

SUBSTITUTE FOR  
SENATE BILL NO. 160

A bill to amend 1909 PA 279, entitled  
"The home rule city act,"  
by amending section 36a (MCL 117.36a), as amended by 2011 PA 143.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 36a. (1) Except as otherwise provided under this section,  
2   if a financial emergency exists under the ~~local government and~~  
3   ~~school district fiscal accountability act, 2011 PA 4, MCL 141.1501~~  
4   ~~to 141.1531,~~ **LOCAL FINANCIAL STABILITY AND CHOICE ACT, 2012 PA 436,**  
5   **MCL 141.1541 TO 141.1575,** a city may issue financial recovery bonds  
6   in amounts greater than the limitations established by the city  
7   charter or this act.

8       (2) Any financial recovery bonds issued under this section are  
9   subject to the terms and conditions approved by the local emergency  
10   financial assistance loan board created under the emergency

1 municipal loan act, 1980 PA 243, MCL 141.931 to 141.942.

2 (3) Any financial recovery bonds issued under this section are  
3 not subject to section 5(g).

4 (4) Notwithstanding subsection (1), the net indebtedness of a  
5 city, reduced by any amounts excluded under section 4a(4), shall  
6 not exceed 20% of the assessed value of the city.

7 (5) Notwithstanding subsection (4), the net indebtedness of a  
8 city that issues financial recovery bonds under subsection (6),  
9 reduced by any amounts excluded under section 4a(4), shall not  
10 exceed 12% of the assessed value of the city, adjusted for  
11 additions as provided under section 4a(9).

12 (6) If financial recovery bonds are issued under this  
13 subsection by a city with a population of less than 10,000  
14 ~~according to the latest federal decennial census and~~ **THAT IS**  
15 located in a county organized under 1966 PA 293, MCL 45.501 to  
16 45.521, the city may provide in the order authorizing the issuance  
17 of the bonds for the deposit of revenues generated from taxes  
18 levied by the city, including a tax levied by the city to pay a  
19 judgment or comply with a court order, into an escrow account to be  
20 used for the purpose of paying principal of and interest on the  
21 bonds and the administrative costs associated with issuing the  
22 bonds, and the tax revenues may be pledged by the city for the  
23 payment of the bonds issued under this section. Bonds issued under  
24 this subsection shall be limited in amount to that necessary to pay  
25 court-ordered judgments against the city existing on May 25, 2011  
26 and administrative costs associated with issuing the bonds. If the  
27 city enters into an agreement with a third-party tax collector

1 pursuant to which the third-party tax collector has the duty to  
2 collect taxes that otherwise would be collected by the city  
3 treasurer, the agreement shall also provide for the direct payment  
4 of all tax revenues pledged for payment of bonds issued pursuant to  
5 this section collected by the third-party tax collector to a  
6 trustee to be deposited into an escrow account and used for the  
7 sole purpose of paying principal of and interest on the bonds. If  
8 the city and a third-party tax collector enter into an agreement  
9 providing for the direct payment of taxes to a trustee, a statutory  
10 lien and trust is created applicable to those tax revenues received  
11 or to be received from the third-party tax collector by the  
12 trustee. The tax revenues paid or to be paid to a trustee for the  
13 purpose of paying the principal of and interest on the bonds issued  
14 pursuant to this section shall be subject to a lien and trust,  
15 which is a statutory lien and trust paramount and superior to all  
16 other liens and interests of any kind, for the sole purpose of  
17 paying the principal of and interest on bonds issued pursuant to  
18 this section and any other bonds subsequently issued by the city  
19 sharing a parity or subordinate pledge of those tax revenues. The  
20 lien and trust created under this subsection for the benefit of  
21 bondholders or others is perfected without delivery, recording, or  
22 notice. The tax revenues held or to be held by a trustee shall be  
23 held in trust for the sole benefit of the holders of the bonds  
24 issued pursuant to this section and are exempt from being levied  
25 upon, taken, sequestered, or applied toward paying the debts or  
26 liabilities of the city other than for payment of debt service on  
27 the bonds to which the lien applies. As used in this subsection,

1 "third-party tax collector" means a party that is not the city  
2 treasurer or other elected or appointed city official with whom the  
3 city has entered into a contractual agreement pursuant to which the  
4 third-party tax collector agrees to collect taxes that otherwise  
5 would be collected by the city treasurer.

