

# HOUSE BILL No. 6030

November 9, 2016, Introduced by Rep. Irwin and referred to the Committee on Local Government.

A bill to amend 2012 PA 436, entitled "Local financial stability and choice act," by amending sections 7, 7a, 8, 9, 11, 12, 13, 14, 15, 19, 20, 22, 24, and 25 (MCL 141.1547, 141.1547a, 141.1548, 141.1549, 141.1551, 141.1552, 141.1553, 141.1554, 141.1555, 141.1559, 141.1560, 141.1562, 141.1564, and 141.1565), section 7a as added by 2015 PA 113.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 7. (1) Notwithstanding section 6(3), upon the  
2       confirmation of a finding of a financial emergency under section 6,  
3       the governing body of the local government shall, by resolution  
4       within 7 days after the confirmation of a finding of a financial  
5       emergency, select 1 of the following local government options to  
6       address the financial emergency:

1 (a) The consent agreement option pursuant to section 8.

2 (b) ~~The~~ **BEFORE THE EFFECTIVE DATE OF THE 2016 AMENDATORY ACT**  
3 **THAT AMENDED THIS SECTION, THE** emergency manager option pursuant to  
4 section 9.

5 (c) The neutral evaluation process option pursuant to section  
6 25.

7 (d) The chapter 9 bankruptcy option pursuant to section 26.

8 (2) Subject to subsection (3), if the local government has a  
9 strong mayor, the resolution under subsection (1) requires strong  
10 mayor approval. If the local government is a school district, the  
11 resolution shall be approved by the school board. The resolution  
12 shall be filed with the state treasurer, with a copy to the  
13 superintendent of public instruction if the local government is a  
14 school district.

15 (3) If the governing body of the local government does not  
16 pass a resolution as required under subsection (1), the local  
17 government shall proceed under the neutral evaluation process  
18 pursuant to section 25.

19 ~~(4) Subject to section 9(6)(c) and (11), unless authorized by~~  
20 ~~the governor,~~ **EXCEPT FOR THE LOCAL GOVERNMENT OPTION LISTED IN**  
21 **SUBSECTION (1) (B),** a local government ~~shall not~~ **MAY** utilize 1 of  
22 the local options listed in subsection ~~(1)(a) to (d)~~ **(1)** more than  
23 1 time.

24 Sec. 7a. Notwithstanding section 7, if a school district is  
25 subject to an enhanced deficit elimination plan under section 1220  
26 of the revised school code, 1976 PA 451, MCL 380.1220, and the  
27 state treasurer determines that the school district has failed to

1 submit or comply with the requirements of the enhanced deficit  
2 elimination plan, the state treasurer may declare that a financial  
3 emergency exists within the school district and **BEFORE THE**  
4 **EFFECTIVE DATE OF THE 2016 AMENDATORY ACT THAT AMENDED THIS SECTION**  
5 recommend that the governor appoint an emergency manager to address  
6 the financial emergency within the school district under section 9  
7 **OR BEGINNING ON THE EFFECTIVE DATE OF THE 2016 AMENDATORY ACT THAT**  
8 **AMENDED THIS SECTION RECOMMEND THAT THE LOCAL GOVERNMENT SELECT 1**  
9 **OF THE LOCAL GOVERNMENT OPTIONS AS PROVIDED IN SECTION 7.**

10 Sec. 8. (1) The chief administrative officer of a local  
11 government may negotiate and sign a consent agreement with the  
12 state treasurer as provided for in this act. If the local  
13 government is a school district and the consent agreement contains  
14 an educational plan, the consent agreement shall also be signed by  
15 the superintendent of public instruction. The consent agreement  
16 shall provide for remedial measures considered necessary to address  
17 the financial emergency within the local government and provide for  
18 the financial stability of the local government. The consent  
19 agreement may utilize state financial management and technical  
20 assistance as necessary in order to alleviate the financial  
21 emergency. The consent agreement shall also provide for periodic  
22 financial status reports to the state treasurer, with a copy of  
23 each report to each state senator and state representative who  
24 represents that local government. The consent agreement may provide  
25 for a board appointed by the governor to monitor the local  
26 government's compliance with the consent agreement. In order for  
27 the consent agreement to go into effect, it shall be approved, by

1 resolution, by the governing body of the local government and shall  
2 be approved and executed by the state treasurer. ~~Nothing in the~~  
3 ~~consent agreement shall limit the ability of the state treasurer in~~  
4 ~~his or her sole discretion to declare a material breach of the~~  
5 ~~consent agreement.~~ A consent agreement shall provide that in the  
6 event of a material uncured breach of the consent agreement, the  
7 governor may place the local government in ~~receivership or in the~~  
8 neutral evaluation process. If within ~~30~~ 60 days after a local  
9 government selects the consent agreement option under section  
10 7(1) (a), ~~or sooner in the discretion of the state treasurer, a~~  
11 consent agreement cannot be agreed upon, the state treasurer shall  
12 require the local government to proceed under 1 of the other local  
13 options provided for in section 7.

14 (2) A consent agreement as provided in subsection (1) may  
15 require a continuing operations plan or a recovery plan if required  
16 by the state treasurer.

17 (3) If the state treasurer requires that a consent agreement  
18 include a continuing operations plan, the local government shall  
19 prepare and file the continuing operations plan with the state  
20 treasurer as provided for in the consent agreement. **THE CONTINUING**  
21 **OPERATIONS PLAN SHALL HAVE THE OBJECTIVES OF ASSURING THAT THE**  
22 **LOCAL GOVERNMENT IS ABLE TO PROVIDE OR CAUSE TO BE PROVIDED**  
23 **GOVERNMENTAL SERVICES ESSENTIAL TO THE PUBLIC HEALTH, SAFETY, AND**  
24 **WELFARE AND ASSURING THE FISCAL ACCOUNTABILITY OF THE LOCAL**  
25 **GOVERNMENT. IN ADDITION, THE CONTINUING OPERATIONS PLAN FOR A**  
26 **SCHOOL DISTRICT SHALL HAVE THE OBJECTIVE OF ASSURING A QUALITY**  
27 **EDUCATION FOR ALL OF THE STUDENTS OF THE SCHOOL DISTRICT.** The state

1 treasurer shall approve or reject the initial continuing operations  
2 plan within 14 days of receiving it from the local government. If a  
3 continuing operations plan is rejected, the local government shall  
4 refile an amended plan within 30 days of the rejection, addressing  
5 any concerns raised by the state treasurer or the superintendent of  
6 public instruction regarding an educational plan. If the amended  
7 plan is rejected, then the local government may be considered to be  
8 in material breach of the consent agreement. The local government  
9 shall file annual updates to its continuing operations plan. The  
10 annual updates shall be included with the annual filing of the  
11 local government's audit report with the state financial authority  
12 as long as the continuing operations plan remains in effect.

13 (4) The continuing operations plan shall be in a form  
14 prescribed by the state treasurer but shall, at a minimum, include  
15 all of the following:

16 (a) A detailed projected budget of revenues and expenditures  
17 over not less than 3 fiscal years which demonstrates that the local  
18 government's expenditures will not exceed its revenues and that any  
19 existing deficits will be eliminated during the projected budget  
20 period.

21 (b) A cash flow projection for the budget period.

22 (c) An operating plan for the budget period that assures  
23 fiscal accountability for the local government.

24 (d) A plan showing reasonable and necessary maintenance and  
25 capital expenditures so as to assure the local government's fiscal  
26 accountability.

27 (e) An evaluation of the costs associated with pension and

1 postemployment health care obligations for which the local  
2 government is responsible and a plan for how those costs will be  
3 addressed within the budget period.

4 (f) A provision for submitting quarterly compliance reports to  
5 the state treasurer demonstrating compliance with the continuing  
6 operations plan, with a copy of each report to each state senator  
7 and state representative who represents that local government. Each  
8 quarterly compliance report shall be posted on the local  
9 government's website within 7 days after the report is submitted to  
10 the state treasurer.

11 (5) If a continuing operations plan is approved for a  
12 municipal government, the municipal government shall amend the  
13 budget and general appropriations ordinance adopted by the  
14 municipal government under the uniform budgeting and accounting  
15 act, 1968 PA 2, MCL 141.421 to 141.440a, to the extent necessary or  
16 advisable to give full effect to the continuing operations plan. If  
17 a continuing operations plan is approved for a school district, the  
18 school district shall amend the budget adopted by the school  
19 district under the uniform budgeting and accounting act, 1968 PA 2,  
20 MCL 141.421 to 141.440a, to the extent necessary or advisable to  
21 give full effect to the continuing operations plan. The chief  
22 administrative officer, the chief financial officer, the governing  
23 body, and other officials of the local government shall take and  
24 direct such actions as may be necessary or advisable to maintain  
25 the local government's operations in compliance with the continuing  
26 operations plan.

