1 (c) Appeal.--

2 (1) Any person aggrieved by the final essential services  
3 plan may appeal the plan to the court of common pleas within  
4 30 days of notice of the filing of the final essential  
5 services plan. For purposes of this section, notice shall  
6 constitute the date that the person received actual notice of  
7 the final essential services plan, or the date that notice of  
8 the filing of the final essential services plan is first  
9 published in a newspaper with general circulation serving the  
10 area in which the municipality is located.

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

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

17 Section 439. Disincorporation of municipality.

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

20 (1) Notwithstanding any other provision of law, the  
21 terms of office of all elected officials of the municipality  
22 shall end and no person shall be elected or appointed to fill  
23 any vacancy of office.

24 (2) All ordinances of the municipality shall be  
25 nullified.

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

29 (4) The municipality shall be deemed by operation of law  
30 to be disincorporated. The area formerly contained within the

1 municipality shall be an unincorporated service district as  
2 provided under Subchapter D.

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

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

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

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

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

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

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

26 (3) Unless the county has adopted a subdivision and land  
27 development ordinance prior to the date of disincorporation  
28 of the municipality, adopt a subdivision and land development  
29 ordinance which shall apply to any unincorporated service  
30 district within the county.

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

7       (5) Amend the county's comprehensive plan to the extent  
8 necessary to be consistent with the requirements of this  
9 subsection.

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

19                                   SUBCHAPTER D

20                                   UNINCORPORATED SERVICE DISTRICT

21 Section 441. Establishment of unincorporated service district.

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

30     (b) Authorized administrative authority.--All powers



1 providing for the administration of the district shall be vested  
2 in the department through the administrator as provided in this  
3 subchapter. The district advisory committee shall not possess  
4 the corporate powers of the governing body of any municipality  
5 or any authority, except as provided by this subchapter.

6 (c) Corporate powers prohibited.--Nothing in this subchapter  
7 shall be construed as authorizing the district to exercise  
8 corporate powers for the administration of a local government,  
9 including the power to levy taxes, establish elected or  
10 appointed offices and purchase, sell or convey property, except  
11 that the residents of the district may incorporate a  
12 municipality or merge or consolidate with an existing  
13 municipality as provided for in section 447.

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

15 (1) All assets not sold by the municipality during the  
16 process of its disincorporation shall be conveyed to the  
17 Commonwealth to be held in trust for the benefit of the  
18 residents and property owners of the district.

19 (2) The administrator shall serve as trustee of the  
20 property and provide for the repair and maintenance of all  
21 real property and roadways held in trust for the benefit of  
22 the residents and property owners of the district through the  
23 collection of assessments under this subchapter and  
24 administration of payments distributed to the district as  
25 provided in subsection (f).

26 (3) Nothing in this subsection shall be construed as  
27 providing the express approval of the General Assembly to  
28 dispose of or use any lands acquired with funds under the act  
29 of June 22, 1964 (Sp.Sess., P.L.131, No.8), known as the  
30 Project 70 Land Acquisition and Borrowing Act, for purposes

1 other than those provided by that act, except that the  
2 Commonwealth may succeed in title of the property for the  
3 limited purposes established by this subsection.

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

5 (1) All debt incurred by the municipality before the  
6 establishment of the district shall be held by the district  
7 for administration by the administrator. Any such debt shall  
8 be secured by the assets conveyed to the Commonwealth and  
9 held in trust under subsection (d) and serviced by fees  
10 collected under this subchapter.

11 (2) Nothing in this section shall be construed to  
12 authorize the Commonwealth to guarantee any debt incurred by  
13 a municipality or district with the full faith and credit of  
14 the Commonwealth, revenues from the General Fund or any other  
15 source of revenue not derived from fees assessed for the  
16 administration of this subchapter or gains from the sale of  
17 assets of the former municipality.

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

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

29 (2) A district shall continue to receive priority in all  
30 economic and community development programs funded by the

1 Commonwealth as provided for by Subchapter E of Chapter 2.

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

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

8 (h) Relationship with existing municipal and other  
9 authorities preserved.--

10 (1) All authorities established to provide services to  
11 the residents and property owners of a municipality prior to  
12 disincorporation shall continue to serve the residents and  
13 property owners of a district, and all members of the  
14 authority appointed by the governing body of the municipality  
15 prior to disincorporation shall continue to serve out the  
16 remainder of the members' terms.

