

HOUSE BILL No. 5337

December 12, 2017, Introduced by Reps. Yaroch and Howrylak and referred to the
Committee on Local Government.

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:

TITLE

An act to safeguard and assure the financial accountability of

1 local units of government and school districts; to preserve the
2 capacity of local units of government and school districts to
3 provide or cause to be provided necessary services essential to the
4 public health, safety, and welfare; to provide for review,
5 management, planning, and control of the financial operation of
6 local units of government and school districts and the provision of
7 services by local units of government and school districts; to
8 provide criteria to be used in determining the financial condition
9 of local units of government and school districts; to authorize a
10 declaration of the existence of a financial emergency within a
11 local unit of government or school district; to prescribe remedial
12 measures to address a financial emergency within a local unit of
13 government or school district; to provide for a review and appeal
14 process; to provide for the appointment and to prescribe the powers
15 and duties of an emergency manager for a local unit of government
16 or school district; **TO PROVIDE FOR THE APPOINTMENT AND TO PRESCRIBE**
17 **THE POWERS AND DUTIES OF A FINANCIAL MANAGEMENT TEAM FOR A LOCAL**
18 **UNIT OF GOVERNMENT OR SCHOOL DISTRICT;** to provide for the
19 modification or termination of contracts under certain
20 circumstances; to provide for the termination of a financial
21 emergency within a local unit of government or school district; to
22 provide a process by which a local unit of government or school
23 district may file for bankruptcy; to prescribe the powers and
24 duties of certain state agencies and officials and officials within
25 local units of government and school districts; to provide for
26 appropriations; and to repeal acts and parts of acts.

27 Sec. 2. As used in this act:

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

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

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

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

8 (iii) The manager of a township or the manager or
9 superintendent of a charter township or, if the township does not
10 employ a manager or superintendent, the supervisor of the township.

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

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

18 (vi) The superintendent of a school district.

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

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

25 (ii) An entity that would have a noncontingent claim against
26 the local government upon the rejection of an executory contract or
27 unexpired lease in a chapter 9 case and whose claim would represent

1 at least \$5,000,000.00 or would comprise more than 5% of the local
2 government's debt or obligations, whichever is less.

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

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

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

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

16 **(H) "FINANCIAL MANAGEMENT TEAM" MEANS A FINANCIAL MANAGEMENT**
17 **TEAM APPOINTED UNDER SECTION 9A.**

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

26 **(J)** ~~(i)~~—"Interested party" means a trustee, a committee of
27 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 **(I)** ~~(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.

1 (O) ~~(n)~~—"Municipal government" means a city, a village, a
2 township, a charter township, a county, a department of county
3 government if the county has an elected county executive under 1966
4 PA 293, MCL 45.501 to 45.521, an authority established by law, or a
5 public utility owned by a city, village, township, or county.

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

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

14 (R) ~~(q)~~—"Receivership" means the process under this act by
15 which a financial emergency is addressed through the appointment of
16 an emergency manager **OR A FINANCIAL MANAGEMENT TEAM**. Receivership
17 does not include chapter 9 or any provision under federal
18 bankruptcy law.

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

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

23 (U) ~~(t)~~—"School district" means a school district as that term
24 is defined in section 6 of the revised school code, 1976 PA 451,
25 MCL 380.6, or an intermediate school district as that term is
26 defined in section 4 of the revised school code, 1976 PA 451, MCL
27 380.4.

1 **(V)** ~~(u)~~—"State financial authority" means the following:

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

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

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

8 **(W)** ~~(v)~~—"Strong mayor" means a mayor who has been granted veto
9 power for any purpose under the charter of that local government.

10 **(X)** ~~(w)~~—"Strong mayor approval" means approval of a resolution
11 under 1 of the following conditions:

12 (i) The strong mayor approves the resolution.

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

15 (iii) The strong mayor vetoes the resolution and the governing
16 body overrides the veto.

17 Sec. 3. The legislature finds and declares all of the
18 following:

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

26 (b) That it is vitally necessary to protect the credit of this
27 state and its political subdivisions and that it is necessary for

1 the public good and it is a valid public purpose for this state to
 2 take action and to assist a local government in a financial
 3 emergency so as to remedy the financial emergency by requiring
 4 prudent fiscal management and efficient provision of services,
 5 permitting the restructuring of contractual obligations, and
 6 prescribing the powers and duties of state and local government
 7 officials, ~~and~~ emergency managers, **AND FINANCIAL MANAGEMENT TEAMS.**

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

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

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

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

26 (b) ~~The~~ **BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT**
 27 **ADDED SECTION 9A, THE** emergency manager option pursuant to section

1 9.

2 (C) BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
3 ADDED SECTION 9A, THE FINANCIAL MANAGEMENT TEAM OPTION PURSUANT TO
4 SECTION 9A.

5 (D) ~~(e)~~—The neutral evaluation process option pursuant to
6 section 25.

7 (E) ~~(d)~~—The chapter 9 bankruptcy option pursuant to section
8 26.

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

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

20 (4) Subject to ~~section~~**SECTIONS** 9(6)(c) and (11) **AND 9A(15)**
21 **AND (17)**, unless authorized by the governor, a local government
22 shall not utilize 1 of the local options listed in subsection
23 (1)(a) to ~~(d)~~**(E)** more than 1 time.

