

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 SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 7, 2014

AN ACT

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

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

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

AN ACT

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

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

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

15 Section 102. Purpose and legislative intent.

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

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

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

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

1 training and technical and financial assistance.

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

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

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

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

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

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

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

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

14 (i) constitutes a fiscal emergency; and

15 (ii) signifies:

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

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

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

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

30 (6) Municipalities may face such deteriorated economic

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

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

12 Section 103. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 by this act.

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

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

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

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

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

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

20 Section 121. Powers and duties of department.

21 (a) Compile financial data.--

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

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



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

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

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

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

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

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

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

11 \* \* \*

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

14 Section 122. Duties of Commonwealth agencies.

15 \* \* \*

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

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

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

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

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

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

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

6 Section 123. Powers and duties of municipalities.

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

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

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

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

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

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

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

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

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

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

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

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

26 ~~(2) A A payroll preparation tax pursuant to section 303~~ <--  
27 ~~of the ACT OF DECEMBER 31, 1965 (P.L.1257, NO.511), KNOWN AS~~ <--  
28 ~~THE Local Tax Enabling Act. A municipality imposing a tax~~  
29 ~~under this paragraph may levy a tax at a rate as provided in~~  
30 ~~this section and as certified by the coordinator and approved~~

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

16 Section 141. Jurisdiction of court of common pleas.

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

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

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

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

10 CHAPTER 1-A

11 EARLY INTERVENTION PROGRAM

12 SUBCHAPTER A

13 PRELIMINARY PROVISIONS

14 Section 101-A. Definitions.

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

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

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

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

29 Section 102-A. Program objectives.

30 The Early Intervention Program established by this chapter

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

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

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

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

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

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

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





1 authorize any portion of the municipality's financial match to  
2 be offset by an in-kind match.

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

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

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

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

13 (4) A merger or consolidation feasibility study.

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

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

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

22 Section 105-A. Application.

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

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

29 (2) The name of a contact person.

30 (3) The execution of a supporting resolution authorizing

1 the submission of the application and committing the  
2 resources of the municipality or, in the case of a  
3 multimunicipal application, municipalities.

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

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

8 Section 106-A. Evaluation criteria.

9 The center shall evaluate a program application on the basis  
10 of municipal financial characteristics and the quality of the  
11 proposed program, including the extent to which the program is  
12 estimated to improve the administrative, operational and  
13 financial management capacity of the applicant municipality. The  
14 following factors shall be considered in the evaluation:

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

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

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

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

30 (5) The extent to which the municipality has

1 demonstrated its willingness and commitment to improve its  
2 financial and administrative operation through the adoption  
3 and implementation of a multiyear financial management plan.

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

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

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

10 Section 107-A. Award.

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

15 Section 108-A. Guidelines.

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

26 Section 8. Section 203(c) and (g) of the act, amended June  
27 30, 1992 (P.L.336, No.69), are amended to read:

28 Section 203. Procedure for determination.

29 \* \* \*

30 (c) Investigation.--After receiving the request but before

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

6 \* \* \*

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

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

14 Section 221. Designation.

15 \* \* \*

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

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

29 (2) Solicit, not later than the date of the  
30 coordinator's presentation described in paragraph (1),

1 comments relating to the issues associated with the  
2 municipality's distress from such persons and entities who:

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

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

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

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

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

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

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

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

26 Section 222. Access to information.

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

29 (b) Enforcement where records in possession of official or  
30 public employee.--If the coordinator believes that an official

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

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

16 Section 223. Public and private meetings.

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

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

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

29 (a) Review of coordinator.--Beginning on July 1, 2015, the  
30 secretary, or his designee, shall conduct an annual review of

1 each coordinator appointed under section 221 to assess whether  
2 the coordinator's performance has been in compliance with the  
3 requirements of the coordinator's contract, if any, and the  
4 provisions of this act.

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

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

12 Section 241. Contents.

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

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

22 (i) Projected revenues, including:

23 (A) Local taxes.

24 (B) Licenses, permits and fines.

25 (C) Sales and rentals.

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

27 (E) Any other sources of projected revenue.

28 (ii) Projected expenditures, including:

29 (A) Debt service.

30 (B) Workforce.



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

11 (2) Recommendations which will:

12 (i) Satisfy judgments, past due accounts payable,

13 and past due and payable payroll and fringe benefits.

14 (ii) Eliminate deficits and deficit funds.

15 (iii) Restore to special fund accounts money from

16 those accounts that was used for purposes other than

17 those specifically authorized.

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

19 funds and maintain current payments of payroll, [fringe]

20 benefits and accounts through possible revenue

21 enhancement recommendations, including tax or fee

22 changes.

23 (v) Avoid a fiscal emergency condition in the

24 future.

25 (vi) Enhance the ability of the municipality to

26 negotiate new general obligation bonds, lease rental

27 debt, funded debt and tax and revenue anticipation

28 borrowing.

29 (vii) Consider changes in accounting and automation

30 procedures for the financial benefit of the municipality.

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

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

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

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

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

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

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

30 (8) An analysis of whether functional consolidation of

1 or privatization of existing municipal services is  
2 appropriate and feasible and recommendations for where and  
3 how this could be done.

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

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

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

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

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

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

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

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

7           (iv) Revenue as defined in section 103.

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

11          Section 242. Publication.

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

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

20                 (2) The secretary.

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

22                 (4) The mayor.

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

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

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

27          \* \* \*

28          (c.1) Solicitation of comments.--The coordinator shall, no  
29          later than the date of filing, solicit comments on the  
30          coordinator's plan to be presented at the public meeting from

1 such persons and entities which submitted timely comments under  
2 section 221(d) (2).

3 \* \* \*

4 Section 13. Section 245 of the act, amended December 19,  
5 1988 (P.L.1272, No.157), is amended to read:

6 Section 245. Adoption by municipality.

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

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

18 Section 246. Preparation and action on alternate plan.

19 \* \* \*

20 (d) Review by secretary.--

21 \* \* \*

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

26 (i) The secretary's determination.