17 (2) Notwithstanding the provisions of 53 Pa.C.S. § 5607  
18 (relating to purposes and powers) or any other provision of  
19 law, subsequent appointments to the authority board which  
20 would otherwise be made by the governing body of the  
21 municipality shall be made by the administrator in  
22 consultation with the district advisory committee.

23 (i) Governing standards enforceable.--

24 (1) The governing standards included in the essential  
25 services plan shall be enforceable by the filing of a civil  
26 action by the administrator or any aggrieved property owner  
27 or resident of the district.

28 (2) A violation of the governing standards shall  
29 constitute a public nuisance.

30 (3) A magisterial district court or another court of

1 competent jurisdiction presiding over a civil action brought  
2 under this subsection may find relief for the filing party  
3 according to the relief provided for in the essential  
4 services plan or any other relief which is available by law  
5 for the abatement of a public nuisance.

6 (j) Pennsylvania Construction Code applicable.--

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

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

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

27 (a) Establishment.--Each service district shall establish a  
28 service district advisory committee.

29 (b) Composition.--The district advisory committee shall be  
30 composed of three persons who are at least 18 years of age,

1 including two resident property owners of the district and one  
2 owner of a business within the district, if any, who may or may  
3 not be a resident of the district.

4 (c) Appointment by governing body.--At least 30 days prior  
5 to the date of disincorporation, the governing body of the  
6 former municipality shall appoint three members of the district  
7 advisory committee. The governing body shall designate that one  
8 appointee serve a term of one year, one appointee serve a term  
9 of two years and one appointee serve a term of three years.

10 (d) Vacancy.--At the expiration of the term of a member of  
11 the district advisory committee, the remaining members of the  
12 committee shall appoint a person to fill the vacancy. In the  
13 event that the remaining members of the committee are unable to  
14 agree on a person to fill the vacancy or there is more than one  
15 vacancy, the administrator shall select a person or persons to  
16 fill the vacancy. All persons appointed to fill a vacancy on the  
17 district advisory committee shall have a term of three years  
18 beginning on the date of appointment.

19 (e) Advise administrator.--The district advisory committee  
20 shall, at least once every three months, meet with the  
21 administrator and may make recommendations to the administrator  
22 for revisions to the essential services plan, including  
23 revisions to the levels of services provided to the residents  
24 and property owners of the district and methodology of rate  
25 calculation. The administrator shall consider all  
26 recommendations of the district advisory committee.

27 (f) Advise county on land use issues.--The district advisory  
28 committee may provide recommendations on behalf of the residents  
29 and property owners of the district to any county official  
30 regarding any land use-related matter.

1 (g) Advise department on incorporation.--The district  
2 advisory committee may provide recommendations to the department  
3 at any time that the residents of the district and the  
4 department consider the feasibility of incorporating as a viable  
5 municipality or merger or consolidation with an existing  
6 municipality.

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

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

14 (2) Upon receipt of a recommendation made under this  
15 subsection, the administrator shall include the recommended  
16 amendments to the governing standard as a proposed plan  
17 amendment under section 444, unless the administrator finds  
18 that the recommended amendment of the governing standards is  
19 unlawful, unconstitutional or would substantially impede the  
20 administration of the essential services plan.

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

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

26 Section 443. Assessments.

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

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

3       (2) The service of all debts held in trust by the  
4 Commonwealth which were incurred by the former municipality  
5 prior to disincorporation.

6       (3) The necessary construction, maintenance or repair of  
7 facilities or properties which have been conveyed to the  
8 Commonwealth and are held in trust for the benefit of the  
9 district.

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

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

20 (b) Establishment of assessment.--

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

25       (2) The administrator shall provide written personal  
26 notice to each property owner of each property of the  
27 assessment due for the ensuing year no later than November 1  
28 of the year preceding the year for which the assessment  
29 applies.

30       (3) As used in this subsection, "personal notice" shall

1 mean and include notice upon the owner of a property either  
2 by personal service upon the owner or by certified mail to  
3 the owner at the owner's last known address or where service,  
4 after a reasonable attempt, shall not have been successfully  
5 made by either of these two methods, then by leaving notice  
6 at or upon the property.

7 (c) Appeal of assessment.--Any person wishing to challenge  
8 the reasonableness of the assessment may file a suit in the  
9 court of common pleas within 30 days of receiving the notice  
10 provided in subsection (b).