27 (6) If the state treasurer requires that a consent agreement

1 include a recovery plan, the state treasurer, with input from the  
2 local government, shall develop and adopt a recovery plan. **THE**  
3 **RECOVERY PLAN SHALL HAVE THE OBJECTIVES OF ASSURING THAT THE LOCAL**  
4 **GOVERNMENT IS ABLE TO PROVIDE OR CAUSE TO BE PROVIDED GOVERNMENTAL**  
5 **SERVICES ESSENTIAL TO THE PUBLIC HEALTH, SAFETY, AND WELFARE AND**  
6 **ASSURING THE FISCAL ACCOUNTABILITY OF THE LOCAL GOVERNMENT. IN**  
7 **ADDITION, THE RECOVERY PLAN FOR A SCHOOL DISTRICT SHALL HAVE THE**  
8 **OBJECTIVE OF ASSURING A QUALITY EDUCATION FOR ALL OF THE STUDENTS**  
9 **OF THE SCHOOL DISTRICT. WITHIN 10 DAYS AFTER A DECISION BY THE**  
10 **STATE TREASURER TO REQUIRE THAT A CONSENT AGREEMENT INCLUDE A**  
11 **RECOVERY PLAN, THE STATE TREASURER AND THE GOVERNING BODY OF THE**  
12 **LOCAL GOVERNMENT SHALL CONDUCT A PUBLIC INFORMATIONAL MEETING ON**  
13 **THE PROPOSED RECOVERY PLAN. IN ADDITION, WITHIN 14 DAYS AFTER THE**  
14 **DATE A RECOVERY PLAN IS ADOPTED, THE STATE TREASURER AND THE**  
15 **GOVERNING BODY OF THE LOCAL GOVERNMENT SHALL CONDUCT A PUBLIC**  
16 **INFORMATIONAL MEETING ON THE ADOPTED RECOVERY PLAN. THIS SUBSECTION**  
17 **DOES NOT MEAN THAT THE STATE TREASURER OR THE GOVERNING BODY OF THE**  
18 **LOCAL GOVERNMENT MUST RECEIVE PUBLIC APPROVAL BEFORE ADOPTING THE**  
19 **RECOVERY PLAN.** If a recovery plan is developed and adopted for the  
20 local government, the local government shall file annual updates to  
21 its recovery plan. The annual updates shall be included with the  
22 annual filing of the local government's audit report with the state  
23 financial authority as long as the recovery plan remains in effect.

24 (7) A recovery plan may include terms and provisions as may be  
25 approved in the discretion of the state treasurer, including, but  
26 not limited to, 1 or more of the following:

27 (a) A detailed projected budget of revenues and expenditures

1 over not less than 3 fiscal years that demonstrates that the local  
2 government's expenditures will not exceed its revenues and that any  
3 existing deficits will be eliminated during the projected budget  
4 period.

5 (b) A cash flow projection for the budget period.

6 (c) An operating plan for the budget period that assures  
7 fiscal accountability for the local government.

8 (d) A plan showing reasonable and necessary maintenance and  
9 capital expenditures so as to assure the local government's fiscal  
10 accountability.

11 (e) An evaluation of costs associated with pension and  
12 postemployment health care obligations for which the local  
13 government is responsible and a plan for how those costs will be  
14 addressed to assure that current obligations are met and that steps  
15 are taken to reduce future unfunded obligations.

16 (f) Procedures for cash control and cash management,  
17 including, but not limited to, procedures for timely collection,  
18 securing, depositing, balancing, and expending of cash. Procedures  
19 for cash control and cash management may include the designation of  
20 appropriate fiduciaries.

21 (g) A provision for submitting quarterly compliance reports to  
22 the state treasurer and the chief administrative officer of the  
23 local government that demonstrate compliance with the recovery  
24 plan, with a copy of each report to each state senator and state  
25 representative who represents that local government. Each quarterly  
26 compliance report shall be posted on the local government's website  
27 within 7 days after the report is submitted to the state treasurer.



1           (8) The recovery plan may include the appointment of a local  
2 auditor or local inspector, or both, in accordance with section  
3 ~~12(1)(p)~~. **12(1)(N)** .

4           (9) If a recovery plan is developed and adopted by the state  
5 treasurer for a local government, the recovery plan shall supersede  
6 the budget and general appropriations ordinance adopted by the  
7 local government under the uniform budgeting and accounting act,  
8 1968 PA 2, MCL 141.421 to 141.440a, and the budget and general  
9 appropriations ordinance is considered amended to the extent  
10 necessary or advisable to give full effect to the recovery plan. In  
11 the event of any inconsistency between the recovery plan and the  
12 budget or general appropriations ordinance, the recovery plan shall  
13 control. The chief administrative officer, the chief financial  
14 officer, the governing body, and other officers of the local  
15 government shall take and direct actions as may be necessary or  
16 advisable to bring and maintain the local government's operations  
17 in compliance with the recovery plan.

18 ~~—— (10) Except as otherwise provided in this subsection, the~~  
19 ~~consent agreement may include a grant to the chief administrative~~  
20 ~~officer, the chief financial officer, the governing body, or other~~  
21 ~~officers of the local government by the state treasurer of 1 or~~  
22 ~~more of the powers prescribed for emergency managers as otherwise~~  
23 ~~provided in this act for such periods and upon such terms and~~  
24 ~~conditions as the state treasurer considers necessary or~~  
25 ~~convenient, in the state treasurer's discretion to enable the local~~  
26 ~~government to achieve the goals and objectives of the consent~~  
27 ~~agreement. However, the consent agreement shall not include a grant~~

~~to the chief administrative officer, the chief financial officer,  
the governing body, or other officers of the local government of  
the powers prescribed for emergency managers in section 12(1)(k).~~

~~— (11) Unless the state treasurer determines otherwise,  
beginning 30 days after the date a local government enters into a  
consent agreement under this act, that local government is not  
subject to section 15(1) of 1947 PA 336, MCL 423.215, for the  
remaining term of the consent agreement.~~

(10) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, DURING  
THE 60 DAYS AFTER THE DATE A LOCAL GOVERNMENT ENTERS INTO A CONSENT  
AGREEMENT UNDER THIS ACT, THE LOCAL GOVERNMENT SHALL RENEGOTIATE  
EACH COLLECTIVE BARGAINING AGREEMENT INVOLVING THAT LOCAL  
GOVERNMENT. IF THE PARTIES TO A COLLECTIVE BARGAINING AGREEMENT  
CANNOT AGREE ON A NEW COLLECTIVE BARGAINING AGREEMENT DURING THE  
60-DAY RENEGOTIATION PERIOD, AN IMPARTIAL ARBITRATOR SHALL  
DETERMINE IN ARBITRATION THE ISSUES IN DISPUTE. THE PARTIES TO A  
COLLECTIVE BARGAINING AGREEMENT MAY AGREE TO SEEK ARBITRATION ON 1  
OR MORE ISSUES BEFORE THE END OF THE 60-DAY RENEGOTIATION PERIOD.  
WITHIN 7 DAYS AFTER RECEIPT OF A REQUEST FROM 1 OR BOTH PARTIES FOR  
ARBITRATION OF A DISPUTE, THE EMPLOYMENT RELATIONS COMMISSION SHALL  
SELECT FROM ITS PANEL OF ARBITRATORS, AS PROVIDED IN SECTION 5 OF  
1969 PA 312, MCL 423.235, 3 INDIVIDUALS AS NOMINEES FOR IMPARTIAL  
ARBITRATOR. WITHIN 5 DAYS AFTER THE SELECTION OF NOMINEES, EACH  
PARTY MAY PEREMPTORILY STRIKE THE NAME OF 1 OF THE NOMINEES. WITHIN  
7 DAYS AFTER THIS 5-DAY PERIOD, THE EMPLOYMENT RELATIONS COMMISSION  
SHALL DESIGNATE 1 OF THE REMAINING NOMINEES AS THE IMPARTIAL  
ARBITRATOR.

1       (11) ~~(12)~~ The consent agreement may provide for the required  
2 retention by the local government of a consultant for the purpose  
3 of assisting the local government to achieve the goals and  
4 objectives of the consent agreement.

