

HOUSE BILL NO. 5141

June 24, 2021, Introduced by Reps. Yaroach, Allor, Hammoud, Sneller, Paquette, Tyrone Carter, O'Malley and Wozniak and referred to the Committee on Government Operations.

A bill to amend 2012 PA 436, entitled
"Local financial stability and choice act,"
by amending the title and sections 2, 3, 7, 7a, 8, 9, 10, 11, 12,
13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 24, 27, and 28 (MCL
141.1542, 141.1543, 141.1547, 141.1547a, 141.1548, 141.1549,
141.1550, 141.1551, 141.1552, 141.1553, 141.1554, 141.1555,
141.1556, 141.1557, 141.1558, 141.1559, 141.1560, 141.1561,
141.1562, 141.1564, 141.1567, and 141.1568), section 2 as amended
by 2015 PA 110 and section 7a as added by 2015 PA 113, and by

adding section 9a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to safeguard and assure the financial accountability of
3 local units of government and school districts; to preserve the
4 capacity of local units of government and school districts to
5 provide or cause to be provided necessary services essential to the
6 public health, safety, and welfare; to provide for review,
7 management, planning, and control of the financial operation of
8 local units of government and school districts and the provision of
9 services by local units of government and school districts; to
10 provide criteria to be used in determining the financial condition
11 of local units of government and school districts; to authorize a
12 declaration of the existence of a financial emergency within a
13 local unit of government or school district; to prescribe remedial
14 measures to address a financial emergency within a local unit of
15 government or school district; to provide for a review and appeal
16 process; to provide for the appointment and to prescribe the powers
17 and duties of an emergency manager for a local unit of government
18 or school district; **to provide for the appointment and to prescribe**
19 the powers and duties of a financial management team for a local
20 unit of government or school district; to provide for the
21 modification or termination of contracts under certain
22 circumstances; to provide for the termination of a financial
23 emergency within a local unit of government or school district; to
24 provide a process by which a local unit of government or school
25 district may file for bankruptcy; to prescribe the powers and
26 duties of certain state agencies and officials and officials within
27 local units of government and school districts; to provide for

1 appropriations; and to repeal acts and parts of acts.

2 Sec. 2. As used in this act:

3 (a) "Chapter 9" means chapter 9 of title 11 of the United
4 States Code, 11 USC 901 to 946.

5 (b) "Chief administrative officer" means any of the following:

6 (i) The manager of a village or, if a village does not employ a
7 manager, the president of the village.

8 (ii) The city manager of a city or, if a city does not employ a
9 city manager, the mayor of the city.

10 (iii) The manager of a township or the manager or superintendent
11 of a charter township or, if the township **or charter township** does
12 not employ a manager or superintendent, the supervisor of the
13 township **or charter township**.

14 (iv) The elected county executive or appointed county manager
15 of a county or, if the county has not adopted the provisions of
16 either 1973 PA 139, MCL 45.551 to 45.573, or 1966 PA 293, MCL
17 45.501 to 45.521, the county's chairperson of the county board of
18 commissioners.

19 (v) The chief operating officer of an authority or of a public
20 utility owned by a city, village, township, or county.

21 (vi) The superintendent of a school district.

22 (c) "Creditor" means either of the following:

23 (i) An entity that has a noncontingent claim against a local
24 government that arose at the time of or before the commencement of
25 the neutral evaluation process and whose claim represents at least
26 \$5,000,000.00 or comprises more than 5% of the local government's
27 debt or obligations, whichever is less.

28 (ii) An entity that would have a noncontingent claim against
29 the local government upon the rejection of an executory contract or

1 unexpired lease in a chapter 9 case and whose claim would represent
2 at least \$5,000,000.00 or would comprise more than 5% of the local
3 government's debt or obligations, whichever is less.

4 (d) "Debtor" means a local government that is authorized to
5 proceed under chapter 9 by this act and that meets the requirements
6 of chapter 9.

7 (e) "Emergency manager" means an emergency manager appointed
8 under section 9. ~~An emergency~~ **Emergency** manager includes an
9 emergency financial manager appointed under former 1988 PA 101 or
10 former 1990 PA 72 who was acting in that capacity on March 28,
11 2013.

12 (f) "Entity" means a partnership, nonprofit or business
13 corporation, limited liability company, labor organization, or any
14 other association, corporation, trust, or other legal entity.

15 (g) "Financial and operating plan" means a written financial
16 and operating plan for a local government under section 11,
17 including an educational plan for a school district.

18 **(h) "Financial management team" means a financial management**
19 **team appointed under section 9a.**

20 (i) ~~(h)~~—"Good faith" means participation by an interested
21 party or a local government representative in the neutral
22 evaluation process with the intent to negotiate a resolution of the
23 issues that are the subject of the neutral evaluation process,
24 including the timely provision of complete and accurate information
25 to provide the relevant participants through the neutral evaluation
26 process with sufficient information, in a confidential manner, to
27 negotiate the readjustment of the local government's debt.

28 (j) ~~(i)~~—"Interested party" means a trustee, a committee of
29 creditors, an affected creditor, an indenture trustee, a pension

1 fund, a bondholder, a union that under its collective bargaining
 2 agreements has standing to initiate contract negotiations with the
 3 local government, or a representative selected by an association of
 4 retired employees of the public entity who receive income or
 5 benefits from the public entity. A local government may invite
 6 holders of contingent claims to participate as interested parties
 7 in the neutral evaluation process if the local government
 8 determines that the contingency is likely to occur and the claim
 9 may represent at least \$5,000,000.00 or comprise more than 5% of
 10 the local government's debt or obligations, whichever is less.

11 (k) ~~(j)~~—"Local emergency financial assistance loan board"
 12 means the local emergency financial assistance loan board created
 13 under section 2 of the emergency municipal loan act, 1980 PA 243,
 14 MCL 141.932.

15 (l) ~~(k)~~—"Local government" means a municipal government or a
 16 school district.

17 (m) ~~(l)~~—"Local government representative" means the person or
 18 persons designated by the governing body of the local government
 19 with authority to make recommendations and to attend the neutral
 20 evaluation process on behalf of the governing body of the local
 21 government.

22 (n) ~~(m)~~—"Local inspector" means a certified forensic
 23 accountant, certified public accountant, attorney, or similarly
 24 credentialed person whose responsibility it is to determine the
 25 existence of proper internal and management controls, fraud,
 26 criminal activity, or any other accounting or management
 27 deficiencies.

28 (o) ~~(n)~~—"Municipal government" means a city, a village, a
 29 township, a charter township, a county, a department of county

government if the county has an elected county executive under 1966 PA 293, MCL 45.501 to 45.521, an authority established by law, or a public utility owned by a city, village, township, or county.

(p) ~~(e)~~—"Neutral evaluation process" means a form of alternative dispute resolution or mediation between a local government and interested parties as provided for in section 25.