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

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

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

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

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

28 (4) A property owner upon whom an assessment has been  
29 made may pay all or as many of the installments before the  
30 same are due, with interest and costs to the due date of the



1 next installment.

2 (f) First year assessment.--The administrator may provide  
3 for a partial assessment for the calendar year in which the  
4 disincorporation of the municipality occurs. The due date for a  
5 partial year assessment and installment schedule may be set by  
6 the administrator, provided that no assessment shall be due  
7 sooner than 60 days after the administrator provides written  
8 personal notice of the assessment under the procedure in  
9 subsection (a).

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

16 (h) Liens.--An assessment, together with all charges,  
17 expenses and fees, including reasonable attorney fees necessary  
18 for its collection, shall be a lien upon the real property  
19 benefited. The lien shall have the same priority and may be  
20 collected in the same manner as a municipal lien in accordance  
21 with the Municipal Claim and Tax Lien Law or through a civil  
22 action initiated by the administrator.

23 (i) Limited assessment of public property.--An assessment  
24 under this section on property held by the Federal Government,  
25 the Commonwealth and any other public property shall be limited  
26 to an assessment for those services which are directly consumed  
27 by the property, including, but not limited to, water service,  
28 sewer service and waste collection.

29 Section 444. Amendment of essential services plan.

30 (a) Periodic review.--No less than once per year, the

1 administrator shall meet with the district advisory committee to  
2 consider the adequacy of the essential services plan and  
3 consider any request for revision of the essential services plan  
4 made by the district advisory committee.

5 (b) Filing of amendment.--The administrator may file a  
6 proposed essential services plan amendment with the secretary  
7 and each member of the district advisory committee at any time.  
8 The district advisory committee may request a public meeting to  
9 consider the amendment within five days of the filing of a  
10 proposed essential services plan amendment.

11 (c) Notice of amendment.--No later than the date that the  
12 administrator files the proposed essential services plan  
13 amendment, the administrator shall provide notice to the public  
14 of the amended essential services plan using the procedure  
15 provided for by section 437(c)(1). If the district advisory  
16 committee requests a public hearing, the administrator shall  
17 schedule a public meeting within 30 days of the date that the  
18 proposed essential services plan amendment was filed and provide  
19 notice of the public meeting using the procedure provided for by  
20 section 437(c)(2).

21 (d) Comment period.--Written comments on the proposed  
22 essential services plan amendment may be filed with the  
23 administrator. Written comments must be made no later than 15  
24 days after the date of filing. Written comments judged by the  
25 administrator to have value to the essential services plan may  
26 be used to develop revisions for a final essential services plan  
27 amendment.

28 (e) Administrator's public meeting.--If a public meeting is  
29 scheduled at the request of the district advisory committee, the  
30 administrator shall request in writing that the members of the

1 district advisory committee be present at the administrator's  
2 meeting. At that meeting, the administrator shall:

3 (1) Present a summary of the proposed essential services  
4 plan amendment.

5 (2) Receive public comment on the proposed essential  
6 services plan amendment.

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

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

23 (g) Emergency essential services plan amendment.--  
24 Notwithstanding the requirements provided by this section for  
25 the adoption of a final essential services plan amendment, where  
26 the secretary finds that there is or will be an imminent threat  
27 to public safety, human health or the environment, the secretary  
28 may provide a waiver to the administrator allowing the  
29 administrator to immediately publish an emergency essential  
30 services plan amendment. An emergency essential services plan

1 amendment shall take effect immediately.

2 (h) Notice of final essential services plan amendment.--The  
3 administrator shall provide notice of the publication of the  
4 final essential services plan amendment or emergency essential  
5 services plan amendment in the manner provided in section 437(c)  
6 (1)(i), (ii) and (v). Upon providing notice as required by this  
7 chapter, the administrator may execute any contract necessary to  
8 administer the essential services plan, as amended.

9 (i) Appeal.--

10 (1) Any person aggrieved by a final essential services  
11 plan amendment or emergency essential services plan amendment  
12 may appeal the final essential services plan amendment to the  
13 court of common pleas within 30 days of notice of the filing  
14 of the final essential services plan amendment.