5       (12) ~~(13)~~ A local government is released from the requirements  
6 under this section upon compliance with the consent agreement as  
7 determined by the state treasurer.

8       Sec. 9. (1) ~~The~~ **BEFORE THE EFFECTIVE DATE OF THE 2016**  
9 **AMENDATORY ACT THAT AMENDED THIS SECTION, THE** governor may appoint  
10 an emergency manager to address a financial emergency within that  
11 local government as provided for in this act.

12       (2) Upon appointment, an emergency manager shall act for and  
13 in the place and stead of the governing body and the office of  
14 chief administrative officer of the local government. The emergency  
15 manager shall have broad powers in receivership to rectify the  
16 financial emergency and to assure the fiscal accountability of the  
17 local government and the local government's capacity to provide or  
18 cause to be provided necessary governmental services essential to  
19 the public health, safety, and welfare. Following appointment of an  
20 emergency manager and during the pendency of receivership, the  
21 governing body and the chief administrative officer of the local  
22 government shall not exercise any of the powers of those offices  
23 except as may be specifically authorized in writing by the  
24 emergency manager or as otherwise provided by this act and are  
25 subject to any conditions required by the emergency manager.

26       (3) All of the following apply to an emergency manager:

27       (a) The emergency manager shall have a minimum of 5 years'

1 experience and demonstrable expertise in business, financial, or  
2 local or state budgetary matters.

3 (b) The emergency manager may, but need not, be a resident of  
4 the local government.

5 (c) The emergency manager shall be an individual.

6 (d) Except as otherwise provided in this subdivision **AND**  
7 **SECTION 7B(17)**, the emergency manager shall serve at the pleasure  
8 of the governor. An emergency manager is subject to impeachment and  
9 conviction by the legislature as if he or she were a civil officer  
10 under section 7 of article XI of the state constitution of 1963. A  
11 **BEFORE THE EFFECTIVE DATE OF THE 2016 AMENDATORY ACT THAT AMENDED**  
12 **THIS SECTION, A** vacancy in the office of emergency manager shall be  
13 filled in the same manner as the original appointment. **BEGINNING ON**  
14 **THE EFFECTIVE DATE OF THE 2016 AMENDATORY ACT THAT AMENDED THIS**  
15 **SECTION, IF A VACANCY OCCURS IN THE OFFICE OF EMERGENCY MANAGER,**  
16 **THE LOCAL GOVERNMENT SHALL SELECT 1 OF THE OTHER LOCAL GOVERNMENT**  
17 **OPTIONS AS PROVIDED IN SECTION 7.**

18 (e) The emergency manager's compensation shall be paid by this  
19 state and shall be set forth in a contract approved by the state  
20 treasurer. The contract shall be posted on the department of  
21 treasury's website within 7 days after the contract is approved by  
22 the state treasurer.

23 (f) In addition to the salary provided to an emergency manager  
24 in a contract approved by the state treasurer under subdivision  
25 (e), this state may receive and distribute private funds to an  
26 emergency manager. As used in this subdivision, "private funds"  
27 means any money the state receives for the purpose of allocating

1 additional salary to an emergency manager. Private funds  
2 distributed under this subdivision are subject to section 1 of 1901  
3 PA 145, MCL 21.161, and section 17 of article IX of the state  
4 constitution of 1963.

5 (4) In addition to staff otherwise authorized by law, an  
6 emergency manager shall appoint additional staff and secure  
7 professional assistance as the emergency manager considers  
8 necessary to fulfill his or her appointment.

9 (5) The emergency manager shall submit quarterly reports to  
10 the state treasurer with respect to the financial condition of the  
11 local government in receivership, with a copy to the superintendent  
12 of public instruction if the local government is a school district  
13 and a copy to each state senator and state representative who  
14 represents that local government. In addition, each quarterly  
15 report shall be posted on the local government's website within 7  
16 days after the report is submitted to the state treasurer.

17 (6) The emergency manager shall continue in the capacity of an  
18 emergency manager as follows:

19 (a) Until removed by the governor or the legislature as  
20 provided in subsection (3)(d). ~~If~~ **BEFORE THE EFFECTIVE DATE OF THE**  
21 **2016 AMENDATORY ACT THAT AMENDED THIS SECTION, IF** an emergency  
22 manager is removed, the governor shall within 30 days of the  
23 removal appoint a new emergency manager. **BEGINNING ON THE EFFECTIVE**  
24 **DATE OF THE 2016 AMENDATORY ACT THAT AMENDED THIS SECTION, IF AN**  
25 **EMERGENCY MANAGER IS REMOVED, THE LOCAL GOVERNMENT SHALL SELECT 1**  
26 **OF THE OTHER LOCAL GOVERNMENT OPTIONS AS PROVIDED IN SECTION 7.**

27 (b) Until the financial emergency is rectified.

1 (c) If the emergency manager has served for at least 18 months  
2 after his or her appointment under this act, the emergency manager  
3 may, by resolution, be removed by a 2/3 vote of the governing body  
4 of the local government. If the local government has a strong  
5 mayor, the resolution requires strong mayor approval before the  
6 emergency manager may be removed. ~~Notwithstanding section 7(4), if~~  
7 **IF** the emergency manager is removed under this subsection and the  
8 local government has not previously breached a consent agreement  
9 under this act, the local government may within 10 days negotiate a  
10 consent agreement with the state treasurer. If a consent agreement  
11 is not agreed upon within 10 days, the local government shall  
12 proceed with the neutral evaluation process pursuant to section 25.

13 (7) A local government shall be removed from receivership when  
14 the financial conditions are corrected in a sustainable fashion as  
15 provided in this act. In addition, the local government may be  
16 removed from receivership if an emergency manager is removed under  
17 subsection (6)(c) and the governing body of the local government by  
18 2/3 vote approves a resolution for the local government to be  
19 removed from receivership. If the local government has a strong  
20 mayor, the resolution requires strong mayor approval before the  
21 local government is removed from receivership. A local government  
22 that is removed from receivership while a financial emergency  
23 continues to exist as determined by the governor shall proceed  
24 under the neutral evaluation process pursuant to section 25.

25 (8) The governor may delegate his or her duties under this  
26 section to the state treasurer.

27 (9) Notwithstanding section 3(1) of 1968 PA 317, MCL 15.323,

1 an emergency manager is subject to all of the following:

2 (a) 1968 PA 317, MCL 15.321 to 15.330, as a public servant.

3 (b) 1973 PA 196, MCL 15.341 to 15.348, as a public officer.

4 (c) 1968 PA 318, MCL 15.301 to 15.310, as if he or she were a  
5 state officer.

6 (10) An emergency financial manager appointed under former  
7 1988 PA 101 or former 1990 PA 72, and serving immediately ~~prior to~~  
8 ~~the effective date of this act,~~ **BEFORE MARCH 28, 2013**, shall be  
9 considered an emergency manager under this act and shall continue  
10 under this act to fulfill his or her powers and duties.

11 Notwithstanding any other provision of this act, the governor may  
12 appoint a person who was appointed as an emergency manager under  
13 former 2011 PA 4 or an emergency financial manager under former  
14 1988 PA 101 or former 1990 PA 72 to serve as an emergency manager  
15 under this act.

16 (11) ~~Notwithstanding section 7(4) and subject~~ **SUBJECT** to the  
17 requirements of this section, if an emergency manager has served  
18 for less than 18 months after his or her appointment under this  
19 act, the governing body of the local government may pass a  
20 resolution petitioning the governor to remove the emergency manager  
21 as provided in this section and allow the local government to  
22 proceed under the neutral evaluation process as provided in section  
23 25. If the local government has a strong mayor, the resolution  
24 requires strong mayor approval. If the governor accepts the  
25 resolution, ~~notwithstanding section 7(4),~~ the local government  
26 shall proceed under the neutral evaluation process as provided in  
27 section 25.

1       Sec. 11. (1) An emergency manager shall develop and may amend  
2 a written financial and operating plan for the local government.  
3 The plan shall have the objectives of assuring that the local  
4 government is able to provide or cause to be provided governmental  
5 services essential to the public health, safety, and welfare and  
6 assuring the fiscal accountability of the local government. The  
7 financial and operating plan shall provide for all of the  
8 following:

9       (a) Conducting all aspects of the operations of the local  
10 government within the resources available according to the  
11 emergency manager's revenue estimate.