(q) ~~(p)~~—"Neutral evaluator" means an impartial, unbiased person or entity, commonly known as a mediator, who assists local governments and interested parties in reaching their own settlement of issues under this act, who is not aligned with any party, and who has no authoritative decision-making power.

(r) ~~(q)~~—"Receivership" means the process under this act by which a financial emergency is addressed through the appointment of an emergency manager **or a financial management team**. Receivership does not include chapter 9 or any provision under federal bankruptcy law.

(s) ~~(r)~~—"Review team" means a review team appointed under section 4.

(t) ~~(s)~~—"School board" means the governing body of a school district.

(u) ~~(t)~~—"School district" means a school district as that term is defined in section 6 of the revised school code, 1976 PA 451, MCL 380.6, or an intermediate school district as that term is defined in section 4 of the revised school code, 1976 PA 451, MCL 380.4.

(v) ~~(u)~~—"State financial authority" means the following:

(i) For a municipal government, the state treasurer.

(ii) Except as otherwise provided in subparagraph (iii), for a school district, the superintendent of public instruction.

1 (iii) For a school district subject to a deficit elimination
2 plan under section 1220 of the revised school code, 1976 PA 451,
3 MCL 380.1220, the state treasurer.

4 (w) ~~(v)~~ "Strong mayor" means a mayor who has been granted veto
5 power for any purpose under the charter of that local government.

6 (x) ~~(w)~~ "Strong mayor approval" means approval of a resolution
7 under 1 of the following conditions:

8 (i) The strong mayor approves the resolution.

9 (ii) The resolution is approved by the governing body with
10 sufficient votes to override a veto by the strong mayor.

11 (iii) The strong mayor vetoes the resolution and the governing
12 body overrides the veto.

13 Sec. 3. The legislature finds and declares all of the
14 following:

15 (a) That the health, safety, and welfare of the citizens of
16 this state would be materially and adversely affected by the
17 insolvency of local governments and that the fiscal accountability
18 of local governments is vitally necessary to the interests of the
19 citizens of this state to assure the provision of necessary
20 governmental services essential to public health, safety, and
21 welfare.

22 (b) That it is vitally necessary to protect the credit of this
23 state and its political subdivisions and that it is necessary for
24 the public good and it is a valid public purpose for this state to
25 take action and to assist a local government in a financial
26 emergency so as to remedy the financial emergency by requiring
27 prudent fiscal management and efficient provision of services,
28 permitting the restructuring of contractual obligations, and
29 prescribing the powers and duties of state and local government

1 officials, ~~and~~ emergency managers, **and financial management teams.**

2 (c) That the fiscal stability of local governments is
 3 necessary to the health, safety, and welfare of the citizens of
 4 this state and it is a valid public purpose for this state to
 5 assist a local government in a condition of financial emergency by
 6 providing for procedures of alternative dispute resolution between
 7 a local government and its creditors to resolve disputes, to
 8 determine criteria for establishing the existence of a financial
 9 emergency, and to set forth the conditions for a local government
 10 to exercise powers under federal bankruptcy law.

11 (d) That the authority and powers conferred by this act
 12 constitute a necessary program and serve a valid public purpose.

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

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

20 (b) ~~The~~ **Before the effective date of the amendatory act that**
 21 **added section 9a, the** emergency manager option pursuant to section
 22 9.

23 (c) **Beginning on the effective date of the amendatory act that**
 24 **added section 9a, the financial management team option pursuant to**
 25 **section 9a.**

26 (d) ~~(e)~~ The neutral evaluation process option pursuant to
 27 section 25.

28 (e) ~~(d)~~ The chapter 9 bankruptcy option pursuant to section
 29 26.

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

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

(4) Subject to ~~section~~**sections** 9(6)(c) and (11) **and 9a(15)(c) and (17)**, unless authorized by the governor, a local government shall not utilize 1 of the local options listed in subsection (1)(a) to ~~(d)~~**(e)** more than 1 time.

Sec. 7a. Notwithstanding section 7, if a school district is subject to an enhanced deficit elimination plan under section 1220 of the revised school code, 1976 PA 451, MCL 380.1220, and the state treasurer determines that the school district has failed to submit or comply with the requirements of the enhanced deficit elimination plan, the state treasurer may declare that a financial emergency exists within the school district and **before the effective date of the amendatory act that added section 9a** recommend that the governor appoint an emergency manager to address the financial emergency within the school district under section 9 **or beginning on the effective date of the amendatory act that added section 9a** recommend that the governor appoint a financial management team to address the financial emergency within the school district under section 9a.

1 Sec. 8. (1) The chief administrative officer of a local
2 government may negotiate and sign a consent agreement with the
3 state treasurer as provided for in this act. If the local
4 government is a school district and the consent agreement contains
5 an educational plan, the consent agreement ~~shall~~**must** also be
6 signed by the superintendent of public instruction. The consent
7 agreement ~~shall~~**must** provide for remedial measures considered
8 necessary to address the financial emergency within the local
9 government and provide for the financial stability of the local
10 government. The consent agreement may utilize state financial
11 management and technical assistance as necessary in order to
12 alleviate the financial emergency. The consent agreement ~~shall~~**must**
13 also provide for periodic financial status reports to the state
14 treasurer, with a copy of each report to each state senator and
15 state representative who represents that local government. The
16 consent agreement may provide for a board appointed by the governor
17 to monitor the local government's compliance with the consent
18 agreement. ~~In order for the~~**The** consent agreement ~~to~~**does not** go
19 into effect ~~, unless~~ it ~~shall be~~**is** approved, by resolution, by the
20 governing body of the local government and ~~shall be~~**is** approved and
21 executed by the state treasurer. ~~Nothing in the~~**The** consent
22 agreement ~~shall~~**must not** limit the ability of the state treasurer
23 in his or her sole discretion to declare a material breach of the
24 consent agreement. A consent agreement ~~shall~~**must** provide that in
25 the event of a material uncured breach of the consent agreement,
26 the governor may place the local government in receivership or in
27 the neutral evaluation process **as provided in section 25**. If within
28 30 days after a local government selects the consent agreement
29 option under section 7(1) (a) or sooner in the discretion of the

1 state treasurer, a consent agreement cannot be agreed upon, the
2 state treasurer shall require the local government to proceed under
3 1 of the other local options provided for in section 7.

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

7 (3) If the state treasurer requires that a consent agreement
8 include a continuing operations plan, the local government shall
9 prepare and file the continuing operations plan with the state
10 treasurer as provided for in the consent agreement. The state
11 treasurer shall approve or reject the initial continuing operations
12 plan within 14 days ~~of~~**after** receiving it from the local
13 government. If a continuing operations plan is rejected, the local
14 government shall refile an amended plan within 30 days ~~of~~**after** the
15 rejection, addressing any concerns raised by the state treasurer or
16 the superintendent of public instruction regarding an educational
17 plan. If the amended plan is rejected, then the local government
18 may be considered to be in material breach of the consent
19 agreement. The local government shall file annual updates to its
20 continuing operations plan. The annual updates ~~shall~~**must** be
21 included with the annual filing of the local government's audit
22 report with the state financial authority as long as the continuing
23 operations plan remains in effect.