15 (2) For purposes of this section, notice shall  
16 constitute the date that the person received actual notice of  
17 the final essential services plan amendment, or the date that  
18 notice of the filing of the final essential services plan  
19 amendment is first published in a newspaper with general  
20 circulation serving the area in which the municipality is  
21 located.

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

25 (4) No appeal of a final essential services plan  
26 amendment shall constitute an automatic stay of any portion  
27 of the essential services plan.

28 (5) The appeal shall be sustained only where the court  
29 finds that the final essential services plan amendment is  
30 unlawful or unconstitutional, or the conduct of the

1 administrator is arbitrary or capricious.

2 Section 445. Unincorporated Service District Trust Fund.

3 (a) Establishment.--There is hereby established a special  
4 fund in the State Treasury, separate and apart from all other  
5 public moneys or funds of the Commonwealth, to be known as the  
6 Unincorporated Service District Trust Fund. The purpose of this  
7 fund shall be to hold moneys from unincorporated service  
8 districts and pay for the expenses and obligations of  
9 administrators, unincorporated service districts and the  
10 department pursuant to Subchapter C. The department shall  
11 allocate funds specific to a district in a restricted account  
12 pursuant to section 445.1.

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

17 Section 445.1. Restricted accounts.

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

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

5 Section 446. Audit.

6 The Auditor General shall conduct an annual audit of the  
7 district. The audit shall include a review of the services  
8 rendered under the essential services plan, the proceeds  
9 generated by the assessments levied pursuant to section 443 and  
10 all transactions made by the administrator on behalf of the  
11 district.

12 Section 447. Merger and consolidation; incorporation of  
13 municipal corporation.

14 (a) Merger and consolidation.--

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

24 (2) Residents of the district may be nominated to, and  
25 serve on, a commission formed to study merger or  
26 consolidation of the district with one or more  
27 municipalities.

28 (3) Upon favorable action by the electorate on  
29 consolidation or merger, the administrator, in consultation  
30 with the district advisory committee, may enter into a merger

1 or consolidation agreement with the governing bodies of other  
2 municipalities in accordance with 53 Pa.C.S. § 737 (relating  
3 to consolidation or merger agreement) and shall provide for  
4 the transition of the district into a consolidated or merged  
5 municipality with the same powers and duties as provided by  
6 law to governing bodies of municipalities.

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

10 (b) Incorporation as municipality.--If the secretary  
11 determines that the district could be incorporated as a viable  
12 municipality, the residents of the district may establish or  
13 incorporate the territory of the district as a municipality as  
14 provided by law.

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

19 (d) Assets in trust.--All assets conveyed to the  
20 Commonwealth to be held in trust, not otherwise transferred  
21 under the essential services plan or sold to repay the debt of  
22 the former municipality, shall be conveyed to a merged,  
23 consolidated or subsequently incorporated municipality,  
24 including the territory of the district.

25 (e) Assumption of debt.--All debt obligations held in trust  
26 by the Commonwealth on behalf of the former municipality for  
27 service by a district shall be assumed by a merged, consolidated  
28 or subsequently incorporated municipality, including the  
29 territory of the district.

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

1 [CHAPTER 5

2 FUNDING

3 Section 501. Appropriation.

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

9 (1) \$500,000 shall be used by the department for  
10 administrative expenses necessary to carry out the provisions  
11 of this act.

12 (2) \$4,500,000 shall be used to provide grants and loans  
13 to municipalities determined to be financially distressed  
14 pursuant to this act.]

15 Section 26. Chapter 6 heading of the act, added October 20,  
16 2011 (P.L.318, No.79), is amended to read:

17 CHAPTER 6

18 FISCAL EMERGENCIES IN [CITIES OF THE

19 THIRD CLASS] MUNICIPALITIES

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

23 Section 601. Definitions.

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

27 "Authority." A municipal authority, parking authority or any  
28 other authority or corporate entity that is directly or  
29 indirectly controlled by a distressed [city] municipality or to  
30 which a distressed [city] municipality has power of appointment.



1 The term shall not include a joint municipal authority.

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

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

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

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

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

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

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

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

27 Section 602. Declaration of fiscal emergency.

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

- 30 (1) (i) is insolvent or is projected to be insolvent

1 within 180 days or less; [or] and

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

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

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

7 (ii) [has failed to adopt or implement] an  
8 alternative plan that the secretary has approved under  
9 section 246.