27 (ii) The reasons for the determination.

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

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

1           municipality.

2           Section 15. Section 247(a)(4) of the act, amended June 30,  
3 1992 (P.L.336, No.69), is amended to read:

4 Section 247. Plan implementation.

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

8           \* \* \*

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

11           \* \* \*

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

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

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

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

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

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

16 Section 248. Failure to adopt or implement plan.

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

22 Section 250. Debt provisions.

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

1 in the indenture or contract securing the debt.

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

3 [Section 253. Termination of status.

4 (a) Determination by secretary.--Following a duly advertised  
5 public hearing with notices given as provided in section 203,  
6 the secretary may issue a determination that the conditions  
7 which led to the earlier determination of municipal financial  
8 distress are no longer present. The determination shall rescind  
9 the status of municipal financial distress and shall include a  
10 statement of facts as part of the final order.

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

18 (c) Factors to consider.--In determining whether the  
19 conditions which led to the earlier determination of municipal  
20 financial distress are no longer present, the secretary shall  
21 consider that:

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

25 (2) Accrued deficits in the municipality have been  
26 eliminated.

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

29 (4) The municipality has operated, for a period of at  
30 least one year, under a positive current operating fund



1 balance or equity, as evidenced by the municipality's audited  
2 financial statements prepared in accordance with generally  
3 accepted accounting principles.]

4 Section 19. The act is amended by adding a subchapter to  
5 read:

6 SUBCHAPTER C.1

7 DURATION OF DISTRESSED STATUS

8 Section 254. Limitation of status.

9 (a) Termination date.--

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

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

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

22 (ii) Prohibit termination of status proceedings in  
23 accordance with section 255.1 prior to the termination  
24 date as provided in this section.

25 (b) Distressed municipalities.--

26 (1) Municipalities operating pursuant to a recovery plan  
27 on the effective date of this section shall be subject to a  
28 termination date five years from the effective date of the  
29 most recent recovery plan or amendment enacted in accordance  
30 with this act, provided, however, that municipalities subject

1 to a plan that will remain in effect for one year or less on  
2 the effective date of this subsection shall be subject to a  
3 termination date three years from the termination date of the  
4 current plan or plan amendment.

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

11 Section 255. Coordinator's report.

12 (a) General rule.--Not later than 180 days after the  
13 beginning of the final year of distressed status as determined  
14 in accordance with section 254(a) and (b) (1), the coordinator  
15 shall prepare a report stating the financial condition of the  
16 municipality and include one of the following findings:

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

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

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

26 (4) A three-year exit plan in accordance with section  
27 256 is warranted.

28 (b) Filing and notice.--

29 (1) The report shall be filed with the same parties as  
30 provided in section 242(a). The date of filing shall be the

1 date on which the municipal clerk or municipal secretary  
2 places a true and correct copy of the report on file for  
3 public inspection in the municipal office.

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

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

15 (ii) The date and place of filing.

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

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

21 (v) A summary of the report and findings of the  
22 coordinator.

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

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

30 (d) Public meeting.--A meeting conducted by the coordinator

1 in the municipality shall be set for a date not later than 20  
2 days after the date of filing the report. The coordinator shall  
3 request in writing that the chief executive officer, each member  
4 of the municipal governing body and the chief financial officer  
5 of the municipality be present at the coordinator's meeting.  
6 Comments on the plan shall be received by the coordinator at  
7 that time. The coordinator has the discretion whether to  
8 consider comments made on the report.

9 (e) Revision of report.--

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

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

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

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

25 Section 255.1. Termination of status.

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

30 (b) Determination.--Within 90 days of the conclusion of the

1 public hearing, the secretary shall issue an administrative  
2 determination of whether the termination of status is  
3 appropriate and reasons for the determination. The determination  
4 shall include findings addressing each of the factors in  
5 subsection (c) and shall consider information provided in the  
6 report of the coordinator and any additional information  
7 received during the public hearing.

8 (c) Factors to consider.--If the secretary concludes that  
9 substantial evidence supports an affirmative determination for  
10 each of the following factors, the determination shall be that  
11 distressed status will be rescinded. The secretary shall  
12 consider whether:

13 (1) Operational deficits of the municipality have been  
14 eliminated and the financial condition of the municipality,  
15 as evidenced by audited financial statements prepared in  
16 accordance with generally accepted accounting principles and  
17 projections of future revenues and expenditures, demonstrates  
18 a reasonable probability of future balanced budgets absent  
19 participation in this act.

20 (2) Obligations issued to finance the municipality's  
21 debt have been retired, reduced or reissued in a manner that  
22 has adequately refinanced outstanding principle and interest  
23 and has permitted timely debt service and reasonable  
24 probability of continued timely debt service absent  
25 participation in this act.

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

29 (4) The reasonably projected revenues of the  
30 municipality are sufficient to fund ongoing necessary

1 expenditures, including pension obligations and the  
2 continuation or negotiation of collective bargaining  
3 agreements and the provision of municipal services.  
4 Projections of revenues shall include any anticipated tax or  
5 fee increases to fund ongoing expenditures for the first five  
6 years after a termination of distressed status.

7 (d) Appeal.--A labor organization that is a party to a  
8 collective bargaining agreement with a financially distressed  
9 municipality and any other party withstanding under section 202  
10 may appeal the determination of the secretary pursuant to 2  
11 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of  
12 Commonwealth agency action).

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

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

27 Section 256. Exit plan.

28 (a) General rule.--If recommended in a final report under  
29 section 255, the coordinator shall within 90 days of the public  
30 meeting referred to in section 255 prepare an exit plan for the

1 municipality. The exit plan shall be subject to the same filing,  
2 notice, public meeting and revision procedures as specified in  
3 section 255.

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

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

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

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

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

20 (c) Adoption of plan.--

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

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

1 governing body.

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

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

11 Section 257. Postreport procedures.

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

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

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

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

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

30 (1) issue a determination in accordance with section



1       255.1; or

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

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

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

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

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

19                      \* \* \*

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

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

1 file a municipal debt adjustment.