12       (b) The payment in full of the scheduled debt service  
13 requirements on all bonds, notes, and municipal securities of the  
14 local government, contract obligations in anticipation of which  
15 bonds, notes, and municipal securities are issued, and all other  
16 uncontested legal obligations.

17       (c) The ~~modification, rejection, termination, and~~  
18 ~~renegotiation of contracts. pursuant to section 12.~~

19       (d) The timely deposit of required payments to the pension  
20 fund for the local government or in which the local government  
21 participates.

22       (e) For school districts, an educational plan.

23       (f) Any other actions considered necessary by the emergency  
24 manager in the emergency manager's discretion to achieve the  
25 objectives of the financial and operating plan, alleviate the  
26 financial emergency, and remove the local government from  
27 receivership.



1           (2) Within 45 days after the emergency manager's appointment,  
2 the emergency manager shall submit the financial and operating  
3 plan, and an educational plan if the local government is a school  
4 district, to the state treasurer, with a copy to the superintendent  
5 of public instruction if the local government is a school district,  
6 and to the chief administrative officer and governing body of the  
7 local government. The plan shall be regularly reexamined by the  
8 emergency manager and the state treasurer and may be modified from  
9 time to time by the emergency manager with notice to the state  
10 treasurer. If the emergency manager reduces his or her revenue  
11 estimates, the emergency manager shall modify the plan to conform  
12 to the revised revenue estimates.

13           (3) The financial and operating plan shall be in a form as  
14 provided by the state treasurer and shall contain that information  
15 for each year during which year the plan is in effect that the  
16 emergency manager, in consultation with the state financial  
17 authority, specifies. The financial and operating plan may serve as  
18 a deficit elimination plan otherwise required by law if so approved  
19 by the state financial authority.

20           (4) The emergency manager, within 30 days of submitting the  
21 financial and operating plan to the state financial authority,  
22 shall conduct a public informational meeting on the plan and any  
23 modifications to the plan. This subsection does not mean that the  
24 emergency manager must receive public approval before he or she  
25 implements the plan or any modification of the plan.

26           (5) For a local government in receivership immediately ~~prior~~  
27 ~~to the effective date of this act,~~ **BEFORE MARCH 28, 2013,** a

1 financial and operating plan for that local government adopted  
2 under former 2011 PA 4 or a financial plan for that local  
3 government adopted under former 1990 PA 72 shall be effective and  
4 enforceable as a financial and operating plan for the local  
5 government under this act until modified or rescinded under this  
6 act.

7       Sec. 12. (1) An emergency manager may take 1 or more of the  
8 following additional actions with respect to a local government  
9 that is in receivership, notwithstanding any charter provision to  
10 the contrary:

11       (a) Analyze factors and circumstances contributing to the  
12 financial emergency of the local government and initiate steps to  
13 correct the condition.

14       (b) Amend, revise, approve, or disapprove the budget of the  
15 local government, and limit the total amount appropriated or  
16 expended.

17       (c) Receive and disburse on behalf of the local government all  
18 federal, state, and local funds earmarked for the local government.  
19 These funds may include, but are not limited to, funds for specific  
20 programs and the retirement of debt.

21       (d) Require and approve or disapprove, or amend or revise, a  
22 plan for paying all outstanding obligations of the local  
23 government.

24       (e) Require and prescribe the form of special reports to be  
25 made by the finance officer of the local government to its  
26 governing body, the creditors of the local government, the  
27 emergency manager, or the public.

1 (f) Examine all records and books of account, and require  
2 under the procedures of the uniform budgeting and accounting act,  
3 1968 PA 2, MCL 141.421 to 141.440a, or 1919 PA 71, MCL 21.41 to  
4 21.55, or both, the attendance of witnesses and the production of  
5 books, papers, contracts, and other documents relevant to an  
6 analysis of the financial condition of the local government.

7 (g) ~~Make, approve, or disapprove~~ **DISAPPROVE** any appropriation,  
8 contract, expenditure, or loan, the creation of any new position,  
9 or the filling of any vacancy in a position by any appointing  
10 authority.

11 (h) Review payrolls or other claims against the local  
12 government before payment.

13 (i) Notwithstanding any minimum staffing level requirement  
14 established by charter or contract, establish and implement  
15 staffing levels for the local government.

16 ~~—— (j) Reject, modify, or terminate 1 or more terms and~~  
17 ~~conditions of an existing contract.~~

18 ~~—— (k) Subject to section 19, after meeting and conferring with~~  
19 ~~the appropriate bargaining representative and, if in the emergency~~  
20 ~~manager's sole discretion and judgment, a prompt and satisfactory~~  
21 ~~resolution is unlikely to be obtained, reject, modify, or terminate~~  
22 ~~1 or more terms and conditions of an existing collective bargaining~~  
23 ~~agreement. The rejection, modification, or termination of 1 or more~~  
24 ~~terms and conditions of an existing collective bargaining agreement~~  
25 ~~under this subdivision is a legitimate exercise of the state's~~  
26 ~~sovereign powers if the emergency manager and state treasurer~~  
27 ~~determine that all of the following conditions are satisfied:~~

1 ~~—— (i) The financial emergency in the local government has~~  
2 ~~created a circumstance in which it is reasonable and necessary for~~  
3 ~~the state to intercede to serve a significant and legitimate public~~  
4 ~~purpose.~~

5 ~~—— (ii) Any plan involving the rejection, modification, or~~  
6 ~~termination of 1 or more terms and conditions of an existing~~  
7 ~~collective bargaining agreement is reasonable and necessary to deal~~  
8 ~~with a broad, generalized economic problem.~~

9 ~~—— (iii) Any plan involving the rejection, modification, or~~  
10 ~~termination of 1 or more terms and conditions of an existing~~  
11 ~~collective bargaining agreement is directly related to and designed~~  
12 ~~to address the financial emergency for the benefit of the public as~~  
13 ~~a whole.~~

14 ~~—— (iv) Any plan involving the rejection, modification, or~~  
15 ~~termination of 1 or more terms and conditions of an existing~~  
16 ~~collective bargaining agreement is temporary and does not target~~  
17 ~~specific classes of employees.~~

18 **(J)** ~~(I)~~ Act as sole agent of the local government in  
19 collective bargaining with employees or representatives and approve  
20 any contract or agreement.

21 **(K)** ~~(m)~~ If a municipal government's pension fund is not  
22 actuarially funded at a level of 80% or more, according to the most  
23 recent governmental accounting standards board's applicable  
24 standards, at the time the most recent comprehensive annual  
25 financial report for the municipal government or its pension fund  
26 was due, the emergency manager may remove 1 or more of the serving  
27 trustees of the local pension board or, if the state treasurer

1 appoints the emergency manager as the sole trustee of the local  
2 pension board, replace all the serving trustees of the local  
3 pension board. For the purpose of determining the pension fund  
4 level under this subdivision, the valuation shall exclude the net  
5 value of pension bonds or evidence of indebtedness. The annual  
6 actuarial valuation for the municipal government's pension fund  
7 shall use the actuarial accrued liabilities and the actuarial value  
8 of assets. If a pension fund uses the aggregate actuarial cost  
9 method or a method involving a frozen accrued liability, the  
10 retirement system actuary shall use the entry age normal actuarial  
11 cost method. If the emergency manager serves as sole trustee of the  
12 local pension board, all of the following apply:

13 (i) The emergency manager shall assume and exercise the  
14 authority and fiduciary responsibilities of the local pension board  
15 including, to the extent applicable, setting and approval of all  
16 actuarial assumptions for pension obligations of a municipal  
17 government to the local pension fund.

18 (ii) The emergency manager shall fully comply with the public  
19 employee retirement system investment act, 1965 PA 314, MCL 38.1132  
20 to ~~38.1140m~~, **38.1141**, and section 24 of article IX of the state  
21 constitution of 1963, and any actions taken shall be consistent  
22 with the pension fund's qualified plan status under the federal  
23 internal revenue code.

24 (iii) The emergency manager shall not make changes to a local  
25 pension fund without identifying the changes and the costs and  
26 benefits associated with the changes and receiving the state  
27 treasurer's approval for the changes. If a change includes the

1 transfer of funds from 1 pension fund to another pension fund, the  
2 valuation of the pension fund receiving the transfer must be  
3 actuarially funded at a level of 80% or more, according to the most  
4 recent governmental accounting standards board's applicable  
5 standards, at the time the most recent comprehensive annual  
6 financial report for the municipal government was due.

7 (iv) The emergency manager's assumption and exercise of the  
8 authority and fiduciary responsibilities of the local pension board  
9 shall end not later than the termination of the receivership of the  
10 municipal government as provided in this act.