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

13 Immediately upon making the declaration, the Governor shall:

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

18 (2) Direct the secretary to, within ten days of the  
19 Governor's declaration, develop an emergency action plan to  
20 ensure that vital and necessary services are maintained  
21 within the [city] municipality during the state of fiscal  
22 emergency.

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

1 Section 603. Notification by the secretary.

2 (a) Notice.--Upon completion of the emergency action plan,  
3 the secretary shall cause the plan to be posted on the  
4 department's publicly accessible Internet website and shall  
5 provide written notice of the emergency action plan by overnight  
6 delivery service, providing proof of receipt, to all members of  
7 the governing body and, if applicable, the chief executive  
8 officer of the distressed [city] municipality.

9 (b) Publication.--The secretary shall publish once in a  
10 newspaper of general circulation notice that the emergency  
11 action plan has been completed. The notice shall specify the  
12 publicly accessible Internet address of the department's website  
13 where the plan is posted.

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

17 Section 604. Powers of the Governor.

18 (a) Powers.--During the state of fiscal emergency, the  
19 Governor may exercise the authority of the elected or appointed  
20 officials of the distressed [city] municipality or authority as  
21 necessary to ensure the provision of vital and necessary  
22 services and may delegate the authority to the secretary or a  
23 designee of the secretary. The emergency powers of the Governor  
24 shall include the following:

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

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

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

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

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

10 (b) Orders.--The Governor may issue an order to an elected  
11 or appointed official of the distressed [city] municipality or  
12 an authority to implement any provision of the emergency action  
13 plan or refrain from taking any action that would interfere with  
14 the powers granted to the Governor or the goals of the plan. An  
15 order issued under this subsection shall be enforceable under  
16 section 606.

17 (c) Authorization prohibited.--Neither this chapter nor the  
18 emergency action plan shall be interpreted to authorize the  
19 Governor to:

20 (1) Unilaterally levy taxes.

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

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

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

27 (3) Unilaterally impair or modify existing bonds, notes,  
28 municipal securities or other lawful contractual or legal  
29 obligations of the distressed [city] municipality or  
30 authority[, except as otherwise ordered by a court of

1 competent jurisdiction].

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

6 (5) Pledge the full faith and credit of the  
7 Commonwealth.

8 Section 605. Elected and appointed officials.

9 During a fiscal emergency, the authorities and appointed and  
10 elected officials of the distressed [city] municipality shall  
11 continue to carry out the duties of their respective offices,  
12 except that no decision or action shall conflict with an  
13 emergency action plan, order or exercise of power by the  
14 Governor under section 604.

15 Section 606. Mandamus.

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

23 Section 607. Consent agreement.

24 (a) Negotiations.--Within eight days of the declaration of a  
25 fiscal emergency, the governing body and, if applicable, the  
26 chief executive officer of the distressed [city] municipality  
27 shall convene a special public meeting to negotiate a consent  
28 agreement. The meeting shall be attended by the secretary or  
29 secretary's designee. Negotiations among creditors and any of  
30 the parties in this subsection shall be conducted in accordance

1 with section 223(b).

2 (b) Contents.--

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

7 (2) The consent agreement shall include all of the  
8 following:

9 (i) Continued provision of vital and necessary  
10 services.

11 (ii) Payment of the lawful financial obligations of  
12 the distressed [city] municipality and authority. This  
13 subparagraph includes debt obligations, municipal  
14 securities, lease rental obligations, legal obligations  
15 and consensual modifications of existing obligations,  
16 except as otherwise ordered by a court of competent  
17 jurisdiction.

18 (iii) Timely deposit of required payments to the  
19 pension fund for the distressed [city] municipality and  
20 each authority or the fund in which the distressed [city]  
21 municipality and each authority participates.

22 (iv) Legislative and administrative actions to be  
23 taken by the elected or appointed officials of the  
24 distressed [city] municipality during the term of the  
25 consent agreement.

26 (3) The consent agreement may include:

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

30 (ii) Approval, modification, rejection,

1 renegotiation or termination of contracts or agreements  
2 of the distressed [city] municipality or authorities.

3 (iii) Execution of new contracts or agreements.

