

AMENDMENTS TO SENATE BILL NO. 1151

Sponsor: REPRESENTATIVE GRELL

Printer's No. 1447

1 Amend Bill, page 1, lines 11 through 17, by striking out all
2 of said lines and inserting
3 further providing for purpose and legislative intent; providing
4 for fiscal emergencies in third class cities and for
5 receivership for third class cities; and making editorial
6 changes.

7 Amend Bill, page 1, lines 20 through 25; pages 2 through 12,
8 lines 1 through 30; page 13, lines 1 through 25, by striking out
9 all of said lines on said pages and inserting

10 Section 1. Section 102 of the act of July 10, 1987 (P.L.246,
11 No.47), known as the Municipalities Financial Recovery Act, is
12 amended to read:

13 Section 102. Purpose and legislative intent.

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

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

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

28 (i) Enact procedures and provide powers and
29 guidelines to ensure fiscal integrity of municipalities
30 while leaving principal responsibility for conducting the
31 governmental affairs of a municipality, including
32 choosing the priorities for and manner of expenditures
33 based on available revenues, to the charge of its elected
34 officials, consistent with the public policy set forth in
35 this section.

1 (ii) Enact procedures for the adjustment of
2 municipal debt by negotiated agreement with creditors.

3 (iii) Provide for the exercise of the Commonwealth's
4 sovereign and plenary police power in emergency fiscal
5 conditions to protect the health, safety and welfare of a
6 municipality's citizens when local officials are
7 unwilling or unable to accept a solvency plan developed
8 for the benefit of the community.

9 (2) [The General Assembly further recognizes that
10 changing] Changing and deteriorating economic conditions,
11 developing technologies and attendant unemployment erode
12 local tax bases and threaten essential municipal services.
13 Under such circumstances, [the General Assembly believes
14 that] such distressed governmental units may no longer be
15 viable and that the citizens of those communities should be
16 granted the opportunity to voluntarily consolidate or merge
17 their municipalities with other municipalities in an effort
18 to allow municipal boundaries to reflect the geographic and
19 economic realities of a distressed area, to merge a common
20 community of interest, to take advantage of economies of
21 scale in providing services and to create an expanded revenue
22 base to provide necessary public services to the citizens of
23 financially distressed municipalities.

24 (3) Policies of certain municipalities are so
25 ineffective and the financial conditions so severe that the
26 provision of vital and necessary services is threatened.

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

30 (i) constitutes a fiscal emergency; and

31 (ii) signifies:

32 (A) a breakdown in the function of municipal
33 government;

34 (B) a dereliction of its elected officials'
35 paramount public duty to safeguard the health, safety
36 and welfare of its citizens; and

37 (C) a threat to the fiscal stability of
38 neighboring communities.

39 (5) The Governor must act, in the face of a fiscal
40 emergency under paragraph (4)(i) and dereliction of official
41 duty under paragraph (4)(ii)(B), pursuant to the
42 Commonwealth's paramount right and duty to maintain law and
43 order and protect and preserve the health, safety and welfare
44 of its citizens and ensure compliance with this act under
45 Article IX of the Constitution of Pennsylvania.

46 Section 2. The act is amended by adding chapters to read:

47 CHAPTER 6

48 FISCAL EMERGENCIES IN CITIES OF THE THIRD CLASS

49 Section 601. Definitions.

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

1 context clearly indicates otherwise:

2 "Authority." A municipal authority, parking authority or any
3 other authority or corporate entity that is directly or
4 indirectly controlled by a distressed city or to which a
5 distressed city has power of appointment.

6 "City." A city of the third class.

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

11 "Distressed city." A city which has been determined to be
12 financially distressed under section 203(f).

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

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

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

19 (1) Police and fire services.

20 (2) Ambulance and rescue services.

21 (3) Water supply and distribution.

22 (4) Wastewater services.

23 (5) Refuse collection and disposal.

24 (6) Snow removal.

