

HOUSE BILL No. 4945

September 4, 2013, Introduced by Reps. Geiss, Tlaib, Talabi and Nathan and referred to the Committee on Local Government.

A bill to amend 2012 PA 436, entitled
"Local financial stability and choice act,"
(MCL 141.1541 to 141.1575) by adding sections 15a and 26a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 15A. (1) AN EMERGENCY MANAGER SHALL NOT NEGOTIATE,
2 RENEGOTIATE, APPROVE, OR ENTER INTO ANY CONTRACT OR OTHER FINANCIAL
3 TRANSACTION ON BEHALF OF THE LOCAL GOVERNMENT IF THE EMERGENCY
4 MANAGER OR HIS OR HER FAMILY MEMBER HAS A FINANCIAL INTEREST OR
5 COMPETING FINANCIAL INTEREST IN THE CONTRACT OR OTHER FINANCIAL
6 TRANSACTION. FOR THE PURPOSES OF THIS SUBSECTION, AN EMERGENCY
7 MANAGER OR HIS OR HER FAMILY MEMBER IS NOT CONSIDERED TO HAVE A
8 FINANCIAL INTEREST IN ANY OF THE FOLLOWING INSTANCES:

9 (A) A CONTRACT OR OTHER FINANCIAL TRANSACTION BETWEEN THE
10 LOCAL GOVERNMENT AND ANY OF THE FOLLOWING:

1 (i) A CORPORATION IN WHICH THE INDIVIDUAL IS A STOCKHOLDER
2 OWNING 1% OR LESS OF THE TOTAL STOCK OUTSTANDING IN ANY CLASS IF
3 THE STOCK IS NOT LISTED ON A STOCK EXCHANGE OR OWNING STOCK THAT
4 HAS A PRESENT MARKET VALUE OF \$25,000.00 OR LESS IF THE STOCK IS
5 LISTED ON A STOCK EXCHANGE.

6 (ii) A CORPORATION IN WHICH A TRUST, IF THE INDIVIDUAL IS A
7 BENEFICIARY UNDER THE TRUST, OWNS 1% OR LESS OF THE TOTAL STOCK
8 OUTSTANDING IN ANY CLASS IF THE STOCK IS NOT LISTED ON A STOCK
9 EXCHANGE OR OWNS STOCK THAT HAS A PRESENT MARKET VALUE OF
10 \$25,000.00 OR LESS IF THE STOCK IS LISTED ON A STOCK EXCHANGE.

11 (iii) A PROFESSIONAL LIMITED LIABILITY COMPANY ORGANIZED UNDER
12 THE MICHIGAN LIMITED LIABILITY COMPANY ACT, 1993 PA 23, MCL
13 450.4101 TO 450.5200, IF THE INDIVIDUAL IS AN EMPLOYEE BUT NOT A
14 MEMBER OF THE COMPANY.

15 (B) A CONTRACT OR OTHER FINANCIAL TRANSACTION BETWEEN THE
16 LOCAL GOVERNMENT AND ANY OF THE FOLLOWING:

17 (i) A CORPORATION IN WHICH THE INDIVIDUAL IS NOT OR WAS NOT A
18 DIRECTOR, OFFICER, OR EMPLOYEE.

19 (ii) A FIRM, PARTNERSHIP, OR OTHER UNINCORPORATED ASSOCIATION
20 IN WHICH THE INDIVIDUAL IS NOT OR WAS NOT A PARTNER, MEMBER, OR
21 EMPLOYEE.

22 (iii) A CORPORATION OR FIRM THAT HAS AN INDEBTEDNESS OWED TO THE
23 INDIVIDUAL.

24 (C) A CONTRACT AWARDED TO THE LOWEST QUALIFIED BIDDER, UPON
25 RECEIPT OF SEALED BIDS PURSUANT TO A PUBLISHED NOTICE FOR BIDS IF
26 THE NOTICE DOES NOT BAR, EXCEPT AS AUTHORIZED BY LAW, ANY QUALIFIED
27 PERSON, FIRM, CORPORATION, OR TRUST FROM BIDDING. THIS SUBDIVISION

1 DOES NOT APPLY TO AMENDMENTS OR RENEGOTIATIONS OF A CONTRACT OR TO
2 ADDITIONAL PAYMENTS MADE UNDER THE CONTRACT THAT WERE NOT
3 AUTHORIZED BY THE CONTRACT AT THE TIME OF THE AWARD.

4 (2) AS USED IN THIS SECTION, "FAMILY MEMBER" MEANS AN
5 INDIVIDUAL'S SPOUSE OR SPOUSE'S SIBLING OR CHILD; AN INDIVIDUAL'S
6 SIBLING OR SIBLING'S SPOUSE OR CHILD; AN INDIVIDUAL'S CHILD OR
7 CHILD'S SPOUSE; OR AN INDIVIDUAL'S PARENT OR PARENT'S SPOUSE, AND
8 INCLUDES THESE RELATIONSHIPS AS CREATED BY ADOPTION OR MARRIAGE.

9 SEC. 26A. IF A LOCAL GOVERNMENT PROCEEDS UNDER CHAPTER 9 AS
10 PROVIDED IN SECTION 26, ANY FIRM, CORPORATION, PARTNERSHIP, OR
11 OTHER UNINCORPORATED ASSOCIATION OF WHICH THE EMERGENCY MANAGER WAS
12 AN OWNER, PARTNER, DIRECTOR, OFFICER, MEMBER, OR EMPLOYEE IS
13 INELIGIBLE TO REPRESENT THE LOCAL GOVERNMENT IN ANY WAY IN THOSE
14 CHAPTER 9 BANKRUPTCY PROCEEDINGS.