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

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

8 (ii) Provisions that unilaterally abrogate, alter or  
9 otherwise interfere with a lien, charge, covenant or  
10 relative priority, that is:

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

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

15 (iii) Provisions that unilaterally impair or modify  
16 existing bonds, notes, municipal securities or other  
17 lawful contractual or legal obligations of the distressed  
18 [city] municipality or authority[, except as otherwise  
19 ordered by a court of competent jurisdiction].

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

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

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

29 (1) Upon approval by a majority vote of the governing  
30 body of the distressed [city] municipality, the consent

1 agreement shall be presented to the secretary within 20 days  
2 of the declaration of fiscal emergency.

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

5 (3) If the secretary determines that the consent  
6 agreement is sufficient to overcome the distressed [city's]  
7 municipality's financial distress and approves the agreement,  
8 the governing body shall enact the consent agreement in the  
9 form of an ordinance within seven days of approval by the  
10 secretary.

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

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

20 (1) Failure of the governing body of the distressed  
21 [city] municipality to convene or the failure of a quorum of  
22 the governing body to participate in a special public meeting  
23 required by subsection (a).

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

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

30 (4) Enactment by the distressed [city] municipality of



1 an amendment to the ordinance enacted in subsection (c) in  
2 violation of subsection (e).

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

5 (f) Collective bargaining.--A collective bargaining  
6 agreement or arbitration settlement executed following the  
7 enactment of an ordinance under this section may not in any  
8 manner violate, expand or diminish the provisions of the consent  
9 agreement, provided, however, that the provisions of section 252  
10 shall apply to any consent agreement adopted in accordance with  
11 this subchapter.

12 Section 608. Termination of fiscal emergency and suspension of  
13 powers.

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

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

19 (2) is able to ensure the continued provision of vital  
20 and necessary services after the termination of the fiscal  
21 emergency.

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

27 Section 609. Restrictions.

28 (a) Earned income tax on nonresidents.--A distressed [city]  
29 municipality subject to this chapter or Chapter 7 may not  
30 petition a court of common pleas for an increase in the rate of

1 an earned income tax imposed on nonresident workers under  
2 section 123(c) [until the secretary terminates the distress  
3 status of the city under section 253] ~~unless the conditions~~ ◀  
4 ~~under section 710.1(c) are met.~~

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

10 Section 610. Applicability.

11 (a) Statement.--

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

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

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

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

22 CHAPTER 7

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

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

28 Section 701. Definitions.

29 The following words and phrases when used in this chapter  
30 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

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

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

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

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

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

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

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

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

30 Section 702. Receivership.

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

8 (b) Service and notice.--

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

10 (i) the governing body of the distressed [city]  
11 municipality;

12 (ii) the chief executive officer of the distressed  
13 [city] municipality; and

14 (iii) the governing body of each authority.

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

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

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

25 (1) Thirty days have passed since the declaration of a  
26 fiscal emergency.

27 (2) There has been a failure by:

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

30 (ii) the governing body of the distressed [city]

1           municipality to implement an ordinance under section 607;

2           [or]

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

6           (iv) (Reserved).

7           (3) A fiscal emergency under section 602(a) continues to  
8           exist.

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

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

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

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

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

21           (5) require and empower the receiver to implement the  
22           emergency action plan developed by the secretary under  
23           section 602 until a recovery plan developed by the receiver  
24           is approved by the court under section 703.

25           (f) Additional actions.--

26           (1) The Governor may direct the secretary to file a  
27           petition in Commonwealth Court to appoint an individual named  
28           in the petition as a receiver for the distressed [city]  
29           municipality if the distressed [city] municipality fails to  
30           comply with or has amended the ordinance without the approval

1 of the secretary under section 607(d)(3) or (4).

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

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

10 Section 703. Recovery plan.

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

16 (b) Contents.--The receiver shall consider the plan prepared  
17 by the coordinator under section 241 and any other existing  
18 alternate plans in the development of the recovery plan. The  
19 following shall apply:

20 (1) The recovery plan shall provide for all of the  
21 following:

22 (i) Continued provision of vital and necessary  
23 services.

24 (ii) Payment of the lawful financial obligations of  
25 the distressed [city] municipality and authorities. This  
26 subparagraph includes debt obligations, municipal  
27 securities, lease rental obligations, legal obligations  
28 and consensual modifications of existing obligations.

29 (iii) Timely deposit of required payments to the  
30 pension fund in which the distressed [city] municipality

1 and each authority participates.