2 \* \* \*

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

5 Section 281. Eligibility.

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

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

17 Section 282. Priority.

18 \* \* \*

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

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

27 \* \* \*

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

29 CHAPTER 4

30 [CONSOLIDATION OR MERGER OF] ECONOMICALLY NONVIABLE

1 MUNICIPALITIES

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

4 SUBCHAPTER C

5 DISINCORPORATION OF NONVIABLE MUNICIPALITIES

6 Section 431. Definitions

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

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

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

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

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

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

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

25 Section 431.1. Determination of nonviability.

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

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

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

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

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

16 Section 432. Procedure for disincorporation.

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

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

1 ordinance as provided in subsection (a).

2 ~~(c) Action filed by secretary. If no ordinance is filed for~~ <--  
3 ~~review under subsection (a) and no petition is filed under~~  
4 ~~subsection (b) with the court within the time specified, the~~  
5 ~~secretary may file an action in the court of common pleas~~  
6 ~~petitioning the court to issue a decree under section 433(e),~~  
7 ~~provided that one of the following conditions has been met:~~

8 ~~(1) the municipality has adopted a plan or amended plan~~  
9 ~~under Chapter 2 which recommends that the municipality be~~  
10 ~~disincorporated; or~~

11 ~~(2) the municipality refuses to adopt a plan or amended~~  
12 ~~plan proposed by a coordinator under Chapter 2 which~~  
13 ~~recommends that the municipality be disincorporated.~~

14 Section 433. Judicial review of ordinance or petition.

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

27 (1) the governing body of the municipality;

28 (2) a taxpayer of the municipality;

29 (3) any creditor or bondholder of the municipality; or

30 (4) any collective bargaining unit or contractor of the

1 municipality.

2 (b) Notice of hearing.--No later than 60 days after the date  
3 of the filing of the ordinance or petition, the court shall  
4 conduct a hearing on the ordinance or petition and exceptions  
5 filed thereto. Notice of the hearing shall be provided by the  
6 court to those receiving notice under subsection (a) and to all  
7 other parties that have filed exceptions in accordance with  
8 subsection (a).

9 (c) Hearing proceedings.--

10 (1) The governing body of the municipality and all other  
11 individuals and entities which have filed exceptions under  
12 subsection (a) shall be parties to the proceedings and shall  
13 be entitled to present testimony or other evidence relevant  
14 to the nonviability of the municipality or relevant to  
15 exceptions timely filed, provided that the court, in its  
16 discretion, may consolidate testimony related to similar  
17 exceptions.

18 (2) The coordinator or receiver, or another designee of  
19 the secretary, shall testify about the progress of the  
20 municipality under the adopted recovery plan under Chapter 2  
21 or plan adopted under Chapter 7 and render an opinion  
22 regarding the viability of the municipality.

23 (3) The court may examine pertinent financial  
24 information and any audits prepared by a certified public  
25 accountant of the municipality and receive additional  
26 evidence relevant to the matter, including, but not limited  
27 to, evidence relating to:

28 (i) The effect of disincorporation, including  
29 provisions for services that would be continued to be  
30 provided to residents and property owners of the proposed

1 disincorporated area.

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

4 (iii) The effect of the disincorporation on any  
5 bonds, other obligations or agreements of the  
6 municipality.

7 (d) Costs and fees.--Court costs and filing fees associated  
8 with proceedings under this subchapter shall be paid by the  
9 department.

10 (e) Judicial decree.--

11 (1) The court shall issue a decree approving the  
12 validity of the ordinance or granting the petition unless it  
13 finds, by clear and convincing evidence, that the  
14 municipality should continue to exist as a separate municipal  
15 corporation because of a reasonable expectation that the  
16 municipality is viable.

17 (2) Upon issuance of the judicial decree, the department  
18 and governing body of the municipality shall engage in the  
19 duties required by this subchapter to prepare for  
20 disincorporation. The disincorporation shall take effect upon  
21 the execution of disincorporation under section 439.

22 ~~(3) Upon the failure of the court to issue a judicial~~ <--  
23 ~~decree under this subsection following the hearing, the~~  
24 ~~secretary shall determine whether:~~

25 SECTION 433.1. FAILURE TO INITIATE DISINCORPORATION. <--

26 (A) CONDITIONS PRIOR TO DETERMINATION.--THE SECRETARY SHALL  
27 ISSUE A DETERMINATION UNDER SUBSECTION (B) WITHIN 30 DAYS OF  
28 EITHER:

29 (1) THE FINAL DAY FOR FILING A PETITION UNDER SECTION  
30 432(B), IF JUDICIAL REVIEW UNDER SECTION 433 HAS NOT BEEN

1 INITIATED; OR

2 (2) A FINAL ADJUDICATION PURSUANT TO A HEARING HELD  
3 UNDER SECTION 433 FINDING THAT THE MUNICIPALITY SHOULD  
4 CONTINUE TO EXIST AS A SEPARATE MUNICIPAL CORPORATION BECAUSE  
5 OF A REASONABLE EXPECTATION THAT THE MUNICIPALITY IS VIABLE.

6 (B) DETERMINATION.--THE SECRETARY SHALL DETERMINE WHETHER:

7 ~~(i) the recovery plan for the municipality shall~~ <--  
8 ~~remain in effect, provided that the limitations under~~  
9 ~~Subchapter C.1 do not yet apply;~~

10 (1) THE RECOVERY PLAN FOR THE MUNICIPALITY SHALL REMAIN <--  
11 IN EFFECT SUBJECT TO THE LIMITATIONS OF CHAPTER 2, SUBCHAPTER  
12 C.1 AND, IF THE COORDINATOR HAS PREVIOUSLY ISSUED A REPORT  
13 PURSUANT TO SECTION 255, THE SECRETARY SHALL DIRECT THE  
14 COORDINATOR TO PREPARE AN EXIT PLAN ACCORDING TO SECTION 256;

15 ~~(ii) the elected and appointed officials of the~~ <--

16 (2) THE ELECTED AND APPOINTED OFFICIALS OF THE <--  
17 municipality have demonstrated a failure to adequately  
18 implement recovery measures and, if so, request a  
19 determination of a fiscal emergency in accordance with  
20 Chapter 6;

21 ~~(iii) conditions within the municipality warrant a~~ <--

22 (3) CONDITIONS WITHIN THE MUNICIPALITY WARRANT A <--  
23 termination in status in accordance with section 255.1; or

24 ~~(iv) conditions as set forth in section 261 exist~~ <--

25 (4) CONDITIONS AS SET FORTH IN SECTION 261 EXIST and, if <--  
26 so, that the governing body should initiate proceedings for  
27 federal debt readjustment under Subchapter D of Chapter 2.

