
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1157 Session of
2013

INTRODUCED BY EICHELBERGER, BLAKE, ROBBINS, ERICKSON AND
WOZNIAK, NOVEMBER 15, 2013

REFERRED TO LOCAL GOVERNMENT, NOVEMBER 15, 2013

AN ACT

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

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

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

23 AN ACT

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

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

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

15 Section 102. Purpose and legislative intent.

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

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

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

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

1 training and technical and financial assistance.

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

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

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

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

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

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

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

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

14 (i) constitutes a fiscal emergency; and

15 (ii) signifies:

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

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

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

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

30 (6) Municipalities may face such deteriorated economic

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

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

12 Section 103. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 by this act.

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

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

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

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

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

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

20 Section 121. Powers and duties of department.

21 (a) Compile financial data.--

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

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

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

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

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

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

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

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

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

11 * * *

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

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

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

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

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

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

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

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

9 Section 122. Duties of Commonwealth agencies.

10 * * *

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

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

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

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

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

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

1 Section 123. Powers and duties of municipalities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 shall:

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

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

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

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

26 (g) Interest and penalties.--

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

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

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

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

11 (h) Suit for collection.--

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

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

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

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

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

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

3 (i) Criminal penalties.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 Section 141. Jurisdiction of court of common pleas.

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

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

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

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

9 CHAPTER 1-A

10 EARLY INTERVENTION PROGRAM

11 SUBCHAPTER A

12 PRELIMINARY PROVISIONS

13 Section 101-A. Definitions.

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

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

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

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

28 Section 102-A. Program objectives.

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

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

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

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

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

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

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

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

30 (7) Further the integration of sound community and

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

4 SUBCHAPTER B

5 ADMINISTRATIVE PROVISIONS

6 Section 103-A. Authorization.

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

12 Section 104-A. Grants.

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

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

1 be offset by an in-kind match.

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

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

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

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

12 (4) A merger or consolidation feasibility study.

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

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

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

21 Section 105-A. Application.

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

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

28 (2) The name of a contact person.

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

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

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

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

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

13 The following factors shall be considered in the evaluation:

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

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

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

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

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

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

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

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

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

9 Section 107-A. Award.

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

14 Section 108-A. Guidelines.

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

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

27 Section 203. Procedure for determination.

28 * * *

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

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

5 * * *

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

8 Section 221. Designation.

9 * * *

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

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

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

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

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

1 distress; or

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

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

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

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

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

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

20 Section 222. Access to information.

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

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

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

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

10 Section 223. Public and private meetings.

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

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

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

25 Section 241. Contents.

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

30 (1) Projections of revenues and expenditures for the

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

5 (i) Projected revenues, including:

6 (A) Local taxes.

7 (B) Licenses, permits and fines.

8 (C) Sales and rentals.

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

10 (E) Any other sources of projected revenue.

11 (ii) Projected expenditures, including:

12 (A) Debt service.

13 (B) Workforce.

14 (C) Elected and executive officials.

15 (D) Financial management.

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

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

20 (G) Other professional services.

21 (H) Public safety.

22 (I) Community and economic development.

23 (J) Any other applicable expenditures.

24 (2) Recommendations which will:

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

27 (ii) Eliminate deficits and deficit funds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (iv) Revenue as defined in section 103.

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

24 Section 242. Publication.

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

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

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

3 (2) The secretary.

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

5 (4) The mayor.

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

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

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

10 * * *

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

16 * * *

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

19 Section 245. Adoption by municipality.

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

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

1 Section 246. Preparation and action on alternate plan.

2 * * *

3 (d) Review by secretary.--

4 * * *

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

9 (i) The secretary's determination.

10 (ii) The reasons for the determination.

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

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

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

17 Section 247. Plan implementation.

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

21 * * *

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

24 * * *

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

27 Section 248. Failure to adopt or implement plan.

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

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

3 Section 250. Debt provisions.

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

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

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

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

22 * * *

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

25 Section 253. Termination of status.

26 * * *

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

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

1 read:

2 SUBCHAPTER C.1

3 DURATION OF DISTRESSED STATUS

4 Section 254. Five-year limitation.

5 (a) Termination date.--

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

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

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

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

21 (b) Distressed municipalities.--

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

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

5 Section 255. Coordinator's report.

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

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

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

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

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

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

26 (b) Filing and notice.--

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

1 public inspection in the municipal office.

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

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

13 (ii) The date and place of filing.