2 (2) The recovery plan may include:

3 (i) the sale, lease, conveyance, assignment or other  
4 use or disposition of the assets of the distressed [city]  
5 municipality or authority;

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

11 (iii) the execution of new contracts or agreements;  
12 and

13 (iv) other information the receiver deems  
14 appropriate.

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

17 (1) Unilaterally levy taxes.

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

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

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

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

29 (4) Authorize the use of the proceeds of the sale,  
30 lease, conveyance, assignment or other use or disposition of

1 the assets of the distressed [city] municipality or authority  
2 in a manner contrary to section 707.

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

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

18 Section 704. Confirmation.

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

22 (1) imposing on the elected and appointed officials of  
23 the distressed [city] municipality or an authority a  
24 mandatory duty to undertake the acts set forth in the  
25 recovery plan;

26 (2) suspending the authority of the elected and  
27 appointed officials of the distressed [city] municipality or  
28 an authority to exercise power on behalf of the distressed  
29 [city] municipality or authority pursuant to law, charter,  
30 ordinance, rule or regulation to the extent that the power



1 would interfere with the powers granted to the receiver or  
2 the goals of the recovery plan; and

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

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

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

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

13 (c) Collective bargaining.--A collective bargaining  
14 agreement or arbitration settlement executed after confirmation  
15 of a recovery plan may not, in any manner, violate, expand or  
16 diminish the provisions of the recovery plan, provided, however,  
17 that the provisions of section 252 shall apply to any recovery  
18 plan adopted in accordance with this chapter.

19 Section 705. Receiver.

20 \* \* \*

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

30 Section 706. Powers, duties and prohibited actions.

1 (a) Powers and duties.--Notwithstanding any other provision  
2 of law, the receiver shall have the following powers and duties:  
3 (1) To require the distressed [city] municipality or  
4 authority to take actions necessary to implement the recovery  
5 plan under section 703.  
6 (2) To modify the recovery plan as necessary to achieve  
7 financial stability of the distressed [city] municipality and  
8 authorities in accordance with section 703.  
9 (3) To require the distressed [city] municipality or  
10 authority to negotiate intergovernmental cooperation  
11 agreements between the distressed [city] municipality and  
12 other political subdivisions in order to eliminate and avoid  
13 deficits, maintain sound budgetary practices and avoid  
14 interruption of municipal services.  
15 (4) To submit quarterly reports to the governing body  
16 and, if applicable, the chief executive officer of the  
17 distressed [city] municipality and to the department. The  
18 reports shall be posted on [the] a publicly accessible  
19 Internet website [for] maintained by the distressed [city]  
20 municipality.  
21 (5) To require the distressed [city] municipality or  
22 authority to cause the sale, lease, conveyance, assignment or  
23 other use or disposition of the distressed [city's]  
24 municipality's or authority's assets in accordance with  
25 section 707.  
26 (6) To approve, disapprove, modify, reject, terminate or  
27 renegotiate contracts and agreements with the distressed  
28 [city] municipality or authority, except to the extent  
29 prohibited by the Constitutions of the United States and  
30 Pennsylvania.

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

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

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

20 (10) To meet and consult with the advisory committee  
21 under section 711.

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

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

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

1 do any of the following:

2 (1) Unilaterally levy taxes.

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

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

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

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

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

18 Section 707. Use or disposition of assets.

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

1 municipality or authority.

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

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

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

10 Section 708. Elected and appointed officials.

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

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

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

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

20 Section 709. Judicial actions.

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

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

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

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

5 Section 710. Termination of receivership.

6 \* \* \* <--

7 (A) TIME.--EXCEPT AS PROVIDED UNDER SUBSECTION (B) OR (C), <--  
8 THE RECEIVERSHIP UNDER THIS CHAPTER SHALL EXPIRE TWO YEARS AFTER  
9 THE APPOINTMENT OF THE RECEIVER.

10 (B) EXTENSION.--THE SECRETARY MAY PETITION COMMONWEALTH  
11 COURT FOR ONE OR MORE EXTENSIONS OF THE RECEIVERSHIP. THE COURT  
12 SHALL GRANT EACH EXTENSION [FOR] OF UP TO ANOTHER TWO YEARS IF  
13 THE SECRETARY ESTABLISHES BY A PREPONDERANCE OF THE EVIDENCE  
14 THAT FURTHER IMPLEMENTATION OF THE RECOVERY PLAN IS NECESSARY  
15 TO END THE FISCAL EMERGENCY.