24 (4) The continuing operations plan ~~shall~~**must** be in a form
25 prescribed by the state treasurer but ~~shall~~**must**, at a minimum,
26 include all of the following:

27 (a) A detailed projected budget of revenues and expenditures
28 over not less than 3 fiscal years ~~which~~**that** demonstrates that the
29 local government's expenditures will not exceed its revenues and

1 that any existing deficits will be eliminated during the projected
2 budget period.

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

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

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

9 (e) An evaluation of the costs associated with pension and
10 postemployment health care obligations for which the local
11 government is responsible and a plan for how those costs will be
12 addressed within the budget period.

13 (f) A provision for submitting quarterly compliance reports to
14 the state treasurer demonstrating compliance with the continuing
15 operations plan, with a copy of each report to each state senator
16 and state representative who represents that local government. Each
17 quarterly compliance report ~~shall~~**must** be posted on the local
18 government's website within 7 days after the report is submitted to
19 the state treasurer.

20 (5) If a continuing operations plan is approved for a
21 municipal government, the municipal government shall amend the
22 budget and general appropriations ordinance adopted by the
23 municipal government under the uniform budgeting and accounting
24 act, 1968 PA 2, MCL 141.421 to 141.440a, to the extent necessary or
25 advisable to give full effect to the continuing operations plan. If
26 a continuing operations plan is approved for a school district, the
27 school district shall amend the budget adopted by the school
28 district under the uniform budgeting and accounting act, 1968 PA 2,
29 MCL 141.421 to 141.440a, to the extent necessary or advisable to

1 give full effect to the continuing operations plan. The chief
2 administrative officer, the chief financial officer, the governing
3 body, and other officials of the local government shall take and
4 direct such actions as may be necessary or advisable to maintain
5 the local government's operations in compliance with the continuing
6 operations plan.

7 (6) If the state treasurer requires that a consent agreement
8 include a recovery plan, the state treasurer, with input from the
9 local government, shall develop and adopt a recovery plan. If a
10 recovery plan is developed and adopted for the local government,
11 the local government shall file annual updates to its recovery
12 plan. The annual updates ~~shall~~**must** be included with the annual
13 filing of the local government's audit report with the state
14 financial authority as long as the recovery plan remains in effect.

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

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

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

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

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

29 (e) An evaluation of 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 to assure that current obligations are met and that steps
4 are taken to reduce future unfunded obligations.

5 (f) Procedures for cash control and cash management,
6 including, but not limited to, procedures for timely collection,
7 securing, depositing, balancing, and expending of cash. Procedures
8 for cash control and cash management may include the designation of
9 appropriate fiduciaries.

10 (g) A provision for submitting quarterly compliance reports to
11 the state treasurer and the chief administrative officer of the
12 local government that demonstrate compliance with the recovery
13 plan, with a copy of each report to each state senator and state
14 representative who represents that local government. Each quarterly
15 compliance report ~~shall~~**must** be posted on the local government's
16 website within 7 days after the report is submitted to the state
17 treasurer.

18 (8) The recovery plan may include the appointment of a local
19 auditor or local inspector, or both, in accordance with section
20 12(1)(p).

21 (9) If a recovery plan is developed and adopted by the state
22 treasurer for a local government, the recovery plan ~~shall supersede~~
23 **supersedes** the budget and general appropriations ordinance adopted
24 by the local government under the uniform budgeting and accounting
25 act, 1968 PA 2, MCL 141.421 to 141.440a, and the budget and general
26 appropriations ordinance is considered amended to the extent
27 necessary or advisable to give full effect to the recovery plan. In
28 the event of any inconsistency between the recovery plan and the
29 budget or general appropriations ordinance, the recovery plan ~~shall~~

1 ~~control.~~**controls.** The chief administrative officer, the chief
2 financial officer, the governing body, and other officers of the
3 local government shall take and direct actions as may be necessary
4 or advisable to bring and maintain the local government's
5 operations in compliance with the recovery plan.

6 (10) Except as otherwise provided in this subsection, the
7 consent agreement may include a grant to the chief administrative
8 officer, the chief financial officer, the governing body, or other
9 officers of the local government by the state treasurer of 1 or
10 more of the powers prescribed for emergency managers **or financial**
11 **management teams** as otherwise provided in this act for such periods
12 and upon such terms and conditions as the state treasurer considers
13 necessary or convenient, in the state treasurer's discretion to
14 enable the local government to achieve the goals and objectives of
15 the consent agreement. However, the consent agreement ~~shall~~**must**
16 not include a grant to the chief administrative officer, the chief
17 financial officer, the governing body, or other officers of the
18 local government of the powers prescribed for emergency managers **or**
19 **financial management teams** in section 12(1)(k).

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

25 (12) The consent agreement may provide for the required
26 retention by the local government of a consultant for the purpose
27 of assisting the local government to achieve the goals and
28 objectives of the consent agreement.

29 (13) A local government is released from the requirements

1 under this section upon compliance with the consent agreement as
2 determined by the state treasurer.

3 Sec. 9. (1) ~~The~~ **Before the effective date of the amendatory**
4 **act that added section 9a, the** governor may appoint an emergency
5 manager to address a financial emergency within that local
6 government as provided for in this act.

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

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

22 (a) The emergency manager ~~shall~~ **must** have a minimum of 5
23 years' experience and demonstrable expertise in business,
24 financial, or local or state budgetary matters.

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

27 (c) The emergency manager ~~shall~~ **must** be an individual.

28 (d) Except as otherwise provided in this subdivision, the
29 emergency manager ~~shall serve~~ **serves** at the pleasure of the

1 governor. An emergency manager is subject to impeachment and
2 conviction by the legislature as if he or she were a civil officer
3 under section 7 of article XI of the state constitution of 1963. A
4 **Before the effective date of the amendatory act that added section**
5 **9a, a vacancy in the office of emergency manager ~~shall~~ must be**
6 **filled in the same manner as the original appointment. Beginning on**
7 **the effective date of the amendatory act that added section 9a, if**
8 **a vacancy occurs in the office of emergency manager, the governor**
9 **shall appoint a financial management team for that local government**
10 **as provided in section 9a.**

11 (e) The emergency manager's compensation ~~shall~~ must be paid by
12 this state and ~~shall~~ must be set forth in a contract approved by
13 the state treasurer. The contract ~~shall~~ must be posted on the
14 department of treasury's website within 7 days after the contract
15 is approved by the state treasurer.