25 (7) Fulfillment of financial obligations necessary for
26 the continued provision of one or more basic and fundamental
27 municipal services, including payroll and pension
28 obligations, lease rental debt and all other debt
29 obligations.

30 Section 602. Declaration of fiscal emergency.

31 (a) Fiscal emergency.--A fiscal emergency exists if the
32 distressed city:

33 (1) (i) is insolvent or is projected to be insolvent
34 within 180 days or less; or

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

37 (2) (i) has failed to adopt or fully implement the
38 coordinator's plan; or

39 (ii) has failed to adopt or fully implement an
40 alternative plan that the secretary has approved under
41 section 246.

42 (b) Governor.--Upon making a determination that a state of
43 fiscal emergency exists, the Governor may declare a state of
44 fiscal emergency within the distressed city. Immediately upon
45 making the declaration, the Governor shall:

46 (1) Provide written notice of the declaration to the
47 governing body of the distressed city along with a concise
48 statement of facts supporting the determination.

49 (2) Direct the secretary to, within ten days of the
50 Governor's declaration, develop an emergency action plan to
51 ensure that vital and necessary services are maintained

1 within the city during the state of fiscal 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 Internet website and shall provide written notice
14 of the emergency action plan by overnight delivery service,
15 providing proof of receipt, to all members of the governing body
16 and the chief executive officer of the distressed city.

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

22 Section 604. Powers of the Governor.

23 (a) Powers.--During the state of fiscal emergency, the
24 Governor may exercise the authority of the elected or appointed
25 officials of the distressed city or authority as necessary to
26 ensure the provision of vital and necessary services and may
27 delegate the authority to the secretary or a designee of the
28 secretary. The emergency powers of the Governor shall include
29 the following:

30 (1) The power to collect funds payable to the distressed
31 city and authority and use those funds to pay for vital and
32 necessary services.

33 (2) The power to obtain emergency financial aid for the
34 distressed city and authority under Chapter 3 to pay for
35 vital and necessary services.

36 (3) The power to enter into contracts and agreements on
37 behalf of the distressed city and authority to pay for vital
38 and necessary services.

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

42 (5) Any other power of the elected or appointed
43 officials of the distressed city or authority to ensure the
44 provision of vital and necessary services.

45 (b) Orders.--The Governor may issue an order to an elected
46 or appointed official of the distressed city or an authority to
47 implement any provision of the emergency action plan or refrain
48 from taking any action that would interfere with the powers
49 granted to the Governor or the goals of the plan. An order
50 issued under this subsection shall be enforceable under section
51 606.

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

4 (1) unilaterally levy taxes;

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

7 (i) held by a holder of a debt obligation of a
8 distressed city; and

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

11 (3) Unilaterally impair or modify existing bonds, notes,
12 municipal securities or other uncontested contractual or
13 legal obligations of the distressed city or authority.

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 or authorities in a manner
17 contrary to section 707.

18 (5) Pledge the full faith and credit of the
19 Commonwealth.

20 Section 605. Elected and appointed officials.

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

26 Section 606. Mandamus.

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

34 Section 607. Consent agreement.

35 (a) Negotiations.--Within eight days of the declaration of a
36 fiscal emergency, the governing body and chief executive officer
37 of the distressed city shall convene a special public meeting to
38 negotiate a consent agreement. The meeting shall be attended by
39 the secretary or secretary's designee. Negotiations among
40 creditors and any of the parties in this subsection shall be
41 conducted in accordance with section 223(b).

42 (b) Contents.--

43 (1) The consent agreement shall incorporate a plan
44 setting forth measures designed to provide long-term
45 financial stability to the distressed city after the
46 termination of the fiscal emergency.

47 (2) The consent agreement shall include all of the
48 following:

49 (i) Continued provision of vital and necessary
50 services.

51 (ii) Payment of the financial obligations of the

1 distressed city and authority. This subparagraph
2 includes debt obligations, municipal securities, lease
3 rental obligations, uncontested legal obligations and
4 consensual modifications of existing obligations.

5 (iii) Timely deposit of required payments to the
6 pension fund for the distressed city and each authority
7 or the fund in which the distressed city and each
8 authority participates.