6 (7) A city that issues financial recovery bonds under this  
7 section subsequently may refund all or a portion of those bonds  
8 subject to the terms and conditions approved by the local emergency  
9 financial assistance loan board. However, the local emergency  
10 financial assistance loan board shall not approve any term or  
11 condition under this subsection that materially alters any existing  
12 term, condition, lien, or priority that applied to the bonds before  
13 the refunding if the approval would constitute an impermissible  
14 contract impairment. If financial recovery bonds are or have been  
15 issued by a city under this section, the city may provide  
16 additional security for the prior bonds pursuant to this subsection  
17 and may issue financial recovery bonds pursuant to this subsection  
18 to be sold to the Michigan finance authority for the purpose of  
19 refunding all or a portion of the prior bonds, or other obligations  
20 of the city, and for such other purposes as approved by the local  
21 emergency financial assistance loan board. A city may by resolution  
22 or order provide for the deposit of revenues pledged for the  
23 payment of prior bonds or bonds issued pursuant to this subsection  
24 into a separate account for the purpose of paying principal and  
25 interest on those obligations, the administrative costs associated  
26 with those obligations, and any other obligations issued by the  
27 city that are secured by those revenues. For purposes of this

1 subsection, principal and interest may include termination fees and  
2 credit enhancement fees, if any. If the city enters into an  
3 agreement with a third party that has a duty or obligation under  
4 the agreement or under state law to collect for, pay, remit,  
5 disburse, or distribute to the city all or a portion of the  
6 revenues pledged by the city for the payment of principal and  
7 interest on prior bonds or bonds issued pursuant to this  
8 subsection, the agreement shall also provide for the direct payment  
9 of the revenues that the third party has a duty or obligation to  
10 collect for, pay, remit, disburse, or distribute to the city, and  
11 that the city has pledged for payment of the prior bonds or bonds  
12 issued pursuant to this subsection, to a trustee to be deposited  
13 into ~~an escrow~~ **A TRUST** account and used for the sole purpose of  
14 paying principal of and interest on the prior bonds or bonds issued  
15 pursuant to this subsection and related administrative costs and  
16 any other obligations issued by the city that are secured by those  
17 revenues. The agreement shall be authorized by resolution or order  
18 of the city and approved by the local emergency financial  
19 assistance loan board. If the city and a third party enter into an  
20 agreement providing for the direct payment of the revenues pledged  
21 by the city for the payment of prior bonds or bonds issued pursuant  
22 to this subsection to a trustee, a statutory lien and trust is  
23 created applicable to those revenues received ~~or to be received~~  
24 from the third party by the trustee, and the revenues paid ~~or to be~~  
25 ~~paid~~ to a trustee for the purpose of paying the principal and  
26 interest on prior bonds or bonds issued pursuant to this subsection  
27 shall be subject to a lien and trust that is a statutory lien and

1 trust paramount and superior to all other liens and interests of  
2 any kind, for the sole purpose of paying the principal and interest  
3 on the prior bonds of the city or bonds of the city issued pursuant  
4 to this subsection and related administrative costs and any other  
5 obligations issued by the city that are secured by those revenues.  
6 The lien and trust created under this subsection is perfected  
7 without delivery, recording, or notice. The revenues held ~~or to be~~  
8 ~~held by~~ a trustee pursuant to an agreement shall be held in trust  
9 pursuant to this subsection and are exempt from being levied upon,  
10 taken, sequestered, or applied toward paying the debts or  
11 liabilities of the city other than for payment of debt service on  
12 the obligations and related administrative costs to which the lien  
13 applies. A statutory lien and trust created by this subsection  
14 applicable to distributable aid received ~~or to be received~~ from the  
15 state treasurer by a paying agent, escrow agent, or trustee, shall  
16 apply only to the distributable aid, as that term is defined in  
17 section 9 of the fiscal stabilization act, 1981 PA 80, MCL  
18 141.1009, after it has been appropriated and shall be subject to  
19 any subsequent reduction of that appropriation by operation of law  
20 or executive order. Nothing in this subsection shall abridge or  
21 reduce the ability of the state treasurer to withhold distributable  
22 aid from a city as provided by the Glenn Steil state revenue  
23 sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. Financial  
24 recovery bonds issued pursuant to this subsection are not subject  
25 to subsection (4). This subsection shall not be construed to do any  
26 of the following:

27 (a) Create or constitute state indebtedness.

1 (b) Require the state to continue to impose and collect taxes  
2 from which distributable aid is paid or to make payments of  
3 distributable aid.

