

No. 2011-79

AN ACT

SB 1151

Amending the act of July 10, 1987 (P.L.246, No.47), entitled "An act empowering the Department of Community Affairs to declare certain municipalities as financially distressed; providing for the restructuring of debt of financially distressed municipalities; limiting the ability of financially distressed municipalities to obtain government funding; authorizing municipalities to participate in Federal debt adjustment actions and bankruptcy actions under certain circumstances; and providing for consolidation or merger of contiguous municipalities to relieve financial distress," further providing for purpose and legislative intent; providing for fiscal emergencies in third class cities and for receivership for third class cities; and making editorial changes.

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

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

Section 102. Purpose and legislative intent.

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

(b) Legislative intent.—*The General Assembly finds and declares as follows:*

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

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

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

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

(2) **[The General Assembly further recognizes that changing]** *Changing* and deteriorating economic conditions, developing technologies and attendant unemployment erode local tax bases and

threaten essential municipal services. Under such circumstances, **[the General Assembly believes that]** such distressed governmental units may no longer be viable and that the citizens of those communities should be granted the opportunity to voluntarily consolidate or merge their municipalities with other municipalities in an effort to allow municipal boundaries to reflect the geographic and economic realities of a distressed area, to merge a common community of interest, to take advantage of economies of scale in providing services and to create an expanded revenue base to provide necessary public services to the citizens of financially distressed municipalities.

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

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

(i) constitutes a fiscal emergency; and

(ii) signifies:

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

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

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

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

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

CHAPTER 6

FISCAL EMERGENCIES IN CITIES OF THE THIRD CLASS

Section 601. Definitions.

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

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

"City." A city of the third class.

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

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

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

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

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

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

Section 602. Declaration of fiscal emergency.

(a) Fiscal emergency.—The Governor determines a fiscal emergency exists if the distressed city:

- (1) (i) is insolvent or is projected to be insolvent within 180 days or less; or*
 - (ii) is unable to ensure the continued provision of vital and necessary services; and*
- (2) (i) has failed to adopt or implement the coordinator's plan; or*
 - (ii) has failed to adopt or implement an alternative plan that the secretary has approved under section 246.*

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

- (1) Provide written notice of the declaration to the governing body and chief executive officer of the distressed city along with a concise statement of facts supporting the determination.*
- (2) Direct the secretary to, within ten days of the Governor's declaration, develop an emergency action plan to ensure that vital and necessary services are maintained within the city during the state of fiscal emergency.*

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

Section 603. Notification by the secretary.

(a) Notice.—Upon completion of the emergency action plan, the secretary shall cause the plan to be posted on the department's Internet website and shall provide written notice of the emergency action plan by

overnight delivery service, providing proof of receipt, to all members of the governing body and the chief executive officer of the distressed city.

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

Section 604. Powers of the Governor.

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

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

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

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

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

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

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

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

(1) Unilaterally levy taxes.

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

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

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

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

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

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

Section 605. Elected and appointed officials.

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

Section 606. Mandamus.

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

Section 607. Consent agreement.

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

(b) Contents.—

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

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

(i) Continued provision of vital and necessary services.

(ii) Payment of the lawful financial obligations of the distressed city and authority. This subparagraph includes debt obligations, municipal securities, lease rental obligations, legal obligations and consensual modifications of existing obligations, except as otherwise ordered by a court of competent jurisdiction.

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

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

(3) The consent agreement may include:

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

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

(iii) Execution of new contracts or agreements.

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

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

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

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

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

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

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

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

(c) Ordinance.—*Notwithstanding any law to the contrary, the following shall apply:*

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

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

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

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

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

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

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

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

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

(e) Amendment.—*The ordinance may be amended upon the approval of the secretary.*

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

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

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

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

Section 609. Restrictions.

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

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

Section 610. Applicability.

(a) Statement.—

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

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

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

CHAPTER 7

RECEIVERSHIP IN CITIES OF THE THIRD CLASS

Section 701. Definitions.

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

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

"City." A city of the third class.

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

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

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

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

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

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

Section 702. Receivership.

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

(b) Service and notice.—

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

 - (i) the governing body of the distressed city;*
 - (ii) the chief executive officer of the distressed city; and*
 - (iii) the governing body of each authority.**

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

(c) Hearing.—Upon notification of the Governor of the failure of the distressed city to adopt a valid ordinance under section 607, Commonwealth Court shall conduct a hearing within 15 days on the petition.

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

- (1) Thirty days have passed since the declaration of a fiscal emergency.*
- (2) There has been a failure by:

 - (i) the governing body of the distressed city to adopt an ordinance under section 607;*
 - (ii) the governing body of the distressed city to implement an ordinance under section 607; or*
 - (iii) an elected or appointed official of the distressed city or authority to strictly comply with an order issued by the Governor under section 604.**
- (3) A fiscal emergency under section 602(a) continues to exist.*

(e) Order.—An order issued under this subsection shall:¹

- (1) set forth the findings under subsection (d);*

¹"under subsection (e) shall." in enrolled bill.