16 (f) In addition to the salary provided to an emergency manager
17 in a contract approved by the state treasurer under subdivision
18 (e), this state may receive and distribute private funds to an
19 emergency manager. As used in this subdivision, "private funds"
20 means any money the state receives for the purpose of allocating
21 additional salary to an emergency manager. Private funds
22 distributed under this subdivision are subject to section 1 of 1901
23 PA 145, MCL 21.161, and section 17 of article IX of the state
24 constitution of 1963.

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

29 (5) The emergency manager shall submit quarterly reports to

1 the state treasurer with respect to the financial condition of the
 2 local government in receivership, with a copy to the superintendent
 3 of public instruction if the local government is a school district
 4 and a copy to each state senator and state representative who
 5 represents that local government. In addition, each quarterly
 6 report ~~shall~~**must** be posted on the local government's website
 7 within 7 days after the report is submitted to the state treasurer.

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

10 (a) Until removed by the governor or the legislature as
 11 provided in subsection (3)(d). ~~If~~**Before the effective date of the**
 12 **amendatory act that added section 9a, if** an emergency manager is
 13 removed, the governor shall within 30 days ~~of~~**after** the removal
 14 appoint a new emergency manager. **Beginning on the effective date of**
 15 **the amendatory act that added section 9a, if an emergency manager**
 16 **is removed, the governor shall within 30 days after the removal**
 17 **appoint a financial management team for that local government as**
 18 **provided in section 9a.**

19 (b) Until the financial emergency is rectified.

20 (c) If the emergency manager has served for at least 18 months
 21 after his or her appointment under this act, the emergency manager
 22 may, by resolution, be removed by a 2/3 vote of the governing body
 23 of the local government. If the local government has a strong
 24 mayor, the resolution requires strong mayor approval before the
 25 emergency manager may be removed. Notwithstanding section 7(4), if
 26 the emergency manager is removed under this subsection and the
 27 local government has not previously breached a consent agreement
 28 under this act, the local government may, within 10 days **after the**
 29 **removal**, negotiate a consent agreement with the state treasurer. If

1 a consent agreement is not agreed upon within ~~10 days~~, **that 10-day**
2 **period**, the local government shall proceed with the neutral
3 evaluation process pursuant to section 25.

4 (7) A local government shall be removed from receivership when
5 the financial conditions are corrected in a sustainable fashion as
6 provided in this act. In addition, the local government may be
7 removed from receivership if an emergency manager is removed under
8 subsection (6)(c) and the governing body of the local government by
9 2/3 vote approves a resolution for the local government to be
10 removed from receivership. If the local government has a strong
11 mayor, the resolution requires strong mayor approval before the
12 local government is removed from receivership. A local government
13 that is removed from receivership while a financial emergency
14 continues to exist as determined by the governor shall proceed
15 under the neutral evaluation process pursuant to section 25.

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

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

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

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

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

24 (10) An emergency financial manager appointed under former
25 1988 PA 101 or former 1990 PA 72, and serving immediately ~~prior to~~
26 ~~the effective date of this act~~, shall be **before March 28, 2013, is**
27 considered an emergency manager under this act and shall continue
28 under this act to fulfill his or her powers and duties.

29 Notwithstanding any other provision of this act, the governor may

1 appoint a person who was appointed as an emergency manager under
2 former 2011 PA 4 or an emergency financial manager under former
3 1988 PA 101 or former 1990 PA 72 to serve as an emergency manager
4 under this act.

5 (11) Notwithstanding section 7(4) and subject to the
6 requirements of this section, if an emergency manager has served
7 for less than 18 months after his or her appointment under this
8 act, the governing body of the local government may pass a
9 resolution petitioning the governor to remove the emergency manager
10 as provided in this section and allow the local government to
11 proceed under the neutral evaluation process as provided in section
12 25. If the local government has a strong mayor, the resolution
13 requires strong mayor approval. If the governor accepts the
14 resolution, notwithstanding section 7(4), the local government
15 shall proceed under the neutral evaluation process as provided in
16 section 25.

17 **Sec. 9a. (1) Beginning on the effective date of the amendatory**
18 **act that added this section, the governor may appoint a financial**
19 **management team to address a financial emergency within that local**
20 **government as provided for in this act.**

21 (2) Upon appointment, a financial management team acts for and
22 in the place and stead of the governing body and the office of
23 chief administrative officer of the local government. The financial
24 management team has broad powers in receivership to rectify the
25 financial emergency and to assure the fiscal accountability of the
26 local government and the local government's capacity to provide or
27 cause to be provided necessary governmental services essential to
28 the public health, safety, and welfare. Following appointment of a
29 financial management team and during the pendency of receivership,

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

7 (3) The governor shall appoint, with the advice and consent of
8 the senate, the following 3 members to a financial management team:

9 (a) An individual who has a minimum of 5 years' experience and
10 demonstrable expertise in financial matters.

11 (b) An individual who has a minimum of 3 years' experience
12 working in local government.

13 (c) An individual appointed from a list of not fewer than 3
14 names recommended by the governing body of the local government to
15 act as local ombudsman. The individual appointed under this
16 subdivision must be a resident of the local government.

17 (4) Notwithstanding section 3(1) of 1968 PA 317, MCL 15.323,
18 each member of a financial management team is subject to all of the
19 following:

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

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

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

24 (5) The governor may remove a member of a financial management
25 team for incompetence, dereliction of duty, malfeasance,
26 misfeasance, or nonfeasance in office, or any other good cause. If
27 a member of a financial management team is removed, the governor
28 shall within 14 days after the removal appoint a new member to the
29 financial management team in the same manner as the original

1 appointment.

2 (6) Each member of a financial management team is subject to
3 impeachment and conviction by the legislature as if he or she were
4 a civil officer under section 7 of article XI of the state
5 constitution of 1963.

6 (7) If a vacancy occurs on a financial management team, the
7 governor shall within 14 days after the vacancy make an appointment
8 in the same manner as the original appointment.

9 (8) The first meeting of a financial management team must be
10 called by the governor and must occur no later than 14 days after
11 the last member of the financial management team is appointed by
12 the governor. At the first meeting of a financial management team,
13 the members shall elect a chairperson from among its members. After
14 the first meeting, the financial management team shall meet
15 quarterly, or more frequently at the call of the chairperson or if
16 requested by 2 members of the financial management team.

17 (9) Decisions by a financial management team for the local
18 government must be made by a majority of the members of the
19 financial management team.

20 (10) The business that a financial management team may perform
21 must be conducted at a public meeting of the financial management
22 team held in compliance with the open meetings act, 1976 PA 267,
23 MCL 15.261 to 15.275.

24 (11) A writing prepared, owned, used, in the possession of, or
25 retained by a financial management team in the performance of an
26 official function is subject to the freedom of information act,
27 1976 PA 442, MCL 15.231 to 15.246.

