

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

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

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

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

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

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

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

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

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

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

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

1 (a) Create or constitute state indebtedness.

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

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

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

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

17 (9) ~~(8)~~—Financial recovery bonds issued under this section are  
18 not subject to the revised municipal finance act, 2001 PA 34, MCL  
19 141.2101 to 141.2821.