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

12 (3) The consent agreement may include:

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

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

19 (iii) Execution of new contracts or agreements.

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

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

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

27 (A) held by a holder of a debt obligation of a
28 distressed city; and

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

31 (iii) Provisions that unilaterally impair or modify
32 existing bonds, notes or municipal securities.

33 (iv) Provisions that authorize the use of the
34 proceeds of the sale, lease, conveyance, assignment or
35 other use or disposition of the assets of the distressed
36 city or authorities in a manner contrary to section 707.

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

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

41 (1) Upon approval by a majority of the governing body of
42 the distressed city, the consent agreement shall be presented
43 to the secretary within 20 days of the declaration of fiscal
44 emergency.

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

47 (3) If the secretary determines that the consent
48 agreement is sufficient to overcome the distressed city's
49 financial distress and approves the agreement, the governing
50 body shall enact the consent agreement in the form of an
51 ordinance within seven days of approval by the secretary.

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

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

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

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

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

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

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

24 (f) Collective bargaining.--A collective bargaining
25 agreement or arbitration settlement executed following enactment
26 of an ordinance under this section is void to the extent that it
27 violates, expands or diminishes the provisions of the consent
28 agreement.

29 Section 608. Termination of fiscal emergency and suspension of
30 powers.

31 (a) Financial emergency.--A fiscal emergency shall end upon
32 certification by the secretary that the city is no longer
33 financially distressed.

34 (b) Governor's powers.--The emergency powers of the Governor
35 under this chapter shall be suspended upon the enactment and
36 continued implementation of an ordinance under section 607 or
37 entry of a judicial order appointing a receiver under section
38 702.

39 Section 609. Restrictions.

40 (a) Earned income tax on nonresidents.--A distressed city
41 subject to this chapter or Chapter 7 may not petition a court of
42 common pleas for an increase in the rate of an earned income tax
43 imposed on nonresident workers under section 123(c) until the
44 secretary terminates the distress status of the city under
45 section 253.

46 (b) Municipal debt adjustment.--A distressed city subject to
47 this chapter or Chapter 7 may not file a municipal debt
48 adjustment action under Federal law except to the extent
49 authorized under Chapter 7.

50 Section 610. Applicability.

51 (a) Statement.--

1 (1) This chapter shall apply only to distressed cities.

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

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

8 CHAPTER 7

9 RECEIVERSHIP IN CITIES OF THE THIRD CLASS

10 Section 701. Definitions.

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

14 "Authority." A municipal authority, parking authority or any
15 other authority or corporate entity that is directly or
16 indirectly controlled by a distressed city or to which a
17 distressed city has power of appointment.

18 "City." A city of the third class.

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

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

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

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

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

31 (1) Police and fire services.

32 (2) Ambulance and rescue services.

33 (3) Water supply and distribution.

34 (4) Wastewater services.

35 (5) Refuse collection and disposal.

36 (6) Snow removal.

37 (7) Fulfillment of financial obligations necessary for
38 the continued provision of one or more basic and fundamental
39 municipal services, including payroll and pension
40 obligations, lease rental debt and all other debt
41 obligations.

42 Section 702. Receivership.

43 (a) Receiver.--Following the issuance of a declaration of
44 fiscal emergency under section 602(b), the Governor may direct
45 the secretary to file a petition in Commonwealth Court to
46 appoint the individual named in the petition as a receiver for
47 the distressed city. The court shall have no authority to
48 appoint anyone other than the individual named in the petition
49 as the receiver.