28 (12) Each member of a financial management team must be paid
29 by this state and the compensation must be set forth in a contract

1 approved by the state treasurer. Each contract must be posted on
2 the department of treasury's website within 7 days after the
3 contract is approved by the state treasurer.

4 (13) In addition to staff otherwise authorized by law, a
5 financial management team shall appoint additional staff and secure
6 professional assistance as the financial management team considers
7 necessary to fulfill its appointment.

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

17 (15) A financial management team continues in the capacity of
18 a financial management team as follows:

19 (a) Until removed by the governor. If a financial management
20 team is removed, the governor shall within 30 days after the
21 removal appoint a new financial management team.

22 (b) Until the financial emergency is rectified.

23 (c) If a financial management team has served the local
24 government for at least 18 months, a financial management team may,
25 by resolution, be removed by a 2/3 vote of the governing body of
26 the local government. If the local government has a strong mayor,
27 the resolution requires strong mayor approval before the financial
28 management team may be removed. Notwithstanding section 7(4), if a
29 financial management team is removed under this subdivision and the

1 local government has not previously breached a consent agreement
2 under this act, the local government may, within 10 days after the
3 removal, negotiate a consent agreement with the state treasurer. If
4 a consent agreement is not agreed upon within that 10-day period,
5 the local government shall proceed with the neutral evaluation
6 process under section 25.

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

19 (17) Notwithstanding section 7(4) and subject to the
20 requirements of this section, if a financial management team has
21 served for less than 18 months, the governing body of the local
22 government may pass a resolution petitioning the governor to remove
23 the financial management team as provided in this section and allow
24 the local government to proceed under the neutral evaluation
25 process as provided in section 25. If the local government has a
26 strong mayor, the resolution requires strong mayor approval. If the
27 governor accepts the resolution, notwithstanding section 7(4), the
28 local government shall proceed under the neutral evaluation process
29 as provided in section 25.

1 **(18) The governor may delegate his or her duties under this**
2 **section to the state treasurer.**

3 Sec. 10. (1) An emergency manager **or a financial management**
4 **team** shall issue to the appropriate local elected and appointed
5 officials and employees, agents, and contractors of the local
6 government the orders the emergency manager **or financial management**
7 **team** considers necessary to accomplish the purposes of this act,
8 including, but not limited to, orders for the timely and
9 satisfactory implementation of a financial and operating plan,
10 including an educational plan for a school district, or to take
11 actions, or refrain from taking actions, to enable the orderly
12 accomplishment of the financial and operating plan. An order issued
13 under this section is binding on the local elected and appointed
14 officials and employees, agents, and contractors of the local
15 government to whom it is issued. Local elected and appointed
16 officials and employees, agents, and contractors of the local
17 government shall take and direct those actions that are necessary
18 and advisable to maintain compliance with the financial and
19 operating plan.

20 (2) If an order of the emergency manager **or financial**
21 **management team** under subsection (1) is not carried out and the
22 failure to carry out an order is disrupting the emergency manager's
23 **or financial management team's** ability to manage the local
24 government, the emergency manager **or financial management team**, in
25 addition to other remedies provided in this act, may prohibit the
26 local elected or appointed official or employee, agent, or
27 contractor of the local government from access to the local
28 government's office facilities, electronic mail, and internal
29 information systems.

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

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

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

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

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

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

29 (2) Within 45 days after the emergency manager's **or financial**

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

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

23 (4) The emergency manager **or financial management team**, within
 24 30 days ~~of~~**after** submitting the financial and operating plan to the
 25 state financial authority, shall conduct a public informational
 26 meeting on the plan and any modifications to the plan. This
 27 subsection does not mean that the emergency manager **or financial**
 28 **management team** must receive public approval before ~~he or she~~
 29 ~~implements~~**implementing** the plan or any modification of the plan.

1 (5) For a local government in receivership immediately ~~prior~~
2 ~~to the effective date of this act, before March 28, 2013,~~ a
3 financial and operating plan for that local government adopted
4 under former 2011 PA 4 or a financial plan for that local
5 government adopted under former 1990 PA 72 ~~shall be~~ **is** effective
6 and enforceable as a financial and operating plan for the local
7 government under this act until modified or rescinded under this
8 act.

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

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

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

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

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

26 (e) Require and prescribe the form of special reports to be
27 made by the finance officer of the local government to its
28 governing body, the creditors of the local government, the
29 emergency manager **or financial management team**, 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 any appropriation, contract,
8 expenditure, or loan, the creation of any new position, or the
9 filling of any vacancy in a position by any appointing authority.

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

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

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

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

29 (i) The financial emergency in the local government has created

1 a circumstance in which it is reasonable and necessary for the
2 state to intercede to serve a significant and legitimate public
3 purpose.

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

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

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

17 (l) Act as sole agent of the local government in collective
18 bargaining with employees or representatives and approve any
19 contract or agreement.

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

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

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

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

23 (iii) The emergency manager **or financial management team** shall
24 not make changes to a local pension fund without identifying the
25 changes and the costs and benefits associated with the changes and
26 receiving the state treasurer's approval for the changes. If a
27 change includes the transfer of funds from 1 pension fund to
28 another pension fund, the valuation of the pension fund receiving
29 the transfer must be actuarially funded at a level of 80% or more,

1 according to the most recent governmental accounting standards
2 board's applicable standards, at the time the most recent
3 comprehensive annual financial report for the municipal government
4 was due.

5 (iv) The emergency manager's **or financial management team's**
6 assumption and exercise of the authority and fiduciary
7 responsibilities of the local pension board ~~shall~~**must** end not
8 later than the termination of the receivership of the municipal
9 government as provided in this act.

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

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

19 (p) Retain 1 or more persons or firms, which may be an
20 individual or firm selected from a list approved by the state
21 treasurer, to perform the duties of a local inspector or a local
22 auditor as described in this subdivision. The duties of a local
23 inspector are to assure integrity, economy, efficiency, and
24 effectiveness in the operations of the local government by
25 conducting meaningful and accurate investigations and forensic
26 audits, and to detect and deter waste, fraud, and abuse. At least
27 annually, a report of the local inspector ~~shall~~**must** be submitted
28 to the emergency manager **or financial management team**, the state
29 treasurer, the superintendent of public instruction if the local

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

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

28 (r) Subject to section 19, if provided in the financial and
 29 operating plan, or otherwise with the prior written approval of the

1 governor or his or her designee, sell, lease, convey, assign, or
2 otherwise use or transfer the assets, liabilities, functions, or
3 responsibilities of the local government, provided the use or
4 transfer of assets, liabilities, functions, or responsibilities for
5 this purpose does not endanger the health, safety, or welfare of
6 residents of the local government or unconstitutionally impair a
7 bond, note, security, or uncontested legal obligation of the local
8 government.

