

EMERGENCY MUNICIPAL LOAN ACT (EXCERPT)
Act 243 of 1980

141.932 Local emergency financial assistance loan board; creation; membership; powers and duties; approval of actions; conducting business at public meeting; staff services; powers of municipality.

Sec. 2. (1) There is created a local emergency financial assistance loan board within the department of treasury. This board consists of the state treasurer, the director of the department of licensing and regulatory affairs, and the director of the department of technology, management, and budget. Except for budgeting, procurement, and related functions of the board that shall be performed under the direction and supervision of the state treasurer, the board shall exercise its prescribed statutory powers, duties, and functions independently of the department of treasury.

(2) The board has the powers necessary to carry out and effectuate the purposes and provisions of this act, and powers vested in the board under other laws of this state, including, but not limited to, all of the following powers:

(a) To act by an order issued in the name of the board and signed by the members of the board. The signature of the designee of a member, when the designee is acting for his or her principal, has the same force and effect as the signature of the member.

(b) To authorize and make loans; to renegotiate the terms of outstanding loans; and to make, execute, and deliver contracts and other instruments necessary or convenient to the exercise of its powers.

(c) To aid, advise, and consult with a municipality with respect to fiscal questions arising from and relating to its proposed or outstanding loans.

(d) To promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that it considers necessary.

(e) To examine the books and records of a municipality applying for or receiving a loan under this act for the purpose of ascertaining if the municipality is complying, in relation to a loan under this act, with the requirements of the board, the laws of this state, and the charter, ordinances, and resolutions of the municipality. Additionally, for effectuating this purpose, the board may require sworn statements from any officer or employee of the municipality and may require the municipality to furnish a statement of its financial condition. The board has full power, in furtherance of its investigations, to examine witnesses on oath, to compel the attendance of witnesses, to compel the giving of testimony, and to compel the production of books, papers, and records. Witnesses may be summoned by the board by its process upon the payment of the same fees as are allowed to witnesses attending in the circuit court for the county in which a hearing is held. A person duly subpoenaed under this section who fails to attend or testify at the place named in the subpoena served for that purpose is guilty of a misdemeanor.

(f) To serve notice upon a municipality of an order relating to the municipality issued by the board. A municipality has prima facie notice of and is bound by an order of the board if notice has been served upon it by registered mail addressed to any officer of the municipality upon whom legal process may be served.

(g) To enforce compliance with its orders; with the terms of outstanding loans; with any provision of this act; or, in relation to a loan under this act, with any law of this state or with the charter, ordinances, or resolutions of a municipality that received a loan under this act. As 1 method to enforce compliance, the board may institute appropriate proceedings in the courts of this state, including proceedings for writs of mandamus and injunctions.

(h) To subject a loan to the terms and conditions the board considers necessary to ensure compliance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a, and to ensure timely repayment of the loan, including, but not limited to, requiring the direct assignment for repayment of a loan of any state money appropriated to the municipality or, for a municipality that is a school district, other revenue or money that may be pledged by a school district under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, or other law. For a loan entered into after July 7, 2015, if a municipality does not make any scheduled repayment on a loan, the department of treasury shall require the direct assignment for repayment of the loan, in the amount equal to the minimum of the interest due on the loan and up to 5% of the loan, from any state money appropriated to the municipality or, for a municipality that is a school district, other revenue or money that may be pledged by a school district under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, or other law.

(i) To provide loan terms specifying conditions and events of default and remedies available upon default by a municipality.

(j) To impose loan terms upon the disbursement of a loan authorized to be made under section 3(2)(b) or (3).

(3) The board shall review each application for a loan from a municipality to determine if the municipality satisfies the requirements of this act. Except for loans authorized under section 3(2) or (3), upon determining those applications that satisfy the application eligibility requirements of section 4, the board may authorize an annual loan to 1 or more of those eligible applicants upon declaring that a local fiscal emergency exists in the municipality. For loans authorized under section 3(2) or (3), the board may authorize a loan upon determining that the municipality has satisfied the requirements of this act applicable to loans under section 3(2) or (3).

(4) All actions of the board shall be approved by all members of the board. All meetings of the board shall be conducted at a public meeting held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(5) Subject to the requirements of this act, the board has the sole authority to determine all of the following:

(a) The amount of a loan.

(b) The rate or rates of interest on a loan.

(c) Any other condition related to a loan including, but not limited to, requiring that the proceeds of a loan be used for specified purposes.

(6) The department of treasury shall provide staff services to the board to carry out this act.

(7) A municipality may do 1 or more of the following:

(a) Borrow money under this act, and issue evidences of indebtedness for repayment of obligations, including, but not limited to, money advanced or previously advanced to a school district or approved or previously approved for advancement to a school district under section 15(2) of the state school aid act of 1979, 1979 PA 94, MCL 388.1615, or money borrowed by the school district under section 1225 of the revised school code, 1976 PA 451, MCL 380.1225.

(b) Enter into a loan agreement with the board.

(c) Issue its notes evidencing the loan.

(d) Assign and convey any revenues allocated to it for repayment of the loan.

(e) Take any other action necessary to receive, secure, or repay a loan under this act.

History: 1980, Act 243, Imd. Eff. July 24, 1980;—Am. 1980, Act 324, Imd. Eff. Dec. 15, 1980;—Am. 1986, Act 6, Imd. Eff. Feb. 21, 1986;—Am. 1987, Act 282, Eff. Apr. 11, 1988;—Am. 1998, Act 528, Imd. Eff. Jan. 12, 1999;—Am. 2012, Act 284, Imd. Eff. Aug. 1, 2012;—Am. 2015, Act 115, Imd. Eff. July 7, 2015;—Am. 2016, Act 197, Imd. Eff. June 21, 2016.