50 (b) Service and notice.--

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

1 (i) the governing body of the distressed city;
2 (ii) the chief executive officer of the distressed
3 city; and
4 (iii) the governing body of each authority.
5 (2) The secretary must publish notice of the filing of
6 the petition once in a newspaper of general circulation.
7 (c) Hearing.--Within 15 days of the failure of the
8 distressed city to adopt a valid ordinance under section 607,
9 the Commonwealth Court shall conduct a hearing on the petition.
10 (d) Determination.--No later than 60 days following the
11 filing of a petition under this section, the court shall issue
12 an order under subsection (e) if it finds by a preponderance of
13 the evidence that all of the following apply:
14 (1) Thirty days have passed since the declaration of a
15 fiscal emergency.
16 (2) There has been a failure by:
17 (i) the governing body of the distressed city to
18 adopt a consent agreement acceptable to the secretary
19 under section 607;
20 (ii) the governing body of the distressed city to
21 fully implement a consent agreement acceptable to the
22 secretary under section 607; or
23 (iii) an elected or appointed official of the
24 distressed city or authority to strictly comply with an
25 order issued by the Governor under section 604.
26 (3) A fiscal emergency under section 602(a) continues to
27 exist.
28 (e) Order.--An order issued under subsection (e) shall:
29 (1) set forth the findings under subsection (d);
30 (2) grant the petition and declares the distressed city
31 to be in receivership;
32 (3) appoint the individual named in the petition to be
33 the receiver for a period not to exceed two years, subject to
34 extension under section 710(b);
35 (4) direct the receiver to develop a recovery plan under
36 section 703 and submit it to the court, the governing body of
37 the distressed city and the secretary; and
38 (5) require and empower the receiver to implement the
39 emergency action plan developed by the secretary under
40 section 602 until a recovery plan developed by the receiver
41 is approved by the court under section 703.
42 Section 703. Recovery plan.
43 (a) Issuance.--Within 30 days of the appointment of the
44 receiver, the recovery plan required under section 702(e)(4)
45 shall be furnished to Commonwealth Court, the secretary and the
46 governing body and chief executive officer of the distressed
47 city.
48 (b) Contents.--The receiver shall consider the plan prepared
49 by the coordinator under section 241 and any other existing
50 alternate plans in the development of the recovery plan. The
51 following shall apply:

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

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

5 (ii) Payment of the financial obligations of the
6 distressed city and authorities. This subparagraph
7 includes debt obligations, municipal securities, lease
8 rental obligations, uncontested legal obligations and
9 consensual modifications of existing obligations.

10 (iii) Timely deposit of required payments to the
11 pension fund in which the distressed city and each
12 authority participates.

13 (2) The recovery plan may include:

14 (i) the sale, lease, conveyance, assignment or other
15 use or disposition of the assets of the distressed city
16 or authority;

17 (ii) the approval, modification, rejection,
18 renegotiation or termination of contracts or agreements
19 of the distressed city or authorities;

20 (iii) the execution of new contracts or agreements;
21 and

22 (iv) other information the receiver deems
23 appropriate.

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

26 (1) Unilaterally levy taxes.

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

29 (i) held by a holder of a debt obligation of a
30 distressed city; and

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

33 (3) Unilaterally impair or modify existing bonds, notes
34 or municipal securities.

35 (4) Authorize the use of the proceeds of the sale,
36 lease, conveyance, assignment or other use or disposition of
37 the assets of the distressed city or authority in a manner
38 contrary to section 707.

39 (d) Confirmation.--Commonwealth Court shall conduct a
40 hearing on the recovery plan within 30 days of the receipt of
41 the plan from the receiver. The court shall confirm the plan
42 within 60 days of the receipt of the plan unless it finds clear
43 and convincing evidence that the plan is arbitrary, capricious
44 or wholly inadequate to alleviate the fiscal emergency in the
45 distressed city.

46 (e) Modification of plan.--The receiver shall notify the
47 Commonwealth Court of any modification to the plan. The court
48 may conduct a hearing on the modification within 30 days of its
49 receipt. The court shall confirm the modification within 60 days
50 of receipt of the modification unless it finds clear and
51 convincing evidence that the recovery plan as modified is

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

3 Section 704. Confirmation.

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

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

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

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

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

22 (1) change the form of government of the distressed city
23 or an authority; or

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

27 (c) Collective bargaining.--A collective bargaining
28 agreement or arbitration settlement executed after confirmation
29 of a recovery plan is void to the extent that it violates,
30 expands or diminishes the provisions of the recovery plan.