28 Section 434. Service district administrator.

29 (a) Appointment.--No later than 30 days following a decree  
30 of the court of common pleas under section 433(e), the secretary



1 shall appoint a service district administrator. The  
2 administrator must have a minimum of five years' experience and  
3 demonstrable expertise in business, financial or State or local  
4 budgetary matters and be a resident of this Commonwealth for at  
5 least one year prior to appointment.

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

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

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

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

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

26 (3) Engage in any conduct prohibited by the act of July  
27 19, 1957 (P.L.1017, No.451), known as the State Adverse  
28 Interest Act, or 65 Pa.C.S. Ch. 11 (relating to ethics  
29 standards and financial disclosure).

30 (e) Liability.--

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

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

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

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

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

20               (ii) The repayment of debt, bonds or other  
21 obligations before disincorporation.

22               (iii) Any other action necessary to implement the  
23 disincorporation.

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

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

29           (4) To approve, disapprove, modify, reject, terminate or  
30 renegotiate contracts and agreements to provide services to

1 the residents and property owners of the district.

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

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

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

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

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

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

19 (11) To seek enforcement of any provision of this  
20 subchapter and Subchapter D.

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

24 Section 435. Powers and duties of municipality.

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

30 (1) Enact a budget in the municipality's projected final

1 year that funds the municipality's functions until the date  
2 of disincorporation and provides for the payment of every  
3 current obligation of the municipality before the date of  
4 disincorporation. All remaining municipal funds as of the  
5 date of disincorporation shall be transferred to the  
6 municipality's restricted account.

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

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

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

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

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

26 (2) If the governing body adopts recommended governing  
27 standards, the following shall apply:

28 (i) No later than 30 days following a decree of the  
29 court of common pleas under section 433(e), the governing  
30 body shall provide written notice to the administrator

1 that the governing body intends to adopt an ordinance  
2 containing recommended governing standards for the  
3 inclusion in the essential services plan.

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

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

18 Section 436. Essential services plan.

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

24 (1) Negotiation of contracts for the provision of vital  
25 and necessary services, not otherwise provided by an  
26 authority, as defined under Chapters 6 and 7. If the  
27 municipality participates in a regional police or fire  
28 department through an intergovernmental cooperation  
29 agreement, the essential services plan may provide for  
30 continued service from that regional department by contract

1 or by renegotiating the intergovernmental cooperation  
2 agreement.

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

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

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

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

25 (i) Payment of outstanding debt obligations.

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

28 (iii) Possession of title by the Commonwealth as  
29 provided by Subchapter D.

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

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

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

6           (9) Establishment of the name of the district. A  
7 district established by this act shall be named "The  
8 Unincorporated District of ....."

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

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

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

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

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

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

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

26           (i) Rules and conduct related to the maintenance of  
27 property, conduct in public places and the parking of  
28 vehicles in public places which shall protect the health,  
29 safety and welfare of the residents and property owners  
30 of the district to the extent such rules and conduct

1 could have been adopted by the municipality by ordinance.

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

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

12 Section 437. Proposed essential services plan.

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

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

19 (2) The secretary.

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

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

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

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

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

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

30 (1) On the date of filing, notice that a proposed



1 essential services plan has been filed and is open for public  
2 inspection in the municipal office shall be published by the  
3 administrator in the county legal reporter and in one or more  
4 newspapers with general circulation serving the area in which  
5 the municipality is located. The cost for publishing the  
6 notice shall be borne by the department. The notice shall  
7 contain the following:

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

13 (ii) The date and place of filing.

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

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

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

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

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

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

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

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

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

18                (1) Present a summary of the proposed essential services  
19                plan.

20                (2) Receive public comment on the proposed essential  
21                services plan.

22                (3) Allow the members of the governing body of the  
23                municipality to present written and oral comments requesting  
24                revisions of the proposed essential services plan.

25 Section 438. Final essential services plan.

26           (a) Amendment of plan.--

27                (1) The administrator shall consider all timely  
28                submitted written comments, comments presented at the public  
29                meeting and requests for revision in the amendment of the  
30                publicly presented proposed essential services plan before

1 publishing a final essential services plan.

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

11 (b) Notice of final essential services plan.--Within 45 days  
12 of the public meeting the administrator shall file the final  
13 essential services plan with the persons listed in section  
14 437(a) and provide notice of the publication of the final  
15 essential services plan in the manner provided in section  
16 437(c) (1) (i), (ii) and (v).

17 (c) Appeal.--

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

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

29 (3) The appeal shall be sustained only where the court  
30 finds that the final essential services plan is unlawful or

1 unconstitutional, or the conduct of the administrator is  
2 arbitrary or capricious.

3 Section 439. Disincorporation of municipality.

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

6 (1) Notwithstanding any other provision of law, the  
7 terms of office of all elected officials of the municipality  
8 shall end and no person shall be elected or appointed to fill  
9 any vacancy of office.

10 (2) All ordinances of the municipality shall be  
11 nullified.

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

15 (4) The municipality shall be deemed by operation of law  
16 to be disincorporated. The area formerly contained within the  
17 municipality shall be an unincorporated service district as  
18 provided under Subchapter D.

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

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

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

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

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

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

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

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

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

23 (5) Amend the county's comprehensive plan to the extent  
24 necessary to be consistent with the requirements of this  
25 subsection.