11 (I) ~~(n)~~ Consolidate or eliminate departments of the local  
12 government or transfer functions from 1 department to another and  
13 appoint, supervise, and, at his or her discretion, remove  
14 administrators, including heads of departments other than elected  
15 officials.

16 (M) ~~(e)~~ Employ or contract for, at the expense of the local  
17 government and with the approval of the state financial authority,  
18 auditors and other technical personnel considered necessary to  
19 implement this act.

20 (N) ~~(p)~~ Retain 1 or more persons or firms, which may be an  
21 individual or firm selected from a list approved by the state  
22 treasurer, to perform the duties of a local inspector or a local  
23 auditor as described in this subdivision. The duties of a local  
24 inspector are to assure integrity, economy, efficiency, and  
25 effectiveness in the operations of the local government by  
26 conducting meaningful and accurate investigations and forensic  
27 audits, and to detect and deter waste, fraud, and abuse. At least

1 annually, a report of the local inspector shall be submitted to the  
2 emergency manager, the state treasurer, the superintendent of  
3 public instruction if the local government is a school district,  
4 and each state senator and state representative who represents that  
5 local government. The annual report of the local inspector shall be  
6 posted on the local government's website within 7 days after the  
7 report is submitted. The duties of a local auditor are to assure  
8 that internal controls over local government operations are  
9 designed and operating effectively to mitigate risks that hamper  
10 the achievement of the emergency manager's financial plan, assure  
11 that local government operations are effective and efficient,  
12 assure that financial information is accurate, reliable, and  
13 timely, comply with policies, regulations, and applicable laws, and  
14 assure assets are properly managed. At least annually, a report of  
15 the local auditor shall be submitted to the emergency manager, the  
16 state treasurer, the superintendent of public instruction if the  
17 local government is a school district, and each state senator and  
18 state representative who represents that local government. The  
19 annual report of the local auditor shall be posted on the local  
20 government's website within 7 days after the report is submitted.

21 (O) ~~(e)~~—An emergency manager may initiate court proceedings in  
22 the Michigan court of claims or in the circuit court of the county  
23 in which the local government is located in the name of the local  
24 government to enforce compliance with any of his or her orders or  
25 any constitutional or legislative mandates, or to restrain  
26 violations of any constitutional or legislative power or his or her  
27 orders.

1       **(P)** ~~(r)~~ Subject to ~~section~~ **SECTIONS 15 AND** 19, if provided in  
2 the financial and operating plan, or otherwise with the prior  
3 written approval of the governor or his or her designee, sell,  
4 lease, convey, assign, or otherwise use or transfer the assets,  
5 liabilities, functions, or responsibilities of the local  
6 government, provided the use or transfer of assets, liabilities,  
7 functions, or responsibilities for this purpose does not endanger  
8 the health, safety, or welfare of residents of the local government  
9 or unconstitutionally impair a bond, note, security, or uncontested  
10 legal obligation of the local government.

11       **(Q)** ~~(s)~~ Apply for a loan from the state on behalf of the local  
12 government, subject to the conditions of the emergency municipal  
13 loan act, 1980 PA 243, MCL 141.931 to 141.942.

14       **(R)** ~~(t)~~ Order, as necessary, 1 or more millage elections for  
15 the local government consistent with the Michigan election law,  
16 1954 PA 116, MCL 168.1 to 168.992, sections 6 and 25 through 34 of  
17 article IX of the state constitution of 1963, and any other  
18 applicable state law.

19       **(S)** ~~(u)~~ Subject to section 19, authorize the borrowing of  
20 money by the local government as provided by law.

21       **(T)** ~~(v)~~ Approve or disapprove of the issuance of obligations  
22 of the local government on behalf of the local government under  
23 this subdivision. An election to approve or disapprove of the  
24 issuance of obligations of the local government pursuant to this  
25 subdivision shall only be held at the general November election.

26       **(U)** ~~(w)~~ Enter into agreements with creditors or other persons  
27 or entities for the payment of existing debts, including the



1 settlement of claims by the creditors.

2       **(V)** ~~(\*)~~—Enter into agreements with creditors or other persons  
3 or entities to restructure debt on terms, at rates of interest, and  
4 with security as shall be agreed among the parties, subject to  
5 approval by the state treasurer.

6       **(W)** ~~(y)~~—Enter into agreements with other local governments,  
7 public bodies, or entities for the provision of services, the joint  
8 exercise of powers, or the transfer of functions and  
9 responsibilities.

10       **(X)** ~~(z)~~—For municipal governments, enter into agreements with  
11 other units of municipal government to transfer property of the  
12 municipal government under 1984 PA 425, MCL 124.21 to 124.30, or as  
13 otherwise provided by law, subject to approval by the state  
14 treasurer.

15       **(Y)** ~~(aa)~~—~~Enter into~~ **APPROVE** agreements with 1 or more other  
16 local governments or public bodies for the consolidation of  
17 services.

18       **(Z)** ~~(bb)~~—For a city, village, or township, the emergency  
19 manager may recommend to the state boundary commission that the  
20 municipal government consolidate with 1 or more other municipal  
21 governments, if the emergency manager determines that consolidation  
22 would materially alleviate the financial emergency of the municipal  
23 government and would not materially and adversely affect the  
24 financial situation of the government or governments with which the  
25 municipal government in receivership is consolidated. Consolidation  
26 under this subdivision shall proceed as provided by law.

27 ~~———(cc) For municipal governments, with approval of the governor,~~

~~disincorporate or dissolve the municipal government and assign its assets, debts, and liabilities as provided by law. The disincorporation or dissolution of the local government is subject to a vote of the electors of that local government if required by law.~~

**(AA)** ~~(dd)~~ Exercise solely, for and on behalf of the local government, all other authority and responsibilities of the chief administrative officer and governing body concerning the adoption, amendment, and enforcement of ordinances or resolutions of the local government as provided in the following acts:

(i) The home rule city act, 1909 PA 279, MCL 117.1 to 117.38.

(ii) The fourth class city act, 1895 PA 215, MCL 81.1 to 113.20.

(iii) The charter township act, 1947 PA 359, MCL 42.1 to 42.34.

(iv) 1851 PA 156, MCL 46.1 to 46.32.

(v) 1966 PA 293, MCL 45.501 to 45.521.

(vi) The general law village act, 1895 PA 3, MCL 61.1 to 74.25.

(vii) The home rule village act, 1909 PA 278, MCL 78.1 to 78.28.

(viii) The revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(ix) The state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1896.

**(BB)** ~~(ee)~~ Take any other action or exercise any power or authority of any officer, employee, department, board, commission,

1 or other similar entity of the local government, whether elected or  
2 appointed, relating to the operation of the local government. The  
3 power of the emergency manager shall be superior to and supersede  
4 the power of any of the foregoing officers or entities.

5 (CC) ~~(ff)~~ Remove, replace, appoint, or confirm the  
6 appointments to any office, board, commission, authority, or other  
7 entity ~~which~~ **THAT** is within or is a component unit of the local  
8 government.

9 (2) Except as otherwise provided in this act, during the  
10 pendency of the receivership, the authority of the chief  
11 administrative officer and governing body to exercise power for and  
12 on behalf of the local government under law, charter, and ordinance  
13 shall be suspended and vested in the emergency manager.

14 (3) Except as otherwise provided in this subsection, any  
15 contract involving a cumulative value of \$50,000.00 or more is  
16 subject to competitive bidding by an emergency manager. However, if  
17 a potential contract involves a cumulative value of \$50,000.00 or  
18 more, the emergency manager may submit the potential contract to  
19 the state treasurer for review and the state treasurer may  
20 authorize that the potential contract is not subject to competitive  
21 bidding.

22 ~~(4) An emergency manager appointed for a city or village shall~~  
23 ~~not sell or transfer a public utility furnishing light, heat, or~~  
24 ~~power without the approval of a majority of the electors of the~~  
25 ~~city or village voting thereon, or a greater number if the city or~~  
26 ~~village charter provides, as required by section 25 of article VII~~  
27 ~~of the state constitution of 1963. In addition, an **AN** emergency~~

1 manager appointed for a city or village shall not utilize the  
2 assets of a public utility furnishing heat, light, or power, the  
3 finances of which are separately maintained and accounted for by  
4 the city or village, to satisfy the general obligations of the city  
5 or village.