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

1 submit or comply with the requirements of the enhanced deficit
2 elimination plan, the state treasurer may declare that a financial
3 emergency exists within the school district and **BEFORE THE**
4 **EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 9A**
5 recommend that the governor appoint an emergency manager to address
6 the financial emergency within the school district under section 9
7 **OR BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED**
8 **SECTION 9A RECOMMEND THAT THE GOVERNOR APPOINT A FINANCIAL**
9 **MANAGEMENT TEAM TO ADDRESS THE FINANCIAL EMERGENCY WITHIN THE**
10 **SCHOOL DISTRICT UNDER SECTION 9A.**

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

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

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

19 (3) If the state treasurer requires that a consent agreement
20 include a continuing operations plan, the local government shall
21 prepare and file the continuing operations plan with the state
22 treasurer as provided for in the consent agreement. The state
23 treasurer shall approve or reject the initial continuing operations
24 plan within 14 days of receiving it from the local government. If a
25 continuing operations plan is rejected, the local government shall
26 refile an amended plan within 30 days of the rejection, addressing
27 any concerns raised by the state treasurer or the superintendent of

1 public instruction regarding an educational plan. If the amended
2 plan is rejected, then the local government may be considered to be
3 in material breach of the consent agreement. The local government
4 shall file annual updates to its continuing operations plan. The
5 annual updates ~~shall~~**MUST** be included with the annual filing of the
6 local government's audit report with the state financial authority
7 as long as the continuing operations plan remains in effect.

8 (4) The continuing operations plan ~~shall~~**MUST** be in a form
9 prescribed by the state treasurer but ~~shall~~**MUST**, at a minimum,
10 include all of the following:

11 (a) A detailed projected budget of revenues and expenditures
12 over not less than 3 fiscal years ~~which~~**THAT** demonstrates that the
13 local government's expenditures will not exceed its revenues and
14 that any existing deficits will be eliminated during the projected
15 budget period.

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

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

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

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

26 (f) A provision for submitting quarterly compliance reports to
27 the state treasurer demonstrating compliance with the continuing

1 operations plan, with a copy of each report to each state senator
2 and state representative who represents that local government. Each
3 quarterly compliance report ~~shall~~**MUST** be posted on the local
4 government's website within 7 days after the report is submitted to
5 the state treasurer.

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

22 (6) If the state treasurer requires that a consent agreement
23 include a recovery plan, the state treasurer, with input from the
24 local government, shall develop and adopt a recovery plan. If a
25 recovery plan is developed and adopted for the local government,
26 the local government shall file annual updates to its recovery
27 plan. The annual updates ~~shall~~**MUST** be included with the annual

1 filing of the local government's audit report with the state
2 financial authority as long as the recovery plan remains in effect.

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

6 (a) A detailed projected budget of revenues and expenditures
7 over not less than 3 fiscal years that demonstrates that the local
8 government's expenditures will not exceed its revenues and that any
9 existing deficits will be eliminated during the projected budget
10 period.

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

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

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

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

22 (f) Procedures for cash control and cash management,
23 including, but not limited to, procedures for timely collection,
24 securing, depositing, balancing, and expending of cash. Procedures
25 for cash control and cash management may include the designation of
26 appropriate fiduciaries.

27 (g) A provision for submitting quarterly compliance reports to

1 the state treasurer and the chief administrative officer of the
2 local government that demonstrate compliance with the recovery
3 plan, with a copy of each report to each state senator and state
4 representative who represents that local government. Each quarterly
5 compliance report ~~shall~~**MUST** be posted on the local government's
6 website within 7 days after the report is submitted to the state
7 treasurer.

8 (8) The recovery plan may include the appointment of a local
9 auditor or local inspector, or both, in accordance with section
10 12(1)(p).

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

25 (10) Except as otherwise provided in this subsection, the
26 consent agreement may include a grant to the chief administrative
27 officer, the chief financial officer, the governing body, or other

1 officers of the local government by the state treasurer of 1 or
2 more of the powers prescribed for emergency managers **OR FINANCIAL**
3 **MANAGEMENT TEAMS** as otherwise provided in this act for such periods
4 and upon such terms and conditions as the state treasurer considers
5 necessary or convenient, in the state treasurer's discretion to
6 enable the local government to achieve the goals and objectives of
7 the consent agreement. However, the consent agreement ~~shall~~**MUST**
8 not include a grant to the chief administrative officer, the chief
9 financial officer, the governing body, or other officers of the
10 local government of the powers prescribed for emergency managers **OR**
11 **FINANCIAL MANAGEMENT TEAMS** in section 12(1)(k).

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

17 (12) The consent agreement may provide for the required
18 retention by the local government of a consultant for the purpose
19 of assisting the local government to achieve the goals and
20 objectives of the consent agreement.

21 (13) A local government is released from the requirements
22 under this section upon compliance with the consent agreement as
23 determined by the state treasurer.

24 Sec. 9. (1) ~~The~~**BEFORE THE EFFECTIVE DATE OF THE AMENDATORY**
25 **ACT THAT ADDED SECTION 9A, THE** governor may appoint an emergency
26 manager to address a financial emergency within that local
27 government as provided for in this act.