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

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

17 (u) Subject to section 19, authorize the borrowing of money by
18 the local government as provided by law.

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

24 (w) Enter into agreements with creditors or other persons or
25 entities for the payment of existing debts, including the
26 settlement of claims by the creditors.

27 (x) Enter into agreements with creditors or other persons or
28 entities to restructure debt on terms, at rates of interest, and
29 with security as ~~shall be~~**is** agreed among the parties, subject to

1 approval by the state treasurer.

2 (y) Enter into agreements with other local governments, public
3 bodies, or entities for the provision of services, the joint
4 exercise of powers, or the transfer of functions and
5 responsibilities.

6 (z) For municipal governments, enter into agreements with
7 other units of municipal government to transfer property of the
8 municipal government under 1984 PA 425, MCL 124.21 to 124.30, or as
9 otherwise provided by law, subject to approval by the state
10 treasurer.

11 (aa) Enter into agreements with 1 or more other local
12 governments or public bodies for the consolidation of services.

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

23 (cc) For municipal governments, with approval of the governor,
24 disincorporate or dissolve the municipal government and assign its
25 assets, debts, and liabilities as provided by law. The
26 disincorporation or dissolution of the local government is subject
27 to a vote of the electors of that local government if required by
28 law.

29 (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.

(ee) Take any other action or exercise any power or authority of any officer, employee, department, board, commission, or other similar entity of the local government, whether elected or appointed, relating to the operation of the local government. The power of the emergency manager ~~shall be or~~ **financial management team is** superior to and ~~supersede~~ **supersedes** the power of any of the foregoing officers or entities.

(ff) Remove, replace, appoint, or confirm the appointments to any office, board, commission, authority, or other entity which is within or is a component unit of the local government.

(2) Except as otherwise provided in this act, during the pendency of the receivership, the authority of the chief

1 administrative officer and governing body to exercise power for and
2 on behalf of the local government under law, charter, and ordinance
3 ~~shall be~~ **is** suspended and vested in the emergency manager **or**
4 **financial management team.**

5 (3) Except as otherwise provided in this subsection, any
6 contract involving a cumulative value of \$50,000.00 or more is
7 subject to competitive bidding by an emergency manager **or financial**
8 **management team.** However, if a potential contract involves a
9 cumulative value of \$50,000.00 or more, the emergency manager **or**
10 **financial management team** may submit the potential contract to the
11 state treasurer for review and the state treasurer may authorize
12 that the potential contract is not subject to competitive bidding.

13 (4) An emergency manager **or a financial management team**
14 appointed for a city or village shall not sell or transfer a public
15 utility furnishing light, heat, or power without the approval of a
16 majority of the electors of the city or village voting thereon, or
17 a greater number if the city or village charter provides, as
18 required by section 25 of article VII of the state constitution of
19 1963. In addition, an emergency manager **or a financial management**
20 **team** appointed for a city or village shall not utilize the assets
21 of a public utility furnishing heat, light, or power, the finances
22 of which are separately maintained and accounted for by the city or
23 village, to satisfy the general obligations of the city or village.

24 (5) **An emergency manager or a financial management team**
25 **appointed for a local government shall not change the public water**
26 **supply that provides drinking water in that local government**
27 **without the approval of a majority of the electors of that local**
28 **government voting on the issue.**

29 (6) **An emergency manager or a financial management team must**

1 not use cost as the primary factor for any action or decision that
 2 directly impacts the public health, safety, or welfare of the
 3 residents of the local government in which that emergency manager
 4 or financial management team is appointed.

5 Sec. 13. Upon appointment of an emergency manager **or a**
 6 **financial management team** and during the pendency of the
 7 receivership, the salary, wages, or other compensation, including
 8 the accrual of postemployment benefits, and other benefits of the
 9 chief administrative officer and members of the governing body of
 10 the local government ~~shall be~~ **are** eliminated. This section does not
 11 authorize the impairment of vested pension benefits. If an
 12 emergency manager has reduced, suspended, or eliminated the salary,
 13 wages, or other compensation of the chief administrative officer
 14 and members of the governing body of a local government before ~~the~~
 15 ~~effective date of this act, March 28, 2013,~~ the reduction,
 16 suspension, or elimination is valid to the same extent had it
 17 occurred after ~~the effective date of this act. March 28, 2013.~~ The
 18 emergency manager **or financial management team** may restore, in
 19 whole or in part, any of the salary, wages, other compensation, or
 20 benefits of the chief administrative officer and members of the
 21 governing body during the pendency of the receivership, for such
 22 time and on such terms as the emergency manager **or financial**
 23 **management team** considers appropriate, to the extent that the
 24 emergency manager **or financial management team** finds that the
 25 restoration of salary, wages, compensation, or benefits is
 26 consistent with the financial and operating plan.

27 Sec. 14. In addition to the actions otherwise authorized in
 28 this act, an emergency manager **or a financial management team** for a
 29 school district may take 1 or more of the following additional

1 actions with respect to a school district that is in receivership:

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

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

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

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

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

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

26 (g) With the approval of the state treasurer, employ or
27 contract for, at the expense of the school district, school
28 administrators considered necessary to implement this act.

29 Sec. 15. (1) Unless the potential sale and value of an asset

1 is included in the emergency manager's **or financial management**
2 **team's** financial and operating plan, the emergency manager **or**
3 **financial management team** shall not sell an asset of the local
4 government valued at more than \$50,000.00 without the state
5 treasurer's approval.

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

13 Sec. 16. An emergency manager **or a financial management team**
14 shall, on his, ~~or her~~, **or its** own or upon the advice of the local
15 inspector if a local inspector has been retained, make a
16 determination as to whether possible criminal conduct contributed
17 to the financial situation resulting in the local government's
18 receivership status. If the emergency manager **or financial**
19 **management team** determines that there is reason to believe that
20 criminal conduct has occurred, the **emergency manager or financial**
21 **management team** shall refer the matter to the attorney general and
22 the local prosecuting attorney for investigation.

23 Sec. 17. Beginning 6 months after an emergency manager's **or a**
24 **financial management team's** appointment, and every 3 months
25 thereafter, an emergency manager **or a financial management team**
26 shall submit to the governor, the state treasurer, the senate
27 majority leader, the speaker of the house of representatives, each
28 state senator and state representative who represents the local
29 government that is in receivership, and the clerk of the local

1 government that is in receivership, and shall post on the internet
2 on the website of the local government, a report that contains all
3 of the following:

4 (a) A description of each expenditure made, approved, or
5 disapproved during the reporting period that has a cumulative value
6 of \$5,000.00 or more and the source of the funds.

7 (b) A list of each contract that the emergency manager **or**
8 **financial management team** awarded or approved with a cumulative
9 value of \$5,000.00 or more, including the purpose of the contract
10 and the identity of the contractor.