26 (d) Property succession.--Immediately following  
27 disincorporation the area formerly contained within the  
28 municipality shall, by operation of law, be deemed an  
29 unincorporated service district under Subchapter D, the  
30 Commonwealth shall succeed in title to all property, including

1 all real property, personal property and moneys in any municipal  
2 account, of the disincorporated municipality to be held in trust  
3 for the benefit of the residents and property owners of the  
4 unincorporated service district as provided under Subchapter D.

5 SUBCHAPTER D

6 UNINCORPORATED SERVICE DISTRICT

7 Section 441. Establishment of unincorporated service district.

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

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

22 (c) Corporate powers prohibited.--Nothing in this subchapter  
23 shall be construed as authorizing the district to exercise  
24 corporate powers for the administration of a local government,  
25 including the power to levy taxes, establish elected or  
26 appointed offices and purchase, sell or convey property, except  
27 that the residents of the district may incorporate a  
28 municipality or merge or consolidate with an existing  
29 municipality as provided for in section 447.

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

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

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

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

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

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

27       (2) Nothing in this section shall be construed to  
28 authorize the Commonwealth to guarantee any debt incurred by  
29 a municipality or district with the full faith and credit of  
30 the Commonwealth, revenues from the General Fund or any other

1 source of revenue not derived from fees assessed for the  
2 administration of this subchapter or gains from the sale of  
3 assets of the former municipality.

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

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

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

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

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

23 (h) Relationship with existing municipal and other  
24 authorities preserved.--

25 (1) All authorities established to provide services to  
26 the residents and property owners of a municipality prior to  
27 disincorporation shall continue to serve the residents and  
28 property owners of a district, and all members of the  
29 authority appointed by the governing body of the municipality  
30 prior to disincorporation shall continue to serve out the



1 remainder of the members' terms.

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

8 (i) Governing standards enforceable.--

9 (1) The governing standards included in the essential  
10 services plan shall be enforceable by the filing of a civil  
11 action by the administrator or any aggrieved property owner  
12 or resident of the district.

13 (2) A violation of the governing standards shall  
14 constitute a public nuisance.

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

21 (j) Pennsylvania Construction Code applicable.--

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

28 (2) The administrator shall receive any application for  
29 a construction permit and provide appropriate notices to an  
30 applicant of a construction permit and the Department of

1 Labor and Industry as provided under section 501(e) of the  
2 Pennsylvania Construction Code Act.

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

12 (a) Establishment.--Each service district shall establish a  
13 service district advisory committee.

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

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

25 (d) Vacancy.--At the expiration of the term of a member of  
26 the district advisory committee, the remaining members of the  
27 committee shall appoint a person to fill the vacancy. In the  
28 event that the remaining members of the committee are unable to  
29 agree on a person to fill the vacancy or there is more than one  
30 vacancy, the administrator shall select a person or persons to

1 fill the vacancy. All persons appointed to fill a vacancy on the  
2 district advisory committee shall have a term of three years  
3 beginning on the date of appointment.

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

12 (f) Advise county on land use issues.--The district advisory  
13 committee may provide recommendations on behalf of the residents  
14 and property owners of the district to any county official  
15 regarding any land use-related matter.

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

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

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

29 (2) Upon receipt of a recommendation made under this  
30 subsection, the administrator shall include the recommended

1 amendments to the governing standard as a proposed plan  
2 amendment under section 444, unless the administrator finds  
3 that the recommended amendment of the governing standards is  
4 unlawful, unconstitutional or would substantially impede the  
5 administration of the essential services plan.

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

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

11 Section 443. Assessments.

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

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

18 (2) The service of all debts held in trust by the  
19 Commonwealth which were incurred by the former municipality  
20 prior to disincorporation.

21 (3) The necessary construction, maintenance or repair of  
22 facilities or properties which have been conveyed to the  
23 Commonwealth and are held in trust for the benefit of the  
24 district.

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

29 (5) Other costs incurred by the district or  
30 administrator in the execution of this subchapter, including

1 a reserve of no more than 15% of the annual estimated costs  
2 of the essential services plan in the restricted account  
3 established in section 445 to provide for the provision of  
4 unforeseeable costs.

5 (b) Establishment of assessment.--

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

10 (2) The administrator shall provide written personal  
11 notice to each property owner of each property of the  
12 assessment due for the ensuing year no later than November 1  
13 of the year preceding the year for which the assessment  
14 applies.

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

22 (c) Appeal of assessment.--Any person wishing to challenge  
23 the reasonableness of the assessment may file a suit in the  
24 court of common pleas within 30 days of receiving the notice  
25 provided in subsection (b).

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

30 (e) Installments.--The administrator may provide for the

1 payment of assessments by equal installments on a quarterly or  
2 semiannual basis as follows:

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

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

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

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

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

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

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

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

14 Section 444. Amendment of essential services plan.

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

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

26 (c) Notice of amendment.--No later than the date that the  
27 administrator files the proposed essential services plan  
28 amendment, the administrator shall provide notice to the public  
29 of the amended essential services plan using the procedure  
30 provided for by section 437(c)(1). If the district advisory

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

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

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

18 (1) Present a summary of the proposed essential services  
19 plan amendment.

20 (2) Receive public comment on the proposed essential  
21 services plan amendment.

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

25 (f) Final essential services plan amendment.--The  
26 administrator shall consider all timely submitted written  
27 comments, comments presented at the public meeting and requests  
28 for revision in the amendment of the publicly presented proposed  
29 essential services plan before filing a final essential services  
30 plan amendment. In the event that the administrator does not



1 incorporate the requests for revision by the district advisory  
2 committee regarding the levels of services provided under the  
3 essential services plan or the basis for the calculation of fees  
4 assessed under the essential services plan, the administrator  
5 shall state in the essential services plan amendment why the  
6 requested revisions were not feasible to incorporate in the  
7 final essential services plan.

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

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

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

24 (i) Appeal.--

25 (1) Any person aggrieved by a final essential services  
26 plan amendment or emergency essential services plan amendment  
27 may appeal the final essential services plan amendment to the  
28 court of common pleas within 30 days of notice of the filing  
29 of the final essential services plan amendment.