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

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

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

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

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

22 (d) Except as otherwise provided in this subdivision, the
23 emergency manager ~~shall serve~~ **SERVES** at the pleasure of the
24 governor. An emergency manager is subject to impeachment and
25 conviction by the legislature as if he or she were a civil officer
26 under section 7 of article XI of the state constitution of 1963. **A**
27 **BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION**

1 **9A, A** vacancy in the office of emergency manager ~~shall~~**MUST** be
2 filled in the same manner as the original appointment. **BEGINNING ON**
3 **THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 9A, IF**
4 **A VACANCY OCCURS IN THE OFFICE OF EMERGENCY MANAGER, THE GOVERNOR**
5 **SHALL APPOINT A FINANCIAL MANAGEMENT TEAM FOR THAT LOCAL GOVERNMENT**
6 **AS PROVIDED IN SECTION 9A.**

7 (e) The emergency manager's compensation ~~shall~~**MUST** be paid by
8 this state and ~~shall~~**MUST** be set forth in a contract approved by
9 the state treasurer. The contract ~~shall~~**MUST** be posted on the
10 department of treasury's website within 7 days after the contract
11 is approved by the state treasurer.

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

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

25 (5) The emergency manager shall submit quarterly reports to
26 the state treasurer with respect to the financial condition of the
27 local government in receivership, with a copy to the superintendent

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

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

8 (a) Until removed by the governor or the legislature as
9 provided in subsection (3)(d). ~~If~~**BEFORE THE EFFECTIVE DATE OF THE**
10 **AMENDATORY ACT THAT ADDED SECTION 9A, IF** an emergency manager is
11 removed, the governor shall within 30 days of the removal appoint a
12 new emergency manager. **BEGINNING ON THE EFFECTIVE DATE OF THE**
13 **AMENDATORY ACT THAT ADDED SECTION 9A, IF AN EMERGENCY MANAGER IS**
14 **REMOVED, THE GOVERNOR SHALL WITHIN 30 DAYS OF THE REMOVAL APPOINT A**
15 **FINANCIAL MANAGEMENT TEAM FOR THAT LOCAL GOVERNMENT AS PROVIDED IN**
16 **SECTION 9A.**

17 (b) Until the financial emergency is rectified.

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

1 is not agreed upon within 10 days, the local government shall
2 proceed with the neutral evaluation process pursuant to section 25.

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

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

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

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

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

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

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

1 Notwithstanding any other provision of this act, the governor may
2 appoint a person who was appointed as an emergency manager under
3 former 2011 PA 4 or an emergency financial manager under former
4 1988 PA 101 or former 1990 PA 72 to serve as an emergency manager
5 under this act.

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

18 **SEC. 9A. (1) BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY**
19 **ACT THAT ADDED THIS SECTION, THE GOVERNOR MAY APPOINT A FINANCIAL**
20 **MANAGEMENT TEAM TO ADDRESS A FINANCIAL EMERGENCY WITHIN THAT LOCAL**
21 **GOVERNMENT AS PROVIDED FOR IN THIS ACT.**

22 **(2) UPON APPOINTMENT, A FINANCIAL MANAGEMENT TEAM ACTS FOR AND**
23 **IN THE PLACE AND STEAD OF THE GOVERNING BODY AND THE OFFICE OF**
24 **CHIEF ADMINISTRATIVE OFFICER OF THE LOCAL GOVERNMENT. THE FINANCIAL**
25 **MANAGEMENT TEAM HAS BROAD POWERS IN RECEIVERSHIP TO RECTIFY THE**
26 **FINANCIAL EMERGENCY AND TO ASSURE THE FISCAL ACCOUNTABILITY OF THE**
27 **LOCAL GOVERNMENT AND THE LOCAL GOVERNMENT'S CAPACITY TO PROVIDE OR**

1 CAUSE TO BE PROVIDED NECESSARY GOVERNMENTAL SERVICES ESSENTIAL TO
2 THE PUBLIC HEALTH, SAFETY, AND WELFARE. FOLLOWING APPOINTMENT OF A
3 FINANCIAL MANAGEMENT TEAM AND DURING THE PENDENCY OF RECEIVERSHIP,
4 THE GOVERNING BODY AND THE CHIEF ADMINISTRATIVE OFFICER OF THE
5 LOCAL GOVERNMENT SHALL NOT EXERCISE ANY OF THE POWERS OF THOSE
6 OFFICES EXCEPT AS MAY BE SPECIFICALLY AUTHORIZED IN WRITING BY THE
7 FINANCIAL MANAGEMENT TEAM OR AS OTHERWISE PROVIDED BY THIS ACT AND
8 ARE SUBJECT TO THE CONDITIONS REQUIRED BY THE FINANCIAL MANAGEMENT
9 TEAM.

10 (3) THE GOVERNOR SHALL APPOINT, WITH THE ADVICE AND CONSENT OF
11 THE SENATE, THE FOLLOWING 3 MEMBERS TO A FINANCIAL MANAGEMENT TEAM:

12 (A) AN INDIVIDUAL WHO HAS A MINIMUM OF 5 YEARS' EXPERIENCE AND
13 DEMONSTRABLE EXPERTISE IN FINANCIAL MATTERS.

14 (B) AN INDIVIDUAL WHO HAS A MINIMUM OF 3 YEARS' EXPERIENCE
15 WORKING IN LOCAL UNITS OF GOVERNMENT.

16 (C) AN INDIVIDUAL APPOINTED FROM A LIST OF NOT FEWER THAN 3
17 NAMES RECOMMENDED BY THE GOVERNING BODY OF THE LOCAL GOVERNMENT TO
18 ACT AS LOCAL OMBUDSMAN. THE INDIVIDUAL APPOINTED UNDER THIS
19 SUBDIVISION MUST BE A RESIDENT OF THE LOCAL GOVERNMENT.