4 (c) Limit or prohibit the state from repealing or amending a  
5 law enacted for the distributable aid, or for the manner, time, or  
6 amount of distributable aid.

7 (8) IF A CITY WITH A POPULATION OF MORE THAN 600,000 THAT IS  
8 LOCATED IN A COUNTY ORGANIZED UNDER 1966 PA 293, MCL 45.501 TO  
9 45.521, ISSUES OR HAS ISSUED FINANCIAL RECOVERY BONDS PURSUANT TO  
10 SUBSECTION (7), AND THE CITY, AS A SPECIFIED CONDITION OF THE  
11 ISSUANCE, HAS ENTERED INTO AN AGREEMENT WITH A TRUSTEE FOR THE  
12 DEPOSIT INTO A SEGREGATED TRUST ACCOUNT UNDER THE CONTROL OF THE  
13 TRUSTEE OF REVENUES OF THE CITY THAT HAVE BEEN PLEDGED TO THE  
14 TRUSTEE FOR THE PURPOSE OF REPAYING THOSE BONDS, AND THE CITY HAS  
15 RECEIVED THE APPROVAL OF THE STATE TREASURER, THEN, AT ALL TIMES  
16 AFTER THE ISSUANCE OF THE BONDS AND BEFORE THE DEPOSIT OF THE  
17 REVENUES OF THE CITY INTO THE TRUST ACCOUNT, THE REVENUES OF THE  
18 CITY TO BE DEPOSITED ARE HELD IN TRUST FOR THE BENEFIT OF THE  
19 TRUSTEE AND THE BONDS BY ANY PARTY THAT COMES INTO POSSESSION OF  
20 THE REVENUES. THE REVENUES ARE HELD IN TRUST FOR THE BENEFIT OF THE  
21 TRUSTEE AND THE BONDS REGARDLESS OF WHETHER THE CITY DIRECTLY  
22 COLLECTS THE REVENUES, A THIRD PARTY COLLECTS THE REVENUES ON THE  
23 CITY'S BEHALF, OR ANY OTHER PERSON COMES INTO POSSESSION OF THE  
24 REVENUES, AND THE REVENUES REMAIN SUBJECT TO THE TRUST REGARDLESS  
25 OF SUBSEQUENT TRANSFER OR TRANSFERS OF THE REVENUES UNTIL SUCH TIME  
26 AS THE REVENUES ARE RECEIVED BY THE TRUSTEE APPOINTED UNDER THE  
27 AGREEMENT FOR REPAYMENT OF THE BONDS. TO THE EXTENT THAT THE CITY

1 OR ANY OTHER PERSON HOLDS A RESIDUAL OR OTHER INTEREST IN THE  
2 REVENUES HELD IN TRUST AND TO BE DEPOSITED WITH THE TRUSTEE IN THE  
3 TRUST ACCOUNT, THE INTEREST IS SUBORDINATE TO A LIEN IN THE  
4 REVENUES IN FAVOR OF THE TRUSTEE FOR THE PURPOSE OF ENSURING  
5 DELIVERY OF THE REVENUES TO THE TRUST ACCOUNT. THIS LIEN ARISES BY  
6 OPERATION OF LAW AND WITHOUT FURTHER ACT OR NOTICE OF ANY KIND AT  
7 THE EARLIEST TIME THAT THE CITY HAS OR ACQUIRES ANY RIGHTS IN THE  
8 REVENUES PLEDGED PURSUANT TO THE AGREEMENT, IS AND WILL REMAIN  
9 PARAMOUNT AND SUPERIOR TO ALL OTHER LIENS AND INTERESTS OF ANY  
10 KIND, AND IS PERFECTED WITHOUT DELIVERY, RECORDING, OR NOTICE. THE  
11 REVENUES HELD IN TRUST AND TO BE DEPOSITED INTO THE TRUST ACCOUNT  
12 PURSUANT TO THIS SUBSECTION ARE EXEMPT FROM BEING LEVIED UPON,  
13 TAKEN, SEQUESTERED, OR APPLIED TOWARD PAYING THE DEBTS OR  
14 LIABILITIES OF THE CITY OTHER THAN THOSE EXPRESSLY SPECIFIED IN THE  
15 AGREEMENT DESCRIBED IN THIS SUBSECTION AND SUBSECTION (7).

16 (9) ~~(8)~~—Financial recovery bonds issued under this section are  
17 not subject to the revised municipal finance act, 2001 PA 34, MCL  
18 141.2101 to 141.2821.