30 (2) For purposes of this section, notice shall

1 constitute the date that the person received actual notice of  
2 the final essential services plan amendment, or the date that  
3 notice of the filing of the final essential services plan  
4 amendment is first published in a newspaper with general  
5 circulation serving the area in which the municipality is  
6 located.

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

10 (4) No appeal of a final essential services plan  
11 amendment shall constitute an automatic stay of any portion  
12 of the essential services plan.

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

17 Section 445. Unincorporated Service District Trust Fund.

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

28 (b) Appropriation.--As much as may be necessary of such  
29 moneys and interest in the special fund established under  
30 subsection (a) is hereby appropriated for the purposes

1 authorized by this subchapter.

2 Section 445.1. Restricted accounts.

3 (a) Establishment.--There is established in the

4 Unincorporated Service District Trust Fund a restricted account

5 for each unincorporated service district. The administrator for

6 each district shall deposit all moneys collected by assessments,

7 delinquent municipal tax receipts, and proceeds from the sale of

8 municipal assets authorized under this subchapter into the

9 restricted account not later than 30 days after collection. Any

10 interest accrued on the account shall be credited to the account

11 for purposes of meeting the requirements of this subchapter. The

12 restricted account shall be used to pay for the expenses and

13 obligations of the administrator and the unincorporated service

14 district. The department may pay for the compensation and

15 expenses of the administrator from the restricted account.

16 (b) Appropriation.--As much as may be necessary of such

17 moneys and interest in the restricted account established under

18 subsection (a) is hereby appropriated for the purposes

19 authorized by this subchapter.

20 Section 446. Audit.

21 The Auditor General shall conduct an annual audit of the

22 district. The audit shall include a review of the services

23 rendered under the essential services plan, the proceeds

24 generated by the assessments levied pursuant to section 443 and

25 all transactions made by the administrator on behalf of the

26 district.

27 Section 447. Merger and consolidation; incorporation of

28 municipal corporation.

29 (a) Merger and consolidation.--

30 (1) For the limited purpose of merging or consolidating

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

9 (2) Residents of the district may be nominated to, and  
10 serve on, a commission formed to study merger or  
11 consolidation of the district with one or more  
12 municipalities.

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

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

25 (b) Incorporation as municipality.--If the secretary  
26 determines that the district could be incorporated as a viable  
27 municipality, the residents of the district may establish or  
28 incorporate the territory of the district as a municipality as  
29 provided by law.

30 (c) Grants permitted.--The department may issue any loan or

1 grant authorized under Chapter 3 to a merged, consolidated or  
2 subsequently incorporated municipality, including the territory  
3 of the district to provide transitional assistance.

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

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

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

16 [CHAPTER 5

17 FUNDING

18 Section 501. Appropriation.

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

24 (1) \$500,000 shall be used by the department for  
25 administrative expenses necessary to carry out the provisions  
26 of this act.

27 (2) \$4,500,000 shall be used to provide grants and loans  
28 to municipalities determined to be financially distressed  
29 pursuant to this act.]

30 Section 26. Chapter 6 heading of the act, added October 20,

1 2011 (P.L.318, No.79), is amended to read:

2 CHAPTER 6

3 FISCAL EMERGENCIES IN [CITIES OF THE  
4 THIRD CLASS] MUNICIPALITIES

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

8 Section 601. Definitions.

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

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

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

18 "Debt obligations." Any obligation to pay money, including  
19 amounts owed for payments relating to lease rental debt, debt  
20 service, bonds, notes, guarantees for bonds or notes, trust  
21 indentures, contracts or other agreements.

22 "Distressed [city] municipality." A [city] municipality  
23 which has been determined to be financially distressed under  
24 section 203(f).

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

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

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

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

- 3 (1) Police and fire services.
- 4 (2) Ambulance and rescue services.
- 5 (3) Water supply and distribution.
- 6 (4) Wastewater services.
- 7 (5) Refuse collection and disposal.
- 8 (6) Snow removal.
- 9 (7) Payroll and pension obligations.
- 10 (8) Fulfillment of payment of debt obligations or any  
11 other financial obligations.

12 Section 602. Declaration of fiscal emergency.

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

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

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

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

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

22 (ii) [has failed to adopt or implement] an  
23 alternative plan that the secretary has approved under  
24 section 246.

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

28 Immediately upon making the declaration, the Governor shall:

29 (1) Provide written notice of the declaration to the  
30 governing body and, if applicable, the chief executive

1 officer of the distressed [city] municipality along with a  
2 concise statement of facts supporting the determination.

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

8 (c) Secretary.--In developing the emergency action plan, the  
9 secretary shall consider the financial plan prepared by the  
10 coordinator under Subchapter C of Chapter 2 and any other  
11 available plan or information the secretary deems appropriate  
12 and may employ financial or legal experts to assist in  
13 addressing the fiscal emergency. Notwithstanding any law to the  
14 contrary, the employment of such experts shall not be subject to  
15 contractual competitive bidding procedures.  
16 Section 603. Notification by the secretary.

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

24 (b) Publication.--The secretary shall publish once in a  
25 newspaper of general circulation notice that the emergency  
26 action plan has been completed. The notice shall specify the  
27 publicly accessible Internet address of the department's website  
28 where the plan is posted.

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



1 read:

2 Section 604. Powers of the Governor.

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

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

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

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

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

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

25 (b) Orders.--The Governor may issue an order to an elected  
26 or appointed official of the distressed [city] municipality or  
27 an authority to implement any provision of the emergency action  
28 plan or refrain from taking any action that would interfere with  
29 the powers granted to the Governor or the goals of the plan. An  
30 order issued under this subsection shall be enforceable under

1 section 606.

2 (c) Authorization prohibited.--Neither this chapter nor the  
3 emergency action plan shall be interpreted to authorize the  
4 Governor to:

5 (1) Unilaterally levy taxes.

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

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

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

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

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

21 (5) Pledge the full faith and credit of the  
22 Commonwealth.