20 (4) NOTWITHSTANDING SECTION 3(1) OF 1968 PA 317, MCL 15.323,
21 EACH MEMBER OF A FINANCIAL MANAGEMENT TEAM IS SUBJECT TO ALL OF THE
22 FOLLOWING:

23 (A) 1968 PA 317, MCL 15.321 TO 15.330, AS A PUBLIC SERVANT.

24 (B) 1973 PA 196, MCL 15.341 TO 15.348, AS A PUBLIC OFFICER.

25 (C) 1968 PA 318, MCL 15.301 TO 15.310, AS IF HE OR SHE WERE A
26 STATE OFFICER.

27 (5) THE GOVERNOR MAY REMOVE A MEMBER OF A FINANCIAL MANAGEMENT

1 TEAM FOR INCOMPETENCE, DERELICTION OF DUTY, MALFEASANCE,
2 MISFEASANCE, OR NONFEASANCE IN OFFICE, OR ANY OTHER GOOD CAUSE. IF
3 A MEMBER OF A FINANCIAL MANAGEMENT TEAM IS REMOVED, THE GOVERNOR
4 SHALL WITHIN 14 DAYS OF THE REMOVAL APPOINT A NEW MEMBER TO THE
5 FINANCIAL MANAGEMENT TEAM.

6 (6) EACH MEMBER OF A FINANCIAL MANAGEMENT TEAM IS SUBJECT TO
7 IMPEACHMENT AND CONVICTION BY THE LEGISLATURE AS IF HE OR SHE WERE
8 A CIVIL OFFICER UNDER SECTION 7 OF ARTICLE XI OF THE STATE
9 CONSTITUTION OF 1963.

10 (7) IF A VACANCY OCCURS ON A FINANCIAL MANAGEMENT TEAM, THE
11 GOVERNOR SHALL WITHIN 14 DAYS AFTER THE VACANCY MAKE AN APPOINTMENT
12 IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT.

13 (8) THE FIRST MEETING OF A FINANCIAL MANAGEMENT TEAM MUST BE
14 CALLED BY THE GOVERNOR AND MUST OCCUR NO LATER THAN 14 DAYS AFTER
15 THE LAST MEMBER OF THE FINANCIAL MANAGEMENT TEAM IS APPOINTED BY
16 THE GOVERNOR. AT THE FIRST MEETING OF A FINANCIAL MANAGEMENT TEAM,
17 THE MEMBERS SHALL ELECT A CHAIRPERSON FROM AMONG ITS MEMBERS. AFTER
18 THE FIRST MEETING, THE FINANCIAL MANAGEMENT TEAM SHALL MEET
19 QUARTERLY, OR MORE FREQUENTLY AT THE CALL OF THE CHAIRPERSON OR IF
20 REQUESTED BY 2 MEMBERS OF THE FINANCIAL MANAGEMENT TEAM.

21 (9) DECISIONS BY A FINANCIAL MANAGEMENT TEAM FOR THE LOCAL
22 GOVERNMENT MUST BE MADE BY A MAJORITY OF THE MEMBERS OF THE
23 FINANCIAL MANAGEMENT TEAM.

24 (10) THE BUSINESS THAT A FINANCIAL MANAGEMENT TEAM MAY PERFORM
25 MUST BE CONDUCTED AT A PUBLIC MEETING OF THE FINANCIAL MANAGEMENT
26 TEAM HELD IN COMPLIANCE WITH THE OPEN MEETINGS ACT, 1976 PA 267,
27 MCL 15.261 TO 15.275.

1 (11) A WRITING PREPARED, OWNED, USED, IN THE POSSESSION OF, OR
2 RETAINED BY A FINANCIAL MANAGEMENT TEAM IN THE PERFORMANCE OF AN
3 OFFICIAL FUNCTION IS SUBJECT TO THE FREEDOM OF INFORMATION ACT,
4 1976 PA 442, MCL 15.231 TO 15.246.

5 (12) EACH MEMBER OF A FINANCIAL MANAGEMENT TEAM MUST BE PAID
6 BY THIS STATE AND THE COMPENSATION MUST BE SET FORTH IN A CONTRACT
7 APPROVED BY THE STATE TREASURER. EACH CONTRACT MUST BE POSTED ON
8 THE DEPARTMENT OF TREASURY'S WEBSITE WITHIN 7 DAYS AFTER THE
9 CONTRACT IS APPROVED BY THE STATE TREASURER.

10 (13) IN ADDITION TO STAFF OTHERWISE AUTHORIZED BY LAW, A
11 FINANCIAL MANAGEMENT TEAM SHALL APPOINT ADDITIONAL STAFF AND SECURE
12 PROFESSIONAL ASSISTANCE AS THE FINANCIAL MANAGEMENT TEAM CONSIDERS
13 NECESSARY TO FULFILL ITS APPOINTMENT.

14 (14) A FINANCIAL MANAGEMENT TEAM SHALL SUBMIT QUARTERLY
15 REPORTS TO THE STATE TREASURER WITH RESPECT TO THE FINANCIAL
16 CONDITION OF THE LOCAL GOVERNMENT IN RECEIVERSHIP, WITH A COPY TO
17 THE SUPERINTENDENT OF PUBLIC INSTRUCTION IF THE LOCAL GOVERNMENT IS
18 A SCHOOL DISTRICT AND A COPY TO EACH STATE SENATOR AND STATE
19 REPRESENTATIVE WHO REPRESENTS THAT LOCAL GOVERNMENT. IN ADDITION,
20 EACH QUARTERLY REPORT MUST BE POSTED ON THE LOCAL GOVERNMENT'S
21 WEBSITE WITHIN 7 DAYS AFTER THE REPORT IS SUBMITTED TO THE STATE
22 TREASURER.