16 (c) Termination of fiscal emergency.--Notwithstanding the  
17 date of expiration of receivership under subsection (a) or an  
18 extension of receivership under subsection (b), the receivership  
19 shall terminate upon the secretary's termination of a fiscal  
20 emergency under section 608(a).

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

23 (a) Administrative determination required.--Within 30 days  
24 of the termination or expiration of the receivership under  
25 section 710, the secretary shall issue one of the following  
26 administrative determinations:

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

29 (2) the municipality continues to be financially  
30 distressed.

1 (b) Appointment of coordinator.--Upon a determination under  
2 subsection (a) (2), a recovery plan adopted under section 703 AND <--  
3 CONFIRMED BY COMMONWEALTH COURT shall remain in effect and SHALL <--  
4 be deemed to be a plan adopted under Chapter 2. The secretary  
5 shall appoint a coordinator in accordance with section 221. The  
6 receiver may be appointed as coordinator. The coordinator shall  
7 implement the recovery plan under section 247(a) subject to the  
8 following:

9 (1) The plan shall be subject to amendment in accordance  
10 with section 249, provided that nothing in this section shall  
11 authorize the impairment of existing lawful contractual or  
12 legal obligations of the distressed municipality except where  
13 otherwise permitted by law.

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

19 (3) The plan shall terminate as provided in section  
20 254(b) (2).

21 ~~(c) Conditions for increasing taxes on nonresident income. <--~~  
22 ~~Notwithstanding any other provision of law, a municipality~~  
23 ~~exiting receivership and subject to a determination under~~  
24 ~~subsection (a) (2) shall be subject to the same requirements as a~~  
25 ~~city of the second class A under section 123(c) (3) before being~~  
26 ~~authorized to increase the rate of taxation on nonresident~~  
27 ~~income.~~

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

1 Section 711. Municipal financial recovery advisory committee.

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

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

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

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

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

17 (4) One member appointed by the Governor.

18 \* \* \*

19 Section 712. Applicability.

20 (a) Statement.--

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

23 \* \* \*

24 Section 33. This act shall apply as follows:

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

28 (2) The amendment or addition of sections 608, 710 and  
29 710.1(a) and (b) of the act shall not apply to a municipality  
30 that entered receivership prior to the effective date of this



1 section and shall not supersede or constitute grounds to  
2 modify any order of court issued prior to the effective date  
3 of this section.

4 SECTION 34. FOR TAX YEARS BEGINNING AFTER THE EFFECTIVE DATE <--  
5 OF THIS SECTION, A FINANCIALLY DISTRESSED MUNICIPALITY SHALL BE  
6 PROHIBITED FROM USING THE SPECIAL TAXING AUTHORITY IN SECTION  
7 607(F) OF THE ACT OF DECEMBER 18, 1984 (P.L.1005, NO.205), KNOWN  
8 AS THE MUNICIPAL PENSION PLAN FUNDING STANDARD AND RECOVERY ACT,  
9 TO IMPOSE AN INCREASE IN THE RATE, OVER THE RATE IMPOSED AS OF <--  
10 JUNE 30, 2014, OF TAXATION ON NONRESIDENT INCOME UNLESS AN EQUAL  
11 OR GREATER INCREASE IN THE RATE OF TAXATION ON RESIDENT INCOME,  
12 OVER THE HIGHEST RATE LEVIED IN THE PREVIOUS FISCAL YEAR, IS  
13 IMPOSED IN THE SAME TAX YEAR.

14 SECTION 35. THE ADDITION OF SECTION 255.1 OF THE ACT SHALL  
15 NOT APPLY TO DETERMINATIONS ISSUED BY THE SECRETARY OF COMMUNITY  
16 AND ECONOMIC DEVELOPMENT PRIOR TO THE EFFECTIVE DATE OF THIS  
17 SECTION OR TO APPEALS PENDING ON THE EFFECTIVE DATE OF THIS  
18 SECTION.

19 Section ~~34~~ 36. This act shall take effect ~~in 60 days~~. AS <--  
20 FOLLOWS:

21 (1) SECTION 34 OF THIS ACT AND THIS SECTION SHALL TAKE  
22 EFFECT IMMEDIATELY.

23 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60  
24 DAYS.