

# HOUSE BILL No. 6306

September 5, 2018, Introduced by Rep. Neeley and referred to the Committee on Local Government.

A bill to amend 2012 PA 436, entitled "Local financial stability and choice act," by amending section 9 (MCL 141.1549).

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

1           Sec. 9. (1) The governor may appoint an emergency manager to  
2 address a financial emergency within that local government as  
3 provided for in this act.

4           (2) Upon appointment, an emergency manager ~~shall act~~ **ACTS** for  
5 and in the place and stead of the governing body and the office of  
6 chief administrative officer of the local government. The emergency  
7 manager ~~shall have~~ **HAS** broad powers in receivership to rectify the  
8 financial emergency and to assure the fiscal accountability of the  
9 local government and the local government's capacity to provide or  
10 cause to be provided necessary governmental services essential to  
11 the public health, safety, and welfare. Following appointment of an

1 emergency manager and during the pendency of receivership, the  
2 governing body and the chief administrative officer of the local  
3 government shall not exercise any of the powers of those offices  
4 except as may be specifically authorized in writing by the  
5 emergency manager or as otherwise provided by this act and are  
6 subject to any conditions required by the emergency manager.

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

8 (a) The emergency manager ~~shall~~**MUST** have a minimum of 5  
9 years' experience and demonstrable expertise in business,  
10 financial, or local or state budgetary matters.

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

13 (c) The emergency manager ~~shall~~**MUST** be an individual.

14 (d) Except as otherwise provided in this subdivision, the  
15 emergency manager ~~shall serve~~**SERVES** at the pleasure of the  
16 governor. An emergency manager is subject to impeachment and  
17 conviction by the legislature as if he or she were a civil officer  
18 under section 7 of article XI of the state constitution of 1963. A  
19 vacancy in the office of emergency manager ~~shall~~**MUST** be filled in  
20 the same manner as the original appointment.

21 (e) ~~The~~**SUBJECT TO THIS SUBDIVISION, THE** emergency manager's  
22 compensation ~~shall~~**MUST** be paid by this state and ~~shall~~**MUST** be set  
23 forth in a contract approved by the state treasurer. **THE ANNUAL**  
24 **SALARY FOR THE EMERGENCY MANAGER MUST NOT EXCEED THE ANNUAL SALARY**  
25 **FOR THE GOVERNOR.** The contract ~~shall~~**MUST** be posted on the  
26 department of treasury's website within 7 days after the contract  
27 is approved by the state treasurer.

1 ~~—— (f) In addition to the salary provided to an emergency manager~~  
2 ~~in a contract approved by the state treasurer under subdivision~~  
3 ~~(e), this state may receive and distribute private funds to an~~  
4 ~~emergency manager. As used in this subdivision, "private funds"~~  
5 ~~means any money the state receives for the purpose of allocating~~  
6 ~~additional salary to an emergency manager. Private funds~~  
7 ~~distributed under this subdivision are subject to section 1 of 1901~~  
8 ~~PA 145, MCL 21.161, and section 17 of article IX of the state~~  
9 ~~constitution of 1963.~~

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

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

22 (6) The emergency manager ~~shall continue~~**CONTINUES** in the  
23 capacity of an emergency manager as follows:

24 (a) Until removed by the governor or the legislature as  
25 provided in subsection (3) (d). If an emergency manager is removed,  
26 the governor shall within 30 days of the removal appoint a new  
27 emergency manager.

1 (b) Until the financial emergency is rectified.

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

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

27 (8) The governor may delegate his or her duties under this

1 section to the state treasurer.

2 (9) Notwithstanding section 3(1) of 1968 PA 317, MCL 15.323,  
3 an emergency manager is subject to all of the following:

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

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

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

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

13 Notwithstanding any other provision of this act, the governor may  
14 appoint a person who was appointed as an emergency manager under  
15 former 2011 PA 4 or an emergency financial manager under former  
16 1988 PA 101 or former 1990 PA 72 to serve as an emergency manager  
17 under this act.

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

1 shall proceed under the neutral evaluation process as provided in  
2 section 25.

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