23 (15) A FINANCIAL MANAGEMENT TEAM CONTINUES IN THE CAPACITY OF
24 A FINANCIAL MANAGEMENT TEAM AS FOLLOWS:

25 (A) UNTIL REMOVED BY THE GOVERNOR. IF A FINANCIAL MANAGEMENT
26 TEAM IS REMOVED, THE GOVERNOR SHALL WITHIN 30 DAYS OF THE REMOVAL
27 APPOINT A NEW FINANCIAL MANAGEMENT TEAM.

1 (B) UNTIL THE FINANCIAL EMERGENCY IS RECTIFIED.

2 (C) IF A FINANCIAL MANAGEMENT TEAM HAS SERVED THE LOCAL
3 GOVERNMENT FOR AT LEAST 18 MONTHS, A FINANCIAL MANAGEMENT TEAM MAY,
4 BY RESOLUTION, BE REMOVED BY A 2/3 VOTE OF THE GOVERNING BODY OF
5 THE LOCAL GOVERNMENT. IF THE LOCAL GOVERNMENT HAS A STRONG MAYOR,
6 THE RESOLUTION REQUIRES STRONG MAYOR APPROVAL BEFORE THE FINANCIAL
7 MANAGEMENT TEAM MAY BE REMOVED. NOTWITHSTANDING SECTION 7(4), IF A
8 FINANCIAL MANAGEMENT TEAM IS REMOVED UNDER THIS SUBSECTION AND THE
9 LOCAL GOVERNMENT HAS NOT PREVIOUSLY BREACHED A CONSENT AGREEMENT
10 UNDER THIS ACT, THE LOCAL GOVERNMENT MAY WITHIN 10 DAYS NEGOTIATE A
11 CONSENT AGREEMENT WITH THE STATE TREASURER. IF A CONSENT AGREEMENT
12 IS NOT AGREED UPON WITHIN 10 DAYS, THE LOCAL GOVERNMENT SHALL
13 PROCEED WITH THE NEUTRAL EVALUATION PROCESS PURSUANT TO SECTION 25.

14 (16) A LOCAL GOVERNMENT MUST BE REMOVED FROM RECEIVERSHIP WHEN
15 THE FINANCIAL CONDITIONS ARE CORRECTED IN SUSTAINABLE FASHION AS
16 PROVIDED IN THIS ACT. IN ADDITION, THE LOCAL GOVERNMENT MAY BE
17 REMOVED FROM RECEIVERSHIP IF A FINANCIAL MANAGEMENT TEAM IS REMOVED
18 UNDER SUBSECTION (15) (C) AND THE GOVERNING BODY OF THE LOCAL
19 GOVERNMENT BY A 2/3 VOTE APPROVES A RESOLUTION FOR THE LOCAL
20 GOVERNMENT TO BE REMOVED FROM RECEIVERSHIP. IF THE LOCAL GOVERNMENT
21 HAS A STRONG MAYOR, THE RESOLUTION REQUIRES STRONG MAYOR APPROVAL
22 BEFORE THE LOCAL GOVERNMENT IS REMOVED FROM RECEIVERSHIP. A LOCAL
23 GOVERNMENT THAT IS REMOVED FROM RECEIVERSHIP WHILE A FINANCIAL
24 EMERGENCY CONTINUES TO EXIST AS DETERMINED BY THE GOVERNOR SHALL
25 PROCEED UNDER THE NEUTRAL EVALUATION PROCESS PURSUANT TO SECTION
26 25.

27 (17) NOTWITHSTANDING SECTION 7(4) AND SUBJECT TO THE

1 REQUIREMENTS OF THIS SECTION, IF A FINANCIAL MANAGEMENT TEAM HAS
2 SERVED FOR LESS THAN 18 MONTHS, THE GOVERNING BODY OF THE LOCAL
3 GOVERNMENT MAY PASS A RESOLUTION PETITIONING THE GOVERNOR TO REMOVE
4 THE FINANCIAL MANAGEMENT TEAM AS PROVIDED IN THIS SECTION AND ALLOW
5 THE LOCAL GOVERNMENT TO PROCEED UNDER THE NEUTRAL EVALUATION
6 PROCESS AS PROVIDED IN SECTION 25. IF THE LOCAL GOVERNMENT HAS A
7 STRONG MAYOR, THE RESOLUTION REQUIRES STRONG MAYOR APPROVAL. IF THE
8 GOVERNOR ACCEPTS THE RESOLUTION, NOTWITHSTANDING SECTION 7(4), THE
9 LOCAL GOVERNMENT SHALL PROCEED UNDER THE NEUTRAL EVALUATION PROCESS
10 AS PROVIDED IN SECTION 25.

11 (18) THE GOVERNOR MAY DELEGATE HIS OR HER DUTIES UNDER THIS
12 SECTION TO THE STATE TREASURER.