31 Section 705. Receiver.

32 (a) Appointment.--The court shall appoint the receiver as
33 provided under section 702.

34 (b) Qualifications.--The receiver shall have the following
35 qualifications:

36 (1) Have a minimum of five years' experience and
37 demonstrable expertise in business, financial or local or
38 state budgetary matters.

39 (2) Be a resident of this Commonwealth for at least one
40 year prior to the appointment.

41 (c) Vacancy.--A vacancy in the office of the receiver shall
42 be filled in the same manner as the original appointment.

43 (d) Revocation.--Upon application by the secretary, the
44 appointment of the receiver shall be revoked and the receiver
45 shall be replaced by the individual named in the application.
46 The court shall have no authority to appoint anyone other than
47 the individual named in the application as the receiver.

48 (e) Compensation and expenses.--The receiver's compensation
49 and reimbursement for actual and necessary expenses shall be
50 paid by the Commonwealth. Compensation shall be established by
51 the secretary.

1 (f) Prohibitions.--The receiver shall not:

2 (1) Seek or hold a position as any other elected or
3 appointed public official within this Commonwealth or as a
4 political party officer during the term of the receivership.

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

8 (3) Engage in any conduct prohibited by the act of July
9 19, 1957 (P.L.1017, No.451), known as the State Adverse
10 Interest Act, or 65 Pa.C.S. Ch. 11 (relating to ethics
11 standards and financial disclosure).

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

21 Section 706. Powers, duties and prohibited actions.

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

24 (1) To require the distressed city to take actions
25 necessary to implement the recovery plan under section 703.

26 (2) To modify the recovery plan as necessary to achieve
27 financial stability of the distressed city in accordance with
28 section 703.

29 (3) To require the distressed city to negotiate
30 intergovernmental cooperation agreements between the
31 distressed city and other political subdivisions in order to
32 eliminate and avoid deficits, maintain sound budgetary
33 practices and avoid interruption of municipal services.

34 (4) To submit quarterly reports to the governing body
35 and the chief executive officer of the distressed city and to
36 the department. The reports shall be posted on the Internet
37 website for the distressed city.

38 (5) To require the distressed city to cause the sale,
39 lease, conveyance, assignment or other use or disposition of
40 the distressed city's assets in accordance with section 707.

41 (6) To approve, disapprove, modify, reject, terminate or
42 renegotiate contracts and agreements with the distressed
43 city, except to the extent prohibited by the Constitutions of
44 the United States and Pennsylvania.

45 (7) To direct the distressed city to take any other
46 action to implement the recovery plan.

47 (8) To attend executive sessions of the governing body
48 of the distressed city and make reports to the public on
49 implementation of the recovery plan.

50 (9) Subject to the limitation on bankruptcy in Article
51 XVI-D.1 of the act of April 9, 1929 (P.L.343, No.176), known

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

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

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

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

23 (1) Unilaterally levy taxes.

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

26 (i) held by a holder of a debt obligation of a
27 distressed city; and

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

30 (3) Unilaterally impair or modify existing debt
31 obligations or municipal securities.

32 (4) Authorize the use of the proceeds of the sale,
33 lease, conveyance, assignment or other use or disposition of
34 the assets of the distressed city or authority in a manner
35 contrary to section 707.

36 Section 707. Use or disposition of assets.

37 (a) Use of proceeds.--The proceeds from any sale, lease,
38 conveyance, assignment or other use or disposition of assets of
39 the distressed city or authority shall be applied to the payment
40 of outstanding debt obligations owed by the distressed city or
41 authority, subject to any lien, charge, covenant, restriction,
42 contract, law, rule or regulation, that encumbers or is
43 otherwise applicable to the assets. Proceeds remaining after
44 payment of outstanding debt obligations owed by the distressed
45 city or authority may be used by the receiver to restructure or
46 provide escrow for the payment of future debt obligations or to
47 meet operating and capital needs of the distressed city or
48 authority.