6 Sec. 13. Upon appointment of an emergency manager and during  
7 the pendency of the receivership, the salary, wages, or other  
8 compensation, including the accrual of postemployment benefits, and  
9 other benefits of the chief administrative officer and members of  
10 the governing body of the local government shall **NOT** be eliminated  
11 **OR REDUCED.** ~~This section does not authorize the impairment of~~  
12 ~~vested pension benefits. If an emergency manager has reduced,~~  
13 ~~suspended, or eliminated the salary, wages, or other compensation~~  
14 ~~of the chief administrative officer and members of the governing~~  
15 ~~body of a local government before the effective date of this act,~~  
16 ~~the reduction, suspension, or elimination is valid to the same~~  
17 ~~extent had it occurred after the effective date of this act. The~~  
18 ~~emergency manager may restore, in whole or in part, any of the~~  
19 ~~salary, wages, other compensation, or benefits of the chief~~  
20 ~~administrative officer and members of the governing body during the~~  
21 ~~pendency of the receivership, for such time and on such terms as~~  
22 ~~the emergency manager considers appropriate, to the extent that the~~  
23 ~~emergency manager finds that the restoration of salary, wages,~~  
24 ~~compensation, or benefits is consistent with the financial and~~  
25 ~~operating plan.~~

26 Sec. 14. In addition to the actions otherwise authorized in  
27 this act, an emergency manager for a school district may take 1 or

1 more of the following additional actions with respect to a school  
2 district that is in receivership:

3 (a) Negotiate, renegotiate, approve, and enter into contracts  
4 on behalf of the school district.

5 (b) Receive and disburse on behalf of the school district all  
6 federal, state, and local funds earmarked for the school district.  
7 These funds may include, but are not limited to, funds for specific  
8 programs and the retirement of debt.

9 (c) Seek approval from the superintendent of public  
10 instruction for a reduced class schedule in accordance with  
11 administrative rules governing the distribution of state school  
12 aid.

13 (d) Subject to ~~section~~ **SECTIONS 15 AND** 19, sell, assign,  
14 transfer, or otherwise use the assets of the school district to  
15 meet past or current obligations or assure the fiscal  
16 accountability of the school district, provided the use,  
17 assignment, or transfer of assets for this purpose does not impair  
18 the education of the pupils of the school district. The power under  
19 this subdivision includes the closing of schools or other school  
20 buildings in the school district.

21 (e) Approve or disapprove of the issuance of obligations of  
22 the school district.

23 (f) Exercise solely, for and on behalf of the school district,  
24 all other authority and responsibilities affecting the school  
25 district that are prescribed by law to the school board and  
26 superintendent of the school district.

27 (g) With the approval of the state treasurer, employ or

1 contract for, at the expense of the school district, school  
2 administrators considered necessary to implement this act.

3 Sec. 15. (1) ~~Unless the potential sale and value of an asset~~  
4 ~~is included in the emergency manager's financial and operating~~  
5 ~~plan, the~~ **AN** emergency manager shall not sell an asset of the local  
6 government valued at more than ~~\$50,000.00 without the state~~  
7 ~~treasurer's approval.~~ **\$10,000.00, AND AN EMERGENCY MANAGER SHALL NOT**  
8 **SELL ANY REAL PROPERTY OWNED BY THE LOCAL GOVERNMENT.**

9 (2) A provision of an existing collective bargaining agreement  
10 that authorizes the payment of a benefit upon the death of a police  
11 officer or firefighter that occurs in the line of duty shall not be  
12 impaired and is not subject to any provision of this act  
13 authorizing an emergency manager to reject, modify, or terminate 1  
14 or more terms of an existing collective bargaining agreement.

15 Sec. 19. (1) Except as otherwise provided in this subsection,  
16 before an emergency manager executes an action under section  
17 ~~12(1)(k), (r), or (u)~~ **12(1)(P) OR (S)** or section 14(d), he or she  
18 shall submit his or her proposed action to the governing body of  
19 the local government. The governing body of the local government  
20 shall have 10 days from the date of submission to approve or  
21 disapprove the action proposed by the emergency manager. If the  
22 governing body of the local government does not act within 10 days,  
23 the proposed action is considered approved by the governing body of  
24 the local government and the emergency manager may then execute the  
25 proposed action. For an action under section ~~12(1)(r)~~ **12(1)(P)** or  
26 section 14(d), this subsection only applies if the asset,  
27 liability, function, or responsibility involves an amount of

1 ~~\$50,000.00~~ **\$10,000.00** or more.

2 (2) If the governing body of the local government disapproves  
3 the proposed action within 10 days, the governing body of the local  
4 government shall, within 7 days of its disapproval of the action  
5 proposed by the emergency manager, submit to the local emergency  
6 financial assistance loan board an alternative proposal that would  
7 yield substantially the same financial result as the action  
8 proposed by the emergency manager. The local emergency financial  
9 assistance loan board shall have 30 days to review both the  
10 alternative proposal submitted by the governing body of the local  
11 government and the action proposed by the emergency manager and to  
12 approve either the alternative proposal submitted by the governing  
13 body of the local government or the action proposed by the  
14 emergency manager. The local emergency financial assistance loan  
15 board shall approve the proposal that best serves the interest of  
16 the public in that local government. The emergency manager shall  
17 implement the alternative proposal submitted by the governing body  
18 of the local government or the action proposed by the emergency  
19 manager, whichever is approved by the local emergency financial  
20 assistance loan board.

21 Sec. 20. (1) An emergency manager is immune from liability as  
22 provided in section 7(5) of 1964 PA 170, MCL 691.1407. A person  
23 employed by an emergency manager is immune from liability as  
24 provided in section 7(2) of 1964 PA 170, MCL 691.1407.

25 (2) The attorney general shall defend any civil claim, demand,  
26 or lawsuit ~~which~~ **THAT** challenges any of the following:

27 (a) The validity of this act.

1 (b) The authority of a state official or officer acting under  
2 this act.

3 (c) The authority of an emergency manager if the emergency  
4 manager is or was acting within the scope of authority for an  
5 emergency manager under this act.

6 (3) With respect to any aspect of a receivership under this  
7 act, the costs incurred by the attorney general in carrying out the  
8 responsibilities of subsection (2) for attorneys, experts, court  
9 filing fees, and other reasonable and necessary expenses shall be  
10 ~~at the expense of the local government that is subject to that~~  
11 ~~receivership and shall be reimbursed to the attorney general by the~~  
12 ~~local government. The failure of a municipal government that is or~~  
13 ~~was in receivership to remit to the attorney general the costs~~  
14 ~~incurred by the attorney general within 30 days after written~~  
15 ~~notice to the municipal government from the attorney general of the~~  
16 ~~costs is a debt owed to this state and shall be recovered by the~~  
17 ~~state treasurer as provided in section 17a(5) of the Glenn Steil~~  
18 ~~state revenue sharing act of 1971, 1971 PA 140, MCL 141.917a. The~~  
19 ~~failure of a school district that is or was in receivership to~~  
20 ~~remit to the attorney general the costs incurred by the attorney~~  
21 ~~general within 30 days after written notice to the school district~~  
22 ~~from the attorney general of the costs is a debt owed to this state~~  
23 ~~and shall be recovered by the state treasurer as provided in the~~  
24 ~~state school aid act of 1979, 1979 PA 94, MCL 388.1601 to~~  
25 ~~388.1896.~~ **BORNE BY THIS STATE AND SHALL BE PAID FROM THE GENERAL**  
26 **FUND OF THIS STATE.**

27 (4) An emergency manager may procure and maintain, at the



1 expense of the local government for which the emergency manager is  
2 appointed, worker's compensation, general liability, professional  
3 liability, and motor vehicle insurance for the emergency manager  
4 and any employee, agent, appointee, or contractor of the emergency  
5 manager as may be provided to elected officials, appointed  
6 officials, or employees of the local government. The insurance  
7 procured and maintained by an emergency manager may extend to any  
8 claim, demand, or lawsuit asserted or costs recovered against the  
9 emergency manager and any employee, agent, appointee, or contractor  
10 of the emergency manager from the date of appointment of the  
11 emergency manager to the expiration of the applicable statute of  
12 limitation if the claim, demand, or lawsuit asserted or costs  
13 recovered against the emergency manager or any employee, agent,  
14 appointee, or contractor of the emergency manager resulted from  
15 conduct of the emergency manager or any employee, agent, appointee,  
16 or contractor of the emergency manager taken in accordance with  
17 this act during the emergency manager's term of service.