23 Section 605. Elected and appointed officials.

24 During a fiscal emergency, the authorities and appointed and  
25 elected officials of the distressed [city] municipality shall  
26 continue to carry out the duties of their respective offices,  
27 except that no decision or action shall conflict with an  
28 emergency action plan, order or exercise of power by the  
29 Governor under section 604.

30 Section 606. Mandamus.

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

8 Section 607. Consent agreement.

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

17 (b) Contents.--

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

22 (2) The consent agreement shall include all of the  
23 following:

24 (i) Continued provision of vital and necessary  
25 services.

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

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

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

7           (iv) Legislative and administrative actions to be  
8           taken by the elected or appointed officials of the  
9           distressed [city] municipality during the term of the  
10          consent agreement.

11          (3) The consent agreement may include:

12           (i) The sale, lease, conveyance, assignment or other  
13           use or disposition of the assets of the distressed [city]  
14           municipality or authority.

15           (ii) Approval, modification, rejection,  
16           renegotiation or termination of contracts or agreements  
17           of the distressed [city] municipality or authorities.

18           (iii) Execution of new contracts or agreements.

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

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

23           (ii) Provisions that unilaterally abrogate, alter or  
24           otherwise interfere with a lien, charge, covenant or  
25           relative priority, that is:

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

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

30           (iii) Provisions that unilaterally impair or modify

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

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

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

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

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

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

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

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

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

5 (1) Failure of the governing body of the distressed  
6 [city] municipality to convene or the failure of a quorum of  
7 the governing body to participate in a special public meeting  
8 required by subsection (a).

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

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

15 (4) Enactment by the distressed [city] municipality of  
16 an amendment to the ordinance enacted in subsection (c) in  
17 violation of subsection (e).

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

20 (f) Collective bargaining.--A collective bargaining  
21 agreement or arbitration settlement executed following the  
22 enactment of an ordinance under this section may not in any  
23 manner violate, expand or diminish the provisions of the consent  
24 agreement, provided, however, that the provisions of section 252  
25 shall apply to any consent agreement adopted in accordance with  
26 this subchapter.

27 Section 608. Termination of fiscal emergency and suspension of  
28 powers.

29 (a) [Financial] Fiscal emergency.--A fiscal emergency shall  
30 end upon certification by the secretary that the [city is no

1 longer financially distressed.] municipality:

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

4 (2) is able to ensure the continued provision of vital  
5 and necessary services after the termination of the fiscal  
6 emergency.

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

12 Section 609. Restrictions.

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

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

25 Section 610. Applicability.

26 (a) Statement.--

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

29 (2) Except as set forth in subsection (b), nothing in  
30 this chapter is intended to limit or otherwise abrogate the

1 applicability of any other part of this act.

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

5 Section 29. Chapter 7 heading of the act, added October 20,  
6 2011 (P.L.318, No.79), is amended to read:

7 CHAPTER 7

8 RECEIVERSHIP IN [CITIES OF THE  
9 THIRD CLASS] MUNICIPALITIES

10 Section 30. Sections 701, 702, 703, 704, 705(g), 706, 707,  
11 708 and 709 of the act, added October 20, 2011 (P.L.318, No.79),  
12 are amended to read:

13 Section 701. Definitions.

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

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

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

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

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

30 "Fiscal emergency." A determination made by the Governor



1 under section 602(b).

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

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

6 (1) Police and fire services.

7 (2) Ambulance and rescue services.

8 (3) Water supply and distribution.

9 (4) Wastewater services.

10 (5) Refuse collection and disposal.

11 (6) Snow removal.

12 (7) Payroll and pension obligations.

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

15 Section 702. Receivership.

16 (a) Receiver.--Following the issuance of a declaration of  
17 fiscal emergency under section 602(b), the Governor may direct  
18 the secretary to file a petition in Commonwealth Court to  
19 appoint the individual named in the petition as a receiver for  
20 the distressed [city] municipality. The court shall have no  
21 authority to appoint anyone other than the individual named in  
22 the petition as the receiver.

23 (b) Service and notice.--

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

25 (i) the governing body of the distressed [city]  
26 municipality;

27 (ii) the chief executive officer of the distressed  
28 [city] municipality; and

29 (iii) the governing body of each authority.

30 (2) The secretary must publish notice of the filing of

1 the petition once in a newspaper of general circulation.

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

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

10 (1) Thirty days have passed since the declaration of a  
11 fiscal emergency.

12 (2) There has been a failure by:

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

15 (ii) the governing body of the distressed [city]  
16 municipality to implement an ordinance under section 607;  
17 [or]

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

21 (iv) (Reserved).

22 (3) A fiscal emergency under section 602(a) continues to  
23 exist.

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

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

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

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

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

6 (5) require and empower the receiver to implement the  
7 emergency action plan developed by the secretary under  
8 section 602 until a recovery plan developed by the receiver  
9 is approved by the court under section 703.

10 (f) Additional actions.--

11 (1) The Governor may direct the secretary to file a  
12 petition in Commonwealth Court to appoint an individual named  
13 in the petition as a receiver for the distressed [city]  
14 municipality if the distressed [city] municipality fails to  
15 comply with or has amended the ordinance without the approval  
16 of the secretary under section 607(d)(3) or (4).

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

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

25 Section 703. Recovery plan.

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

1 (b) Contents.--The receiver shall consider the plan prepared  
2 by the coordinator under section 241 and any other existing  
3 alternate plans in the development of the recovery plan. The  
4 following shall apply:

5 (1) The recovery plan shall provide for all of the  
6 following:

7 (i) Continued provision of vital and necessary  
8 services.

9 (ii) Payment of the lawful financial obligations of  
10 the distressed [city] municipality and authorities. This  
11 subparagraph includes debt obligations, municipal  
12 securities, lease rental obligations, legal obligations  
13 and consensual modifications of existing obligations.

