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:

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

(2) Any financial recovery bonds issued under this section are subject to the terms and conditions approved by the local emergency

financial assistance loan board created under the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942.

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

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

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

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

city enters into an agreement with a third-party tax collector pursuant to which the third-party tax collector has the duty to collect taxes that otherwise would be collected by the city treasurer, the agreement shall also provide for the direct payment of all tax revenues pledged for payment of bonds issued pursuant to this section collected by the third-party tax collector to a trustee to be deposited into an escrow account and used for the sole purpose of paying principal of and interest on the bonds. If the city and a third-party tax collector enter into an agreement providing for the direct payment of taxes to a trustee, a statutory lien and trust is created applicable to those tax revenues received or to be received from the third-party tax collector by the trustee. The tax revenues paid or to be paid to a trustee for the purpose of paying the principal of and interest on the bonds issued pursuant to this section shall be subject to a lien and trust, which is a statutory lien and trust paramount and superior to all other liens and interests of any kind, for the sole purpose of paying the principal of and interest on bonds issued pursuant to this section and any other bonds subsequently issued by the city sharing a parity or subordinate pledge of those tax revenues. The lien and trust created under this subsection for the benefit of bondholders or others is perfected without delivery, recording, or notice. The tax revenues held or to be held by a trustee shall be held in trust for the sole benefit of the holders of the bonds issued pursuant to this section and are exempt from being levied upon, taken, sequestered, or applied toward paying the debts or liabilities of the city other than for payment of debt service on the bonds to which the lien applies. As used in this subsection, "third-party tax collector" means a party that is not the city treasurer or other elected or appointed city official with whom the city has entered into a contractual agreement pursuant to which the third-party tax collector agrees to collect taxes that otherwise would be collected by the city treasurer.

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

city that are secured by those revenues. For purposes of this subsection, principal and interest may include termination fees and credit enhancement fees, if any. If the city enters into an agreement with a third party that has a duty or obligation under the agreement or under state law to collect for, pay, remit, disburse, or distribute to the city all or a portion of the revenues pledged by the city for the payment of principal and interest on prior bonds or bonds issued pursuant to this subsection, the agreement shall also provide for the direct payment of the revenues that the third party has a duty or obligation to collect for, pay, remit, disburse, or distribute to the city, and that the city has pledged for payment of the prior bonds or bonds issued pursuant to this subsection, to a trustee to be deposited into ~~an escrow~~ **A TRUST** account and used for the sole purpose of paying principal of and interest on the prior bonds or bonds issued pursuant to this subsection and related administrative costs and any other obligations issued by the city that are secured by those revenues. The agreement shall be authorized by resolution or order of the city and approved by the local emergency financial assistance loan board. If the city and a third party enter into an agreement providing for the direct payment of the revenues pledged by the city for the payment of prior bonds or bonds issued pursuant to this subsection to a trustee, a statutory lien and trust is created applicable to those revenues received ~~or to be received~~ from the third party by the trustee, and the revenues paid ~~or to be paid~~ to a trustee for the purpose of paying the principal and interest on prior bonds or bonds issued pursuant to this subsection shall be subject to a lien and trust that is a statutory lien and trust paramount and superior to all other liens and interests of any kind, for the sole purpose of paying the principal and interest on the prior bonds of the city or bonds of the city issued pursuant to this subsection and related administrative costs and any other obligations issued by the city that are secured by those revenues. The lien and trust created under this subsection is perfected without delivery, recording, or notice. The revenues held ~~or to be held~~ by a trustee pursuant to an agreement shall be held in trust pursuant to this subsection and are exempt from being levied upon, taken, sequestered, or applied toward paying the debts or liabilities of the city other than for payment of debt service on the obligations and related administrative costs to which the lien applies. A statutory lien and trust created by this subsection applicable to distributable aid received ~~or to be received~~ from the state treasurer by a paying agent, escrow agent, or trustee, shall apply only to the distributable aid, as that term is defined in section 9 of the fiscal stabilization act, 1981 PA 80, MCL 141.1009, after it has been appropriated and shall be subject to any subsequent reduction of that appropriation by operation of law or executive order. Nothing in this subsection shall abridge or reduce the ability of the state treasurer to withhold distributable aid from a city as provided by the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.901 to 141.921. Financial recovery bonds issued pursuant to this subsection are not subject to subsection (4). This subsection shall not be construed to do any of the following:

(a) Create or constitute state indebtedness.

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

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

(8) IF A CITY WITH A POPULATION OF MORE THAN 600,000 THAT IS LOCATED IN A COUNTY ORGANIZED UNDER 1966 PA 293, MCL 45.501 TO 45.521, ISSUES OR HAS ISSUED FINANCIAL RECOVERY BONDS PURSUANT TO SUBSECTION (7), AND THE CITY, AS A SPECIFIED CONDITION OF THE ISSUANCE, HAS ENTERED INTO AN AGREEMENT WITH A TRUSTEE FOR THE DEPOSIT OF REVENUES PLEDGED BY THE CITY INTO A TRUST ACCOUNT AS PROVIDED IN SUBSECTION (7) THAT IS ESTABLISHED FOR THE SOLE PURPOSE OF PAYING PRINCIPAL OF AND INTEREST ON THOSE BONDS AND RELATED ADMINISTRATIVE EXPENSES, AND THE CITY HAS RECEIVED THE APPROVAL OF THE STATE TREASURER, THEN, AT ALL TIMES AFTER THE ISSUANCE OF THE BONDS AND BEFORE THE DEPOSIT OF THE REVENUES OF THE CITY INTO THAT TRUST ACCOUNT, THE REVENUES OF THE CITY TO BE DEPOSITED ARE HELD IN TRUST FOR THE BENEFIT OF THE TRUSTEE AND THE BONDS BY ANY PARTY THAT COMES INTO POSSESSION OF THE REVENUES. THE REVENUES ARE HELD IN TRUST FOR THE BENEFIT OF THE TRUSTEE AND THE BONDS REGARDLESS OF WHETHER THE CITY DIRECTLY COLLECTS THE REVENUES, A THIRD PARTY COLLECTS THE REVENUES ON THE CITY'S BEHALF, OR ANY OTHER PERSON COMES INTO POSSESSION OF THE REVENUES, AND THE REVENUES REMAIN SUBJECT TO THE TRUST REGARDLESS OF SUBSEQUENT TRANSFER OR TRANSFERS OF THE REVENUES UNTIL SUCH TIME AS THE REVENUES ARE DEPOSITED INTO

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

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