18 (5) If, after the date that the service of an emergency  
19 manager is concluded, the emergency manager or any employee, agent,  
20 appointee, or contractor of the emergency manager is subject to a  
21 claim, demand, or lawsuit arising from an action taken during the  
22 service of that emergency manager, and not covered by a procured  
23 worker's compensation, general liability, professional liability,  
24 or motor vehicle insurance, litigation expenses of the emergency  
25 manager or any employee, agent, appointee, or contractor of the  
26 emergency manager, including attorney fees for civil ~~and criminal~~  
27 proceedings and preparation for reasonably anticipated proceedings,

1 and payments made in settlement of civil proceedings both filed and  
 2 anticipated, shall be ~~paid out of the funds of the local government~~  
 3 ~~that is or was subject to the receivership administered by that~~  
 4 ~~emergency manager, provided that the litigation expenses are~~  
 5 ~~approved by the state treasurer and that the state treasurer~~  
 6 ~~determines that the conduct resulting in actual or threatened legal~~  
 7 ~~proceedings that is the basis for the payment is based upon both of~~  
 8 ~~the following:~~ **BORNE BY THIS STATE AND SHALL BE PAID FROM THE**  
 9 **GENERAL FUND OF THIS STATE.**

10 ~~—— (a) The scope of authority of the person or entity seeking the~~  
 11 ~~payment.~~

12 ~~—— (b) The conduct occurred on behalf of a local government while~~  
 13 ~~it was in receivership under this act.~~

14 ~~—— (6) The failure of a municipal government to honor and remit~~  
 15 ~~the legal expenses of a former emergency manager or any employee,~~  
 16 ~~agent, appointee, or contractor of the emergency manager as~~  
 17 ~~required by this section is a debt owed to this state and shall be~~  
 18 ~~recovered by the state treasurer as provided in section 17a(5) of~~  
 19 ~~the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL~~  
 20 ~~141.917a. The failure of a school district to honor and remit the~~  
 21 ~~legal expenses of a former emergency manager or any employee,~~  
 22 ~~agent, appointee, or contractor of the emergency manager as~~  
 23 ~~required by this section is a debt owed to this state and shall be~~  
 24 ~~recovered by the state treasurer as provided in the state school~~  
 25 ~~aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1896.~~

26 Sec. 22. (1) If an emergency manager determines that the  
 27 financial emergency that he or she was appointed to manage has been

1 rectified, the emergency manager shall inform the governor and the  
2 state treasurer.

3 (2) If the governor disagrees with the emergency manager's  
4 determination that the financial emergency has been rectified, the  
5 governor shall inform the emergency manager and the term of the  
6 emergency manager shall continue. ~~or the governor shall appoint a~~  
7 ~~new emergency manager.~~

8 (3) Subject to subsection (4), if the governor agrees that the  
9 financial emergency has been rectified, the emergency manager has  
10 adopted a 2-year budget as required under section 21, and the  
11 financial conditions of the local government have been corrected in  
12 a sustainable fashion as required under section 9(7), the governor  
13 may do either of the following:

14 (a) Remove the local government from receivership.

15 (b) Appoint a receivership transition advisory board as  
16 provided in section 23.

17 (4) Before removing a local government from receivership, the  
18 governor may impose 1 or more of the following conditions on the  
19 local government:

20 (a) The implementation of financial best practices within the  
21 local government.

22 (b) The adoption of a model charter or model charter  
23 provisions.

24 (c) Pursue financial or managerial training to ensure that  
25 official responsibilities are properly discharged.

26 Sec. 24. The governor may, upon his or her own initiative or  
27 after receiving a recommendation from a receivership transition

1 advisory board, determine that the financial conditions of a local  
2 government have not been corrected in a sustainable fashion as  
3 required under section 9(7), and ~~appoint a new emergency~~

4 ~~manager.~~ **THE LOCAL GOVERNMENT SHALL SELECT 1 OF THE OTHER LOCAL**  
5 **GOVERNMENT OPTIONS AS PROVIDED IN SECTION 7.**

6 Sec. 25. (1) A neutral evaluation process may be utilized as  
7 provided for in this act. The state treasurer may, in his or her  
8 own discretion, determine that the state monitor the neutral  
9 evaluation process initiated by a local government under this  
10 section and may identify 1 or more individuals who may attend and  
11 observe the neutral evaluation process. A local government shall  
12 initiate the neutral evaluation process by providing notice by  
13 certified mail of a request for neutral evaluation process to all  
14 interested parties. If the local government does not provide notice  
15 under this subsection to all interested parties within 7 days after  
16 selecting the neutral evaluation process option, the treasurer ~~may~~  
17 ~~require the local government to go into receivership and proceed~~  
18 ~~under section 9.~~ **SHALL PROVIDE NOTICE TO ANY INTERESTED PARTIES WHO**  
19 **WERE NOT NOTIFIED BY THE LOCAL GOVERNMENT.**

20 (2) An interested party shall respond within 10 business days  
21 of receipt of notice of the local government's request for neutral  
22 evaluation process.

23 (3) The local government and the interested parties agreeing  
24 to participate in the neutral evaluation process shall, through a  
25 mutually agreed-upon process, select a neutral evaluator to oversee  
26 the neutral evaluation process and facilitate all discussions in an  
27 effort to resolve their disputes.

1           (4) If the local government and interested parties fail to  
2 agree on a neutral evaluator within 7 days after the interested  
3 parties have responded to the notification sent by the local  
4 government, the local government shall, within 7 days, select 5  
5 qualified neutral evaluators and provide their names, references,  
6 and backgrounds to the participating interested parties. Within 3  
7 business days, a majority of participating interested parties may  
8 disqualify up to 4 names from the list. If a majority of  
9 participating interested parties disqualify 4 names from the list,  
10 the remaining candidate shall be the neutral evaluator. If the  
11 majority of participating parties disqualify fewer than 4 names,  
12 the local government shall choose which of the remaining candidates  
13 shall be the neutral evaluator.

14           (5) If an interested party objects to the qualifications of  
15 the neutral evaluator after the process for selection in subsection  
16 (4) is complete, the interested party may appeal to the state  
17 treasurer to determine if the neutral evaluator meets the  
18 qualifications under subsection (6). If the state treasurer  
19 determines that the qualifications have been met, the neutral  
20 evaluation process shall continue. If the state treasurer  
21 determines that the qualifications have not been met, the state  
22 treasurer shall select the neutral evaluator.

23           (6) A neutral evaluator shall have experience and training in  
24 conflict resolution and alternative dispute resolution and have at  
25 least 1 of the following qualifications:

26           (a) At least 10 years of high-level business or legal  
27 experience involving bankruptcy or service as a United States

1 bankruptcy judge.

2 (b) At least 10 years of combined professional experience or  
3 training in municipal finance in 1 or more of the following areas:

4 (i) Municipal organization.

5 (ii) Municipal debt restructuring.

6 (iii) Municipal finance dispute resolution.

7 (iv) Chapter 9 bankruptcy.

8 (v) Public finance.

9 (vi) Taxation.

10 (vii) Michigan constitutional law.

11 (viii) Michigan labor law.

12 (ix) Federal labor law.

13 (7) The neutral evaluator's performance shall be impartial,  
14 objective, independent, and free from prejudice. The neutral  
15 evaluator shall not act with partiality or prejudice based on any  
16 participant's personal characteristics, background, values, or  
17 beliefs, or performance during the neutral evaluation process.

18 (8) The neutral evaluator shall avoid a conflict of interest  
19 and the appearance of a conflict of interest during the neutral  
20 evaluation process. The neutral evaluator shall make a reasonable  
21 inquiry to determine whether there are any facts that a reasonable  
22 individual would consider likely to create a potential or actual  
23 conflict of interest. Notwithstanding subsection (16), if the  
24 neutral evaluator is informed of the existence of any facts that a  
25 reasonable individual would consider likely to create a potential  
26 or actual conflict of interest, the neutral evaluator shall  
27 disclose these facts in writing to the local government and all

1 interested parties involved in the neutral evaluation process. If  
2 any participating interested party to the neutral evaluation  
3 process objects to the neutral evaluator, that interested party  
4 shall notify the local government and all other participating  
5 interested parties to the neutral evaluation process, including the  
6 neutral evaluator, within 15 days of receipt of the notice from the  
7 neutral evaluator. The neutral evaluator shall withdraw, and a new  
8 neutral evaluator shall be selected as provided in subsections (3)  
9 and (4).