(2) grant the petition and declare the distressed city to be in receivership;

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

(4) direct the receiver to develop a recovery plan within 30 days under section 703 and submit it to the court, the secretary, the governing body and the chief executive officer of the distressed city; and

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

(f) Additional actions.—

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

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

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

Section 703. Recovery plan.

(a) Issuance.—Within 30 days of the appointment of the receiver, the recovery plan required under section 702(e)(4) shall be furnished to Commonwealth Court, the secretary and the governing body and the chief executive officer of the distressed city.

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

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

(i) Continued provision of vital and necessary services.

(ii) Payment of the lawful financial obligations of the distressed city and authorities. This subparagraph includes debt obligations, municipal securities, lease rental obligations, legal obligations and consensual modifications of existing obligations.

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

(2) The recovery plan may include:

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

(ii) the approval, modification, rejection, renegotiation or termination of contracts or agreements of the distressed city or authorities, except to the extent prohibited by the Constitutions of the United States and Pennsylvania;

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

(iv) other information the receiver deems appropriate.

(c) *Restrictions.*—*The recovery plan may not do any of the following:*

- (1) *Unilaterally levy taxes.*
- (2) *Unilaterally abrogate, alter or otherwise interfere with a lien, charge, covenant or relative priority that is:*
 - (i) *held by a holder of a debt obligation of a distressed city; and*
 - (ii) *granted by the contract, law, rule or regulation governing the debt obligation.*

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

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

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

(e) *Modification of plan.*—*The receiver shall notify the Commonwealth Court of any modification to the plan. The court may conduct a hearing on the modification within 30 days of its receipt. The court shall confirm the modification within 60 days of receipt of notification of the modification unless it finds clear and convincing evidence that the recovery plan as modified is arbitrary, capricious or wholly inadequate to alleviate the fiscal emergency in the distressed city.*

Section 704. Confirmation.

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

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

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

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

(b) *Form of government.*—*Confirmation of the recovery plan and any modification to the plan under section 703 shall not be construed to:*

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

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

(c) *Collective bargaining.*—*A collective bargaining agreement or arbitration settlement executed after confirmation of a recovery plan may*

not, in any manner, violate, expand or diminish the provisions of the recovery plan.

Section 705. Receiver.

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

(b) Qualifications.—The receiver shall have the following qualifications:

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

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

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

(d) Revocation.—Upon application to Commonwealth Court by the secretary, the appointment of the receiver shall be revoked, and the receiver shall be replaced by the individual named in the application. The court shall have no authority to appoint anyone other than the individual named in the application as the receiver.

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

(f) Prohibitions.—The receiver shall not:

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

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

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

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

Section 706. Powers, duties and prohibited actions.

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

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

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

(3) To require the distressed city or authority to negotiate intergovernmental cooperation agreements between the distressed city and other political subdivisions in order to eliminate and avoid deficits,

maintain sound budgetary practices and avoid interruption of municipal services.

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

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

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

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

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

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

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

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

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

(1) Unilaterally levy taxes.

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

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

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

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

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

Section 707. Use or disposition of assets.

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

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

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

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

Section 708. Elected and appointed officials.

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

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

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

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

Section 709. Judicial actions.

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

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

Section 710. Termination of receivership.

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

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

Section 711. Municipal financial recovery advisory committee.

(a) Establishment.—There is established a municipal financial recovery advisory committee to meet and consult with the receiver in carrying out the duties under this chapter. The sole function of the advisory committee shall be to provide recommendations and feedback to the receiver on the implementation of the recovery plan.

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

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

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

(3) One member appointed by the county commissioners of the county where the distressed city is located.

(4) One member appointed by the Governor.

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

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

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

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

Section 712. Applicability.

(a) Statement.—

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

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

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

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

**CHAPTER [6] 20
TECHNICAL PROVISIONS**

Section [601] 2001. Repeals.

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

The act of June 11, 1935 (P.L.323, No.146), entitled "An act designating the Department of Internal Affairs as the agency of the Commonwealth to approve or disapprove petitions to courts, and plans for the readjustment of debts of political subdivisions, under the act of Congress relating to the bankruptcy of political subdivisions; and defining the powers and duties of

said department in relation thereto," is repealed insofar as it relates to a municipality as defined in section 103 of this act.

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

Section **[602] 2002**. Expiration.

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

Section 5. Section 603 of the act is renumbered to read:

Section **[603] 2003**. Effective date.

This act shall take effect in 60 days.

Section 6. The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

Section 7. This act shall take effect immediately.

APPROVED—The 20th day of October, A.D. 2011

TOM CORBETT