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

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

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

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

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

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

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

7 (e) Revision of report.--

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

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

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

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

23 Section 256. Exit plan.

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

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

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

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

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

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

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

16 (c) Adoption of plan.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (a) Authorization.--In the event one of the following
19 conditions is present, a municipality is hereby authorized to
20 apply to the department to file a municipal debt adjustment
21 action pursuant to the Bankruptcy Code (11 U.S.C. § 101 et
22 seq.):

23 * * *

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

28 * * *

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

1 Section 281. Eligibility.

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

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

13 Section 282. Priority.

14 * * *

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

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

23 * * *

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

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

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

1 subchapter to read:

2 SUBCHAPTER C

3 DISINCORPORATION OF NONVIABLE MUNICIPALITIES

4 Section 431. Definitions

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

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

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

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

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

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

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

22 Section 431.1. Determination of nonviability.

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

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

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

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

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

13 Section 432. Procedure for disincorporation.

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

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

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

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

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

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

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

29 (c) Hearing proceedings.--

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

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

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

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

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

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

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

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

30 (e) Judicial decree.--

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

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

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

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

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

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

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

1 Section 434. Service district administrator.

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

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

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

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

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

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

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

1 standards and financial disclosure).

2 (e) Liability.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 Section 435. Powers and duties of municipality.

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

1 municipality shall:

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

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

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

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

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

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

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

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

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

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

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

20 Section 436. Essential services plan.

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

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

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

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

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

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

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

21 (i) Payment of outstanding debt obligations.

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

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

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

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

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

1 municipality as provided for by section 439.

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

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

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

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

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

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

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

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

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

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

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

8 Section 437. Proposed essential services plan.

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

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

15 (2) The secretary.

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

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

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

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

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

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

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

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

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

9 (ii) The date and place of filing.

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

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

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

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

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

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

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

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

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

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

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

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

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

21 Section 438. Final essential services plan.

22 (a) Amendment of plan.--

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

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

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

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

13 (c) Appeal.--

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

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

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

29 Section 439. Disincorporation of municipality.

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

1 disincorporation, the following shall occur:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (i) Governing standards enforceable.--

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

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

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

17 (j) Pennsylvania Construction Code applicable.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 administration of the essential services plan.

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

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

7 Section 443. Assessments.

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

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

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

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

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

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

30 (b) Establishment of assessment.--

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 Section 444. Amendment of essential services plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (i) Appeal.--

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

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

1 located.

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

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

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

12 Section 445. Unincorporated Service District Trust Fund.

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

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

27 Section 445.1. Restricted accounts.

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

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

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

15 Section 446. Audit.

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

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

24 (a) Merger and consolidation.--

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

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

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

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

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

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

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

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

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

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

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

11 [CHAPTER 5

12 FUNDING

13 Section 501. Appropriation.

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

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

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

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

27 CHAPTER 6

28 FISCAL EMERGENCIES IN [CITIES OF THE

29 THIRD CLASS] MUNICIPALITIES

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

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

3 Section 601. Definitions.

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

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

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

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

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

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

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

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

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

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

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

7 Section 602. Declaration of fiscal emergency.

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

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

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

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

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

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

22 Immediately upon making the declaration, the Governor shall:

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

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

1 emergency.

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

10 Section 603. Notification by the secretary.

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

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

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

26 Section 604. Powers of the Governor.

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

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

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

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

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

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

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

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

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

29 (1) Unilaterally levy taxes.

30 (2) Unilaterally abrogate, alter or otherwise interfere

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

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

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

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

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

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

17 Section 605. Elected and appointed officials.

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

24 Section 606. Mandamus.

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

1 compliance with this chapter.

2 Section 607. Consent agreement.

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

11 (b) Contents.--

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

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

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

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

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

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

5 (3) The consent agreement may include:

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

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

12 (iii) Execution of new contracts or agreements.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 Section 609. Restrictions.

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

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

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

11 Section 610. Applicability.

12 (a) Statement.--

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

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

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

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

23 CHAPTER 7

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

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

29 Section 701. Definitions.

30 The following words and phrases when used in this chapter

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

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

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

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

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

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

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

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

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

1 other financial obligations.

2 Section 702. Receivership.

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

11 (b) Service and notice.--

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

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

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

17 (iii) the governing body of each authority.

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

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

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

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

1 (2) There has been a failure by:

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

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

6 [or]

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

10 (iv) (Reserved).

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

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

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

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

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

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

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

29 (f) Additional actions.--

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

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

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

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

14 Section 703. Recovery plan.

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

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

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

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

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

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

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

6 (2) The recovery plan may include:

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

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

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

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

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

21 (1) Unilaterally levy taxes.

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

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

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

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

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

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

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

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

22 Section 704. Confirmation.

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

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

30 (2) suspending the authority of the elected and

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

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

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

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

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

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

21 Section 705. Receiver.

22 * * *

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

1 B (relating to actions against Commonwealth parties).

2 Section 706. Powers, duties and prohibited actions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 do any of the following:

2 (1) Unilaterally levy taxes.

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

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

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

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

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

18 Section 707. Use or disposition of assets.

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

1 municipality or authority.

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

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

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

10 Section 708. Elected and appointed officials.

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

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

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

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

20 Section 709. Judicial actions.

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

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

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

3 Section 711. Municipal financial recovery advisory committee.

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

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

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

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

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

19 (4) One member appointed by the Governor.

20 * * *

21 Section 712. Applicability.

22 (a) Statement.--

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

25 * * *

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

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