49 (b) Prohibitions.--Nothing under this section shall be
50 construed to authorize the receiver to unilaterally abrogate,
51 alter or otherwise interfere with a lien, charge, covenant or

1 relative priority that is:

2 (1) held by a holder of a debt obligation of a
3 distressed city; and

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

6 Section 708. Elected and appointed officials.

7 (a) Orders.--The receiver may issue an order to an elected
8 or appointed official of the distressed city or an authority to:

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

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

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

15 Section 709. Judicial actions.

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

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

28 Section 710. Termination of receivership.

29 (a) Time.--Except as provided under subsection (b), the
30 receivership under this chapter shall expire two years after the
31 appointment of the receiver.

32 (b) Extension.--The secretary may petition Commonwealth
33 Court for one or more extensions of the receivership. The court
34 shall grant each extension for another two years if the
35 secretary establishes by a preponderance of the evidence that
36 further implementation of the recovery plan is necessary to end
37 the fiscal emergency.

38 Section 711. Municipal Financial Recovery Advisory Committee.

39 (a) Establishment.--There is established a Municipal
40 Financial Recovery Advisory Committee to meet and consult with
41 the receiver in carrying out the duties under this chapter. The
42 sole function of the advisory committee shall be to provide
43 recommendations and feedback to the receiver on the
44 implementation of the recovery plan.

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

47 (1) The chief executive officer of the distressed city
48 or a designee.

49 (2) The president of the governing body of the
50 distressed city or a designee.

51 (3) One member appointed by the county commissioners of

1 the county where the distressed city is located.

2 (4) One member appointed by the Governor.

3 (c) Compensation.--Members of the advisory committee shall
4 receive no compensation for their services.

5 (d) Meetings.--The advisory committee shall meet with the
6 receiver at least twice per month to discuss the recovery plan.
7 Meetings of the advisory committee shall be in accordance with
8 65 Pa.C.S. Ch. 7 (relating to open meetings).

9 (e) Duty to consult.--The receiver shall consult with the
10 advisory committee prior to exercising any of the powers under
11 section 706(a)(1), (2), (3), (5), (6), (7) and (9).

12 (f) Termination.--The advisory committee shall terminate in
13 conjunction with the expiration of the receivership as provided
14 for under section 710.

15 Section 712. Applicability.

16 (a) Statement.--

17 (1) This chapter shall apply only to distressed cities.

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

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

24 Section 3. The heading of Chapter 6 and section 601 of the
25 act are renumbered to read:

26 CHAPTER [6] 20

27 TECHNICAL PROVISIONS

28 Section [601] 2001. Repeals.

29 Section 2501-C(e) and (f) of the act of April 9, 1929
30 (P.L.177, No.175), known as The Administrative Code of 1929, are
31 repealed insofar as they are inconsistent with this act.

32 The act of June 11, 1935 (P.L.323, No.146), entitled "An act
33 designating the Department of Internal Affairs as the agency of
34 the Commonwealth to approve or disapprove petitions to courts,
35 and plans for the readjustment of debts of political
36 subdivisions, under the act of Congress relating to the
37 bankruptcy of political subdivisions; and defining the powers
38 and duties of said department in relation thereto," is repealed
39 insofar as it relates to a municipality as defined in section
40 103 of this act.

41 Section 4. Section 602 of the act, amended December 19, 1988
42 (P.L.1272, No.157), is renumbered to read:

43 Section [602] 2002. Expiration.

44 Section 203(a)(5) shall expire upon publication in the
45 Pennsylvania Bulletin of the notice required under section
46 121(f).

47 Section 5. Section 603 of the act is renumbered to read:
48 Section [603] 2003. Effective date.

49 This act shall take effect in 60 days.

50 Section 6. The provisions of this act are severable. If any
51 provision of this act or its application to any person or

1 circumstance is held invalid, the invalidity shall not affect
2 other provisions or applications of this act which can be given
3 effect without the invalid provision or application.
4 Section 7. This act shall take effect immediately.