11 (c) A description of each loan sought, approved, or
12 disapproved during the reporting period that has a cumulative value
13 of \$5,000.00 or more and the proposed use of the funds.

14 (d) A description of any new position created or any vacancy
15 in a position filled by the appointing authority.

16 (e) A description of any position that has been eliminated or
17 from which an employee has been laid off.

18 (f) A copy of the contract with the emergency manager as
19 provided in section 9(3)(e), **or a copy of the contract with each**
20 **member of the financial management team as provided in section 9a.**

21 (g) The salary and benefits of the emergency manager **or the**
22 **salary and benefits for each member of the financial management**
23 **team.**

24 (h) The financial and operating plan.

25 Sec. 18. (1) If, in the judgment of the emergency manager **or**
26 **financial management team**, no reasonable alternative to rectifying
27 the financial emergency of the local government which is in
28 receivership exists, then the emergency manager **or financial**
29 **management team** may recommend to the governor and the state

1 treasurer that the local government be authorized to proceed under
 2 chapter 9. If the governor approves of the recommendation, the
 3 governor shall inform the state treasurer and the emergency manager
 4 **or financial management team** in writing of the decision, with a
 5 copy to the superintendent of public instruction if the local
 6 government is a school district. The governor may place
 7 contingencies on a local government in order to proceed under
 8 chapter 9. Upon receipt of the written approval, the emergency
 9 manager **or financial management team** is authorized to proceed under
 10 chapter 9. This section empowers the local government for which an
 11 emergency manager **or a financial management team** has been appointed
 12 to become a debtor under title 11 of the United States Code, 11 USC
 13 101 to 1532, as required by section 109 of title 11 of the United
 14 States Code, 11 USC 109, and empowers the emergency manager **or**
 15 **financial management team** to act exclusively on the local
 16 government's behalf in any such case under chapter 9.

17 (2) The recommendation to the governor and the state treasurer
 18 under subsection (1) ~~shall~~**must** include 1 of the following:

19 (a) A determination by the emergency manager **or financial**
 20 **management team** that no feasible financial plan can be adopted that
 21 can satisfactorily rectify the financial emergency of the local
 22 government in a timely manner.

23 (b) A determination by the emergency manager **or financial**
 24 **management team** that a plan, in effect for at least 180 days,
 25 cannot be implemented as written or as it might be amended in a
 26 manner that can satisfactorily rectify the financial emergency in a
 27 timely manner.

28 (3) The emergency manager **or financial management team** shall
 29 provide a copy of the recommendation as provided under subsection

(1) to the superintendent of public instruction if the local government is a school district.

Sec. 19. (1) Except as otherwise provided in this subsection, before an emergency manager **or a financial management team** executes an action under section 12(1)(k), (r), or (u) or ~~section 14(d), he or she~~ **the emergency manager or financial management team** shall submit ~~his or her~~ **the** proposed action to the governing body of the local government. The governing body of the local government, ~~shall have within~~ 10 days ~~from~~ **after** the date of submission, ~~to~~ **shall** approve or disapprove the action proposed by the emergency manager **or financial management team**. If the governing body of the local government does not act within ~~10 days,~~ **that 10-day period**, the proposed action is considered approved by the governing body of the local government and the emergency manager **or financial management team** may then execute the proposed action. For an action under section 12(1)(r) or section 14(d), this subsection only applies if the asset, liability, function, or responsibility involves an amount of \$50,000.00 or more.

(2) If the governing body of the local government disapproves the proposed action within ~~10 days,~~ **the 10-day period**, the governing body of the local government shall, within 7 days ~~of~~ **after** its disapproval of the action proposed by the emergency manager **or financial management team**, submit to the local emergency financial assistance loan board an alternative proposal that would yield substantially the same financial result as the action proposed by the emergency manager **or financial management team**. The local emergency financial assistance loan board ~~shall have~~ **has** 30 days to review both the alternative proposal submitted by the governing body of the local government and the action proposed by

1 the emergency manager **or financial management team** and to approve
2 either the alternative proposal submitted by the governing body of
3 the local government or the action proposed by the emergency
4 manager **or financial management team**. The local emergency financial
5 assistance loan board shall approve the proposal that best serves
6 the interest of the public in that local government. The emergency
7 manager **or financial management team** shall implement the
8 alternative proposal submitted by the governing body of the local
9 government or the action proposed by the emergency manager **or**
10 **financial management team**, whichever is approved by the local
11 emergency financial assistance loan board.

12 Sec. 20. (1) An emergency manager, **or each member of a**
13 **financial management team**, is immune from liability as provided in
14 section 7(5) of 1964 PA 170, MCL 691.1407. A person employed by an
15 emergency manager **or a financial management team** is immune from
16 liability as provided in section 7(2) of 1964 PA 170, MCL 691.1407.

17 (2) The attorney general shall defend any civil claim, demand,
18 or lawsuit which challenges any of the following:

19 (a) The validity of this act.

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

22 (c) The authority of an emergency manager **or a financial**
23 **management team** if the emergency manager **or financial management**
24 **team** is or was acting within the scope of authority for an
25 emergency manager **or a financial management team** under this act.

26 (3) With respect to any aspect of a receivership under this
27 act, the costs incurred by the attorney general in carrying out the
28 responsibilities of subsection (2) for attorneys, experts, court
29 filing fees, and other reasonable and necessary expenses ~~shall be~~

1 **are** at the expense of the local government that is subject to that
2 receivership and ~~shall~~**must** be reimbursed to the attorney general
3 by the local government. The failure of a municipal government that
4 is or was in receivership to remit to the attorney general the
5 costs incurred by the attorney general within 30 days after written
6 notice to the municipal government from the attorney general of the
7 costs is a debt owed to this state and ~~shall~~**must** be recovered by
8 the state treasurer as provided in section 17a(5) of the Glenn
9 Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.917a.
10 The failure of a school district that is or was in receivership to
11 remit to the attorney general the costs incurred by the attorney
12 general within 30 days after written notice to the school district
13 from the attorney general of the costs is a debt owed to this state
14 and ~~shall~~**must** be recovered by the state treasurer as provided in
15 the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to
16 388.1896.

17 (4) An emergency manager **or a financial management team** may
18 procure and maintain, at the expense of the local government for
19 which the emergency manager **or financial management team** is
20 appointed, worker's compensation, general liability, professional
21 liability, and motor vehicle insurance for the emergency manager **or**
22 **any member of the financial management team** and any employee,
23 agent, appointee, or contractor of the emergency manager **or**
24 **financial management team** as may be provided to elected officials,
25 appointed officials, or employees of the local government. The
26 insurance procured and maintained by an emergency manager **or a**
27 **financial management team** may extend to any claim, demand, or
28 lawsuit asserted or costs recovered against the emergency manager
29 **or any member of the financial management team** and any employee,

1 agent, appointee, or contractor of the emergency manager **or**
 2 **financial management team** from the date of appointment of the
 3 emergency manager **or financial management team** to the expiration of
 4 the applicable statute of limitation if the claim, demand, or
 5 lawsuit asserted or costs recovered against the emergency manager
 6 **or financial management team** or any employee, agent, appointee, or
 7 contractor of the emergency manager **or financial management team**
 8 resulted from conduct of the emergency manager **or financial**
 9 **management team** or any employee, agent, appointee, or contractor of
 10 the emergency manager **or financial management team** taken ~~in~~
 11 ~~accordance with~~ **pursuant to** this act during the emergency manager's
 12 **or financial management team's** term of service.