13 Sec. 10. (1) An emergency manager **OR A FINANCIAL MANAGEMENT**
14 **TEAM** shall issue to the appropriate local elected and appointed
15 officials and employees, agents, and contractors of the local
16 government the orders the emergency manager **OR FINANCIAL MANAGEMENT**
17 **TEAM** considers necessary to accomplish the purposes of this act,
18 including, but not limited to, orders for the timely and
19 satisfactory implementation of a financial and operating plan,
20 including an educational plan for a school district, or to take
21 actions, or refrain from taking actions, to enable the orderly
22 accomplishment of the financial and operating plan. An order issued
23 under this section is binding on the local elected and appointed
24 officials and employees, agents, and contractors of the local
25 government to whom it is issued. Local elected and appointed
26 officials and employees, agents, and contractors of the local
27 government shall take and direct those actions that are necessary

1 and advisable to maintain compliance with the financial and
2 operating plan.

3 (2) If an order of the emergency manager **OR FINANCIAL**
4 **MANAGEMENT TEAM** under subsection (1) is not carried out and the
5 failure to carry out an order is disrupting the emergency manager's
6 **OR FINANCIAL MANAGEMENT TEAM'S** ability to manage the local
7 government, the emergency manager **OR FINANCIAL MANAGEMENT TEAM**, in
8 addition to other remedies provided in this act, may prohibit the
9 local elected or appointed official or employee, agent, or
10 contractor of the local government from access to the local
11 government's office facilities, electronic mail, and internal
12 information systems.

13 Sec. 11. (1) An emergency manager **OR A FINANCIAL MANAGEMENT**
14 **TEAM** shall develop and may amend a written financial and operating
15 plan for the local government. The plan ~~shall~~**MUST** have the
16 objectives of assuring that the local government is able to provide
17 or cause to be provided governmental services essential to the
18 public health, safety, and welfare and assuring the fiscal
19 accountability of the local government. The financial and operating
20 plan ~~shall~~**MUST** provide for all of the following:

21 (a) Conducting all aspects of the operations of the local
22 government within the resources available according to the
23 emergency manager's **OR FINANCIAL MANAGEMENT TEAM'S** revenue
24 estimate.

25 (b) The payment in full of the scheduled debt service
26 requirements on all bonds, notes, and municipal securities of the
27 local government, contract obligations in anticipation of which

1 bonds, notes, and municipal securities are issued, and all other
2 uncontested legal obligations.

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

5 (d) The timely deposit of required payments to the pension
6 fund for the local government or in which the local government
7 participates.

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

9 (f) Any other actions considered necessary by the emergency
10 manager **OR FINANCIAL MANAGEMENT TEAM** in the emergency manager's **OR**
11 **FINANCIAL MANAGEMENT TEAM'S** discretion to achieve the objectives of
12 the financial and operating plan, alleviate the financial
13 emergency, and remove the local government from receivership.

14 (2) Within 45 days after the emergency manager's **OR FINANCIAL**
15 **MANAGEMENT TEAM'S** appointment, the emergency manager **OR FINANCIAL**
16 **MANAGEMENT TEAM** shall submit the financial and operating plan, and
17 an educational plan if the local government is a school district,
18 to the state treasurer, with a copy to the superintendent of public
19 instruction if the local government is a school district, and to
20 the chief administrative officer and governing body of the local
21 government. The plan ~~shall~~ **MUST** be regularly reexamined by the
22 emergency manager **OR FINANCIAL MANAGEMENT TEAM** and the state
23 treasurer and may be modified from time to time by the emergency
24 manager **OR FINANCIAL MANAGEMENT TEAM** with notice to the state
25 treasurer. If the emergency manager **OR FINANCIAL MANAGEMENT TEAM**
26 reduces ~~his or her~~ **THE** revenue estimates, the emergency manager **OR**
27 **FINANCIAL MANAGEMENT TEAM** shall modify the plan to conform to the

1 revised revenue estimates.

2 (3) The financial and operating plan ~~shall~~**MUST** be in a form
3 as provided by the state treasurer and ~~shall~~**MUST** contain that
4 information for each year during which year the plan is in effect
5 that the emergency manager **OR FINANCIAL MANAGEMENT TEAM**, in
6 consultation with the state financial authority, specifies. The
7 financial and operating plan may serve as a deficit elimination
8 plan otherwise required by law if so approved by the state
9 financial authority.

10 (4) The emergency manager **OR FINANCIAL MANAGEMENT TEAM**, within
11 30 days of submitting the financial and operating plan to the state
12 financial authority, shall conduct a public informational meeting
13 on the plan and any modifications to the plan. This subsection does
14 not mean that the emergency manager **OR FINANCIAL MANAGEMENT TEAM**
15 must receive public approval before ~~he or she implements~~
16 **IMPLEMENTING** the plan or any modification of the plan.

17 (5) For a local government in receivership immediately ~~prior~~
18 ~~to the effective date of this act~~, **BEFORE MARCH 28, 2013**, a
19 financial and operating plan for that local government adopted
20 under former 2011 PA 4 or a financial plan for that local
21 government adopted under former 1990 PA 72 ~~shall be~~**IS** effective
22 and enforceable as a financial and operating plan for the local
23 government under this act until modified or rescinded under this
24 act.

25 Sec. 12. (1) An emergency manager **OR FINANCIAL MANAGEMENT TEAM**
26 may take 1 or more of the following additional actions with respect
27 to a local government that is in receivership, notwithstanding any

1 charter provision to the contrary:

2 (a) Analyze factors and circumstances contributing to the
3 financial emergency of the local government and initiate steps to
4 correct the condition.