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

17 (2) The recovery plan may include:

18 (i) the sale, lease, conveyance, assignment or other  
19 use or disposition of the assets of the distressed [city]  
20 municipality or authority;

21 (ii) the approval, modification, rejection,  
22 renegotiation or termination of contracts or agreements  
23 of the distressed [city] municipality or authorities,  
24 except to the extent prohibited by the Constitutions of  
25 the United States and Pennsylvania;

26 (iii) the execution of new contracts or agreements;  
27 and

28 (iv) other information the receiver deems  
29 appropriate.

30 (c) Restrictions.--The recovery plan may not do any of the

1 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 (d) Confirmation.--Commonwealth Court shall conduct a  
19 hearing on the recovery plan within 30 days of the receipt of  
20 the plan from the receiver. The court shall confirm the plan  
21 within 60 days of the receipt of the plan unless it finds clear  
22 and convincing evidence that the plan is arbitrary, capricious  
23 or wholly inadequate to alleviate the fiscal emergency in the  
24 distressed [city] municipality.

25 (e) Modification of plan.--The receiver shall notify the  
26 Commonwealth Court of any modification to the plan. The court  
27 may conduct a hearing on the modification within 30 days of its  
28 receipt. The court shall confirm the modification within 60 days  
29 of receipt of notification of the modification unless it finds  
30 clear and convincing evidence that the recovery plan as modified

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

3 Section 704. Confirmation.

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

7 (1) imposing on the elected and appointed officials of  
8 the distressed [city] municipality or an authority a  
9 mandatory duty to undertake the acts set forth in the  
10 recovery plan;

11 (2) suspending the authority of the elected and  
12 appointed officials of the distressed [city] municipality or  
13 an authority to exercise power on behalf of the distressed  
14 [city] municipality or authority pursuant to law, charter,  
15 ordinance, rule or regulation to the extent that the power  
16 would interfere with the powers granted to the receiver or  
17 the goals of the recovery plan; and

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

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

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

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

28 (c) Collective bargaining.--A collective bargaining  
29 agreement or arbitration settlement executed after confirmation  
30 of a recovery plan may not, in any manner, violate, expand or

1 diminish the provisions of the recovery plan, provided, however,  
2 that the provisions of section 252 shall apply to any recovery  
3 plan adopted in accordance with this chapter.

4 Section 705. Receiver.

5 \* \* \*

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

15 Section 706. Powers, duties and prohibited actions.

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

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

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

24 (3) To require the distressed [city] municipality or  
25 authority to negotiate intergovernmental cooperation  
26 agreements between the distressed [city] municipality and  
27 other political subdivisions in order to eliminate and avoid  
28 deficits, maintain sound budgetary practices and avoid  
29 interruption of municipal services.

30 (4) To submit quarterly reports to the governing body

1 and, if applicable, the chief executive officer of the  
2 distressed [city] municipality and to the department. The  
3 reports shall be posted on [the] a publicly accessible  
4 Internet website [for] maintained by the distressed [city]  
5 municipality.

6 (5) To require the distressed [city] municipality or  
7 authority to cause the sale, lease, conveyance, assignment or  
8 other use or disposition of the distressed [city's]  
9 municipality's or authority's assets in accordance with  
10 section 707.

11 (6) To approve, disapprove, modify, reject, terminate or  
12 renegotiate contracts and agreements with the distressed  
13 [city] municipality or authority, except to the extent  
14 prohibited by the Constitutions of the United States and  
15 Pennsylvania.

16 (7) To direct the distressed [city] municipality or  
17 authority to take any other action to implement the recovery  
18 plan.

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

22 (9) [After July 1, 2012, to] To file a municipal debt  
23 adjustment action under the Bankruptcy Code (11 U.S.C. § 101  
24 et seq.) and to act on the [city's] municipality's behalf in  
25 the proceeding. The power under this paragraph shall only be  
26 exercised upon the written authorization of the secretary.  
27 The filing of a municipal debt adjustment action under this  
28 paragraph and any plan of the receiver accepted by the  
29 Federal court shall be considered a modification of the  
30 recovery plan, except that the modification shall not be



1 subject to judicial review under section 709. A recovery plan  
2 submitted to and approved by the Federal court under a  
3 Federal municipal debt adjustment action may include Federal  
4 remedies not otherwise available under this chapter.

5 (10) To meet and consult with the advisory committee  
6 under section 711.

7 (11) To employ financial or legal experts deemed  
8 necessary to develop and implement the recovery plan.  
9 Notwithstanding any law to the contrary, the employment of  
10 such experts shall not be subject to contractual competitive  
11 bidding procedures.

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

15 (1) Unilaterally levy taxes.

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

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

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

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

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

1 Section 707. Use or disposition of assets.

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

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

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

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

23 Section 708. Elected and appointed officials.

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

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

28 (2) refrain from taking any action that would interfere  
29 with the powers granted to the receiver or the goals of the  
30 recovery plan.

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

3 Section 709. Judicial actions.

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

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

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

18 Section 710. Termination of receivership.

19 \* \* \*

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

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

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

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

3           (2) the municipality continues to be financially  
4 distressed.

5       (b) Appointment of coordinator.--Upon a determination under  
6 subsection (a) (2), a recovery plan adopted under section 703  
7 shall remain in effect and be deemed to be a plan adopted under  
8 Chapter 2. The secretary shall appoint a coordinator in  
9 accordance with section 221. The receiver may be appointed as  
10 coordinator. The coordinator shall implement the recovery plan  
11 under section 247(a) subject to the following:

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

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

22           (3) The plan shall terminate as provided in section  
23 254(b) (2).

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

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

4 Section 711. Municipal financial recovery advisory committee.

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

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

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

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

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

20 (4) One member appointed by the Governor.

21 \* \* \*

22 Section 712. Applicability.

23 (a) Statement.--

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

26 \* \* \*

27 Section 33. This act shall apply as follows:

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

1           (2) The amendment or addition of sections 608, 710 and  
2       710.1(a) and (b) of the act shall not apply to a municipality  
3       that entered receivership prior to the effective date of this  
4       section and shall not supersede or constitute grounds to  
5       modify any order of court issued prior to the effective date  
6       of this section.

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