13 (5) If, after the date that the service of an emergency
 14 manager **or a financial management team** is concluded, the emergency
 15 manager **or financial management team** or any employee, agent,
 16 appointee, or contractor of the emergency manager **or financial**
 17 **management team** is subject to a claim, demand, or lawsuit arising
 18 from an action taken during the service of that emergency manager
 19 **or financial management team**, and not covered by a procured
 20 worker's compensation, general liability, professional liability,
 21 or motor vehicle insurance, litigation expenses of the emergency
 22 manager **or financial management team** or any employee, agent,
 23 appointee, or contractor of the emergency manager **or financial**
 24 **management team**, including attorney fees for civil and criminal
 25 proceedings and preparation for reasonably anticipated proceedings,
 26 and payments made in settlement of civil proceedings both filed and
 27 anticipated, ~~shall~~ **must** be paid out of the funds of the local
 28 government that is or was subject to the receivership administered
 29 by that emergency manager **or financial management team**, provided

1 that the litigation expenses are approved by the state treasurer
2 and that the state treasurer determines that the conduct resulting
3 in actual or threatened legal proceedings that is the basis for the
4 payment is based ~~upon~~**on** both of the following:

5 (a) The scope of authority of the person or entity seeking the
6 payment.

7 (b) The conduct occurred on behalf of a local government while
8 it was in receivership under this act.

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

23 Sec. 21. (1) Before the termination of receivership and the
24 completion of the emergency manager's **or financial management**
25 **team's** term, or if a **receivership** transition advisory board is
26 appointed under section 23, then before the **receivership** transition
27 advisory board is appointed, the emergency manager **or financial**
28 **management team** shall adopt and implement a 2-year budget,
29 including all contractual and employment agreements, for the local

1 government commencing with the termination of receivership.

2 (2) After the completion of the emergency manager's **or**
 3 **financial management team's** term and the termination of
 4 receivership, the governing body of the local government shall not
 5 amend the 2-year budget adopted under subsection (1) without the
 6 approval of the state treasurer, and shall not revise any order or
 7 ordinance implemented by the emergency manager **or financial**
 8 **management team** during ~~his or her the~~ term ~~prior to before~~ 1 year
 9 after the termination of receivership.

10 Sec. 22. (1) If an emergency manager **or a financial management**
 11 **team** determines that the financial emergency that ~~he or she the~~
 12 **emergency manager or financial management team** was appointed to
 13 manage has been rectified, the emergency manager **or financial**
 14 **management team** shall inform the governor and the state treasurer.

15 (2) If the governor disagrees with the emergency manager's **or**
 16 **financial management team's** determination that the financial
 17 emergency has been rectified, the governor shall inform the
 18 emergency manager **or financial management team** and the term of the
 19 emergency manager **or financial management team** shall continue or
 20 the governor shall **before the effective date of the amendatory act**
 21 **that added section 9a** appoint a new emergency manager **or beginning**
 22 **on the effective date of the amendatory act that added section 9a**
 23 **appoint a new financial management team.**

24 (3) Subject to subsection (4), if the governor agrees that the
 25 financial emergency has been rectified, the emergency manager **or**
 26 **financial management team** has adopted a 2-year budget as required
 27 under section 21, and the financial conditions of the local
 28 government have been corrected in a sustainable fashion as required
 29 under section 9(7) **or 9a(16)**, the governor may do either of the

1 following:

2 (a) Remove the local government from receivership.

3 (b) Appoint a receivership transition advisory board as
4 provided in section 23.

5 (4) Before removing a local government from receivership, the
6 governor may impose 1 or more of the following conditions on the
7 local government:

8 (a) The implementation of financial best practices within the
9 local government.

10 (b) The adoption of a model charter or model charter
11 provisions.

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

14 Sec. 24. The governor may, upon his or her own initiative or
15 after receiving a recommendation from a receivership transition
16 advisory board, determine that the financial conditions of a local
17 government have not been corrected in a sustainable fashion as
18 required under section 9(7) **or 9a(16)** and **before the effective date**
19 **of the amendatory act that added section 9a** appoint a new emergency
20 manager **or beginning on the effective date of the amendatory act**
21 **that added section 9a appoint a new financial management team.**

22 Sec. 27. (1) The local elected and appointed officials and
23 employees, agents, and contractors of a local government shall
24 promptly and fully provide the assistance and information necessary
25 and properly requested by the state financial authority, a review
26 team, or the emergency manager **or financial management team** in the
27 effectuation of their duties and powers and of the purposes of this
28 act. If the review team or emergency manager **or financial**
29 **management team** believes that a local elected or appointed official

1 or employee, agent, or contractor of the local government is not
2 answering questions accurately or completely or is not furnishing
3 information requested, the review team or emergency manager **or**
4 **financial management team** may issue subpoenas and administer oaths
5 to the local elected or appointed official or employee, agent, or
6 contractor to furnish answers to questions or to furnish documents
7 or records, or both. If the local elected or appointed official or
8 employee, agent, or contractor refuses, the review team or
9 emergency manager **or financial management team** may bring an action
10 in the circuit court in which the local government is located or
11 the Michigan court of claims, as determined by the review team or
12 emergency manager **or financial management team**, to compel testimony
13 and furnish records and documents. An action in mandamus may be
14 used to enforce this section.

15 (2) Failure of a local government official to abide by this
16 act ~~shall be~~ **is** considered gross neglect of duty, which the review
17 team or emergency manager **or financial management team** may report
18 to the state financial authority and the attorney general.
19 Following review and a hearing with a local government elected
20 official, the state financial authority may recommend to the
21 governor that the governor remove the elected official from office.
22 If the governor removes the elected official from office, the
23 resulting vacancy in office ~~shall~~ **must** be filled as prescribed by
24 law.

25 (3) A local government placed in receivership under this act
26 is not subject to section 15(1) of 1947 PA 336, MCL 423.215, for a
27 period of 5 years from the date the local government is placed in
28 receivership or until the time the receivership is terminated,
29 whichever occurs first.

1 Sec. 28. This act does not give the emergency manager **or**
2 **financial management team** or the state financial authority the
3 power to impose taxes, over and above those already authorized by
4 law, without the approval at an election of a majority of the
5 qualified electors voting on the question.

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