10 (9) Before commencing a neutral evaluation process, the  
11 neutral evaluator shall not establish another fiscal or fiduciary  
12 relationship with any of the interested parties or the local  
13 government in a manner that would raise questions about the  
14 integrity of the neutral evaluation process, except that the  
15 neutral evaluator may conduct further neutral evaluation processes  
16 regarding other potential local public entities that may involve  
17 some of the same or similar constituents to a prior mediation.

18 (10) The neutral evaluator shall conduct the neutral  
19 evaluation process in a manner that promotes voluntary, uncoerced  
20 decision making in which each participant makes free and informed  
21 choices regarding the neutral evaluation process and outcome.

22 (11) The neutral evaluator shall not impose a settlement on  
23 the participants. The neutral evaluator shall use his or her best  
24 efforts to assist the participants to reach a satisfactory  
25 resolution of their disputes. Subject to the discretion of the  
26 neutral evaluator, the neutral evaluator may make oral or written  
27 recommendations for a settlement or plan of readjustment to a

1 participant privately or to all participants jointly.

2 (12) The neutral evaluator shall inform the local government  
3 and all participants of the provisions of chapter 9 relative to  
4 other chapters of title 11 of the United States Code, 11 USC 101 to  
5 1532. This instruction shall highlight the limited authority of  
6 United States bankruptcy judges in chapter 9, including, but not  
7 limited to, the restriction on federal bankruptcy judges' authority  
8 to interfere with or force liquidation of a local government's  
9 property and the lack of flexibility available to federal  
10 bankruptcy judges to reduce or cram down debt repayments and  
11 similar efforts not available to reorganize the operations of the  
12 local government that may be available to a corporate entity.

13 (13) The neutral evaluator may request from the participants  
14 documentation and other information that the neutral evaluator  
15 believes may be helpful in assisting the participants to address  
16 the obligations between them. This documentation may include the  
17 status of funds of the local government that clearly distinguishes  
18 between general funds and special funds and the proposed plan of  
19 readjustment prepared by the local government. The participants  
20 shall respond to a request from the neutral evaluator in a timely  
21 manner.

22 (14) The neutral evaluator shall provide counsel and guidance  
23 to all participants, shall not be a legal representative of any  
24 participant, and shall not have a fiduciary duty to any  
25 participant.

26 (15) If a settlement with all interested parties and the local  
27 government occurs, the neutral evaluator may assist the



1 participants in negotiating a pre-petitioned, pre-agreed-upon plan  
2 of readjustment in connection with a potential chapter 9 filing.

3 (16) If at any time during the neutral evaluation process the  
4 local government and a majority of the representatives of the  
5 interested parties participating in the neutral evaluation process  
6 wish to remove the neutral evaluator, the local government or any  
7 interested party may make a request to the other interested parties  
8 to remove the neutral evaluator. If the local government and a  
9 majority of the interested parties agree that the neutral evaluator  
10 should be removed and agree on who should replace the neutral  
11 evaluator, the local government and the interested parties shall  
12 select a new neutral evaluator.

13 (17) The local government and all interested parties  
14 participating in the neutral evaluation process shall negotiate in  
15 good faith.

16 (18) The local government and each interested party shall  
17 provide a representative to attend all sessions of a neutral  
18 evaluation process. Each representative shall have the authority to  
19 settle and resolve disputes or shall be in a position to present  
20 any proposed settlement or plan of readjustment to the participants  
21 in the neutral evaluation process.

22 (19) The local government and the participating interested  
23 parties shall maintain the confidentiality of the neutral  
24 evaluation process and shall not at the conclusion of the neutral  
25 evaluation process or during any bankruptcy proceeding disclose  
26 statements made, information disclosed, or documents prepared or  
27 produced unless a judge in a chapter 9 bankruptcy proceeding orders

1 that the information be disclosed to determine the eligibility of a  
2 local government to proceed with a bankruptcy proceeding under  
3 chapter 9, or as otherwise required by law.

4 (20) A neutral evaluation process authorized by this act shall  
5 not last for more than 60 days following the date the neutral  
6 evaluator is initially selected, unless the local government or a  
7 majority of participating interested parties elect to extend the  
8 neutral evaluation process for up to 30 additional days. The  
9 neutral evaluation process shall not last for more than 90 days  
10 following the date the neutral evaluator is initially selected.

11 (21) The local government shall pay 50% of the costs of a  
12 neutral evaluation process, including, but not limited to, the fees  
13 of the neutral evaluator, and the interested parties shall pay the  
14 balance of the costs of the neutral evaluation process, unless  
15 otherwise agreed to by the local government and a majority of the  
16 interested parties.

17 (22) The neutral evaluation process shall end if any of the  
18 following occur:

19 (a) The local government and the participating interested  
20 parties execute a settlement agreement. However, if the state  
21 treasurer determines that the settlement agreement does not provide  
22 sufficient savings to the local government, the state treasurer  
23 shall provide notice to the local government that the settlement  
24 agreement does not provide sufficient savings to the local  
25 government and the local government shall proceed under 1 of the  
26 other local government options as provided in section 7.

27 (b) The local government and the participating interested

1 parties reach an agreement or proposed plan of readjustment that  
2 requires the approval of a bankruptcy judge.

3 (c) The neutral evaluation process has exceeded 60 days  
4 following the date the neutral evaluator was selected, the local  
5 government and the participating interested parties have not  
6 reached an agreement, and neither the local government nor a  
7 majority of the interested parties elect to extend the neutral  
8 evaluation process past the initial 60-day time period.

9 (d) The local government initiated the neutral evaluation  
10 process under subsection (1) and did not receive a response from  
11 any interested party within the time specified in subsection (2).

12 (e) The fiscal condition of the local government deteriorates  
13 to the point that necessitates the need to proceed under the  
14 chapter 9 bankruptcy option pursuant to section 26.

15 (23) If the 60-day time period for a neutral evaluation  
16 process expires, including any extension of the neutral evaluation  
17 process past the initial 60-day time period under subsection (20),  
18 and the neutral evaluation process is complete with differences  
19 resolved, the neutral evaluation process shall be concluded. If the  
20 neutral evaluation process does not resolve all pending disputes  
21 with the local government and the interested parties, or if  
22 subsection (22) (b), (c), or (d) applies, the governing body of the  
23 local government shall adopt a resolution recommending that the  
24 local government proceed under **EITHER A CONSENT AGREEMENT OR**  
25 chapter 9 **BANKRUPTCY** and submit the resolution to the governor and  
26 the state treasurer. ~~Except as otherwise provided in this~~  
27 ~~subsection, if~~ **IF** the local government has a strong mayor, the

1 resolution requires strong mayor approval before the local  
2 government proceeds under chapter 9. ~~The resolution shall include a~~  
3 ~~statement determining that the financial condition of the local~~  
4 ~~government jeopardizes the health, safety, and welfare of the~~  
5 ~~residents who reside within the local government or service area of~~  
6 ~~the local government absent the protections of chapter 9. If the~~  
7 ~~governor approves the resolution for the local government to~~  
8 ~~proceed under chapter 9, the governor shall inform the local~~  
9 ~~government in writing of the decision. The governor may place~~  
10 ~~contingencies on a local government in order to proceed under~~  
11 ~~chapter 9 including, but not limited to, appointing a person to act~~  
12 ~~exclusively on behalf of the local government in the chapter 9~~  
13 ~~bankruptcy proceedings. If the governing body of the local~~  
14 ~~government fails to adopt a resolution within 7 days after the~~  
15 ~~neutral evaluation process is concluded as provided in this~~  
16 ~~subsection, the governor may appoint a person to act exclusively on~~  
17 ~~behalf of the local government in chapter 9 bankruptcy proceedings.~~  
18 ~~If the governor does not appoint a person to act exclusively on~~  
19 ~~behalf of the local government in chapter 9 bankruptcy proceedings,~~  
20 ~~the chief administrative officer of the local government shall act~~  
21 ~~exclusively on behalf of the local government in chapter 9~~  
22 ~~bankruptcy proceedings. Upon receiving written approval from the~~  
23 ~~governor under section 26, the local government may file a petition~~  
24 ~~under chapter 9 and exercise powers under federal bankruptcy law.~~

25 Enacting section 1. This amendatory act takes effect 90 days  
26 after the date it is enacted into law.

27 Enacting section 2. This amendatory act does not take effect

1 unless all of the following bills of the 98th Legislature are  
2 enacted into law:

3 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 6031 (request no.  
4 05679'16 h).

5 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 6032 (request no.  
6 06584'16).