5 (b) Amend, revise, approve, or disapprove the budget of the
6 local government, and limit the total amount appropriated or
7 expended.

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

12 (d) Require and approve or disapprove, or amend or revise, a
13 plan for paying all outstanding obligations of the local
14 government.

15 (e) Require and prescribe the form of special reports to be
16 made by the finance officer of the local government to its
17 governing body, the creditors of the local government, the
18 emergency manager **OR FINANCIAL MANAGEMENT TEAM**, or the public.

19 (f) Examine all records and books of account, and require
20 under the procedures of the uniform budgeting and accounting act,
21 1968 PA 2, MCL 141.421 to 141.440a, or 1919 PA 71, MCL 21.41 to
22 21.55, or both, the attendance of witnesses and the production of
23 books, papers, contracts, and other documents relevant to an
24 analysis of the financial condition of the local government.

25 (g) Make, approve, or disapprove any appropriation, contract,
26 expenditure, or loan, the creation of any new position, or the
27 filling of any vacancy in a position by any appointing authority.

1 (h) Review payrolls or other claims against the local
2 government before payment.

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

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

8 (k) Subject to section 19, after meeting and conferring with
9 the appropriate bargaining representative and, if in the emergency
10 manager's **OR FINANCIAL MANAGEMENT TEAM'S** sole discretion and
11 judgment, a prompt and satisfactory resolution is unlikely to be
12 obtained, reject, modify, or terminate 1 or more terms and
13 conditions of an existing collective bargaining agreement. The
14 rejection, modification, or termination of 1 or more terms and
15 conditions of an existing collective bargaining agreement under
16 this subdivision is a legitimate exercise of the state's sovereign
17 powers if the emergency manager **OR FINANCIAL MANAGEMENT TEAM**, and
18 state treasurer, determine that all of the following conditions are
19 satisfied:

20 (i) The financial emergency in the local government has
21 created a circumstance in which it is reasonable and necessary for
22 the state to intercede to serve a significant and legitimate public
23 purpose.

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

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

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

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

13 (m) If a municipal government's pension fund is not
14 actuarially funded at a level of 80% or more, according to the most
15 recent governmental accounting standards board's applicable
16 standards, at the time the most recent comprehensive annual
17 financial report for the municipal government or its pension fund
18 was due, the emergency manager **OR FINANCIAL MANAGEMENT TEAM** may
19 remove 1 or more of the serving trustees of the local pension board
20 or, if the state treasurer appoints the emergency manager **OR**
21 **FINANCIAL MANAGEMENT TEAM** as the sole trustee of the local pension
22 board, replace all the serving trustees of the local pension board.
23 For the purpose of determining the pension fund level under this
24 subdivision, the valuation ~~shall~~**MUST** exclude the net value of
25 pension bonds or evidence of indebtedness. The annual actuarial
26 valuation for the municipal government's pension fund ~~shall~~**MUST**
27 use the actuarial accrued liabilities and the actuarial value of

1 assets. If a pension fund uses the aggregate actuarial cost method
2 or a method involving a frozen accrued liability, the retirement
3 system actuary shall use the entry age normal actuarial cost
4 method. If the emergency manager **OR FINANCIAL MANAGEMENT TEAM**
5 serves as sole trustee of the local pension board, all of the
6 following apply:

7 (i) The emergency manager **OR FINANCIAL MANAGEMENT TEAM** shall
8 assume and exercise the authority and fiduciary responsibilities of
9 the local pension board including, to the extent applicable,
10 setting and approval of all actuarial assumptions for pension
11 obligations of a municipal government to the local pension fund.

12 (ii) The emergency manager **OR FINANCIAL MANAGEMENT TEAM** shall
13 fully comply with the public employee retirement system investment
14 act, 1965 PA 314, MCL 38.1132 to ~~38.1140m~~, **38.1141**, and section 24
15 of article IX of the state constitution of 1963, and any actions
16 taken ~~shall~~ **MUST** be consistent with the pension fund's qualified
17 plan status under the federal internal revenue code.

18 (iii) The emergency manager **OR FINANCIAL MANAGEMENT TEAM** shall
19 not make changes to a local pension fund without identifying the
20 changes and the costs and benefits associated with the changes and
21 receiving the state treasurer's approval for the changes. If a
22 change includes the transfer of funds from 1 pension fund to
23 another pension fund, the valuation of the pension fund receiving
24 the transfer must be actuarially funded at a level of 80% or more,
25 according to the most recent governmental accounting standards
26 board's applicable standards, at the time the most recent
27 comprehensive annual financial report for the municipal government

1 was due.

2 (iv) The emergency manager's **OR FINANCIAL MANAGEMENT TEAM'S**
3 assumption and exercise of the authority and fiduciary
4 responsibilities of the local pension board shall end not later
5 than the termination of the receivership of the municipal
6 government as provided in this act.

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

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

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

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

19 (q) An emergency manager **OR FINANCIAL MANAGEMENT TEAM** may
20 initiate court proceedings in the Michigan court of claims or in
21 the circuit court of the county in which the local government is
22 located in the name of the local government to enforce compliance
23 with any of his or her orders or any constitutional or legislative
24 mandates, or to restrain violations of any constitutional or
25 legislative power or his or her orders.

26 (r) Subject to section 19, if provided in the financial and
27 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 34 of article
15 IX of the state constitution of 1963, and any other applicable
16 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

1 entities to restructure debt on terms, at rates of interest, and
2 with security as ~~shall be~~ **IS** agreed among the parties, subject to
3 approval by the state treasurer.

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

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

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

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

25 (cc) For municipal governments, with approval of the governor,
26 disincorporate or dissolve the municipal government and assign its
27 assets, debts, and liabilities as provided by law. The

1 disincorporation or dissolution of the local government is subject
2 to a vote of the electors of that local government if required by
3 law.

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

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

10 (ii) The fourth class city act, 1895 PA 215, MCL 81.1 to
11 113.20.

12 (iii) The charter township act, 1947 PA 359, MCL 42.1 to
13 42.34.

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

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

16 (vi) The general law village act, 1895 PA 3, MCL 61.1 to
17 74.25.

18 (vii) The home rule village act, 1909 PA 278, MCL 78.1 to
19 78.28.

20 (viii) The revised school code, 1976 PA 451, MCL 380.1 to
21 380.1852.

22 (ix) The state school aid act of 1979, 1979 PA 94, MCL
23 388.1601 to 388.1896.

24 (ee) Take any other action or exercise any power or authority
25 of any officer, employee, department, board, commission, or other
26 similar entity of the local government, whether elected or
27 appointed, relating to the operation of the local government. The

1 power of the emergency manager ~~shall be~~ **OR FINANCIAL MANAGEMENT**
 2 **TEAM IS** superior to and ~~supersede~~ **SUPERSEDES** the power of any of
 3 the foregoing officers or entities.

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

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

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

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

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

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 **OR A FINANCIAL MANAGEMENT TEAM** has reduced,
13 suspended, or eliminated the salary, wages, or other compensation
14 of the chief administrative officer and members of the governing
15 body of a local government before ~~the effective date of this act,~~
16 **MARCH 28, 2013**, the reduction, suspension, or elimination is valid
17 to the same extent had it occurred after ~~the effective date of this~~
18 ~~act.~~ **MARCH 28, 2013**. The emergency manager **OR FINANCIAL MANAGEMENT**
19 **TEAM** may restore, in whole or in part, any of the salary, wages,
20 other compensation, or benefits of the chief administrative officer
21 and members of the governing body during the pendency of the
22 receivership, for such time and on such terms as the emergency
23 manager **OR FINANCIAL MANAGEMENT TEAM** considers appropriate, to the
24 extent that the emergency manager **OR FINANCIAL MANAGEMENT TEAM**
25 finds that the restoration of salary, wages, compensation, or
26 benefits is consistent with the financial and operating plan.

27 Sec. 14. In addition to the actions otherwise authorized in

1 this act, an emergency manager **OR A FINANCIAL MANAGEMENT TEAM** for a
2 school district may take 1 or more of the following additional
3 actions with respect to a school district that is in receivership:

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

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

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

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

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

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

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

4 Sec. 15. (1) Unless the potential sale and value of an asset
5 is included in the emergency manager's **OR FINANCIAL MANAGEMENT**
6 **TEAM'S** financial and operating plan, the emergency manager **OR**
7 **FINANCIAL MANAGEMENT TEAM** shall not sell an asset of the local
8 government valued at more than \$50,000.00 without the state
9 treasurer's approval.

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

17 Sec. 16. An emergency manager **OR A FINANCIAL MANAGEMENT TEAM**
18 shall, on his, ~~or~~her, **OR ITS** own or upon the advice of the local
19 inspector if a local inspector has been retained, make a
20 determination as to whether possible criminal conduct contributed
21 to the financial situation resulting in the local government's
22 receivership status. If the emergency manager **OR FINANCIAL**
23 **MANAGEMENT TEAM** determines that there is reason to believe that
24 criminal conduct has occurred, the **EMERGENCY** manager **OR FINANCIAL**
25 **MANAGEMENT TEAM** shall refer the matter to the attorney general and
26 the local prosecuting attorney for investigation.

27 Sec. 17. Beginning 6 months after an emergency manager's **OR A**

1 **FINANCIAL MANAGEMENT TEAM'S** appointment, and every 3 months
2 thereafter, an emergency manager **OR A FINANCIAL MANAGEMENT TEAM**
3 shall submit to the governor, the state treasurer, the senate
4 majority leader, the speaker of the house of representatives, each
5 state senator and state representative who represents the local
6 government that is in receivership, and the clerk of the local
7 government that is in receivership, and shall post on the internet
8 on the website of the local government, a report that contains all
9 of the following:

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

13 (b) A list of each contract that the emergency manager **OR**
14 **FINANCIAL MANAGEMENT TEAM** awarded or approved with a cumulative
15 value of \$5,000.00 or more, including the purpose of the contract
16 and the identity of the contractor.

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

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

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

24 (f) A copy of the contract with the emergency manager as
25 provided in section 9(3)(e), **OR A COPY OF THE CONTRACT WITH EACH**
26 **MEMBER OF THE FINANCIAL MANAGEMENT TEAM AS PROVIDED IN SECTION 9A.**

27 (g) The salary and benefits of the emergency manager **OR THE**

1 **SALARY AND BENEFITS FOR EACH MEMBER OF THE FINANCIAL MANAGEMENT**
 2 **TEAM.**

3 (h) The financial and operating plan.

4 Sec. 18. (1) If, in the judgment of the emergency manager **OR**
 5 **FINANCIAL MANAGEMENT TEAM**, no reasonable alternative to rectifying
 6 the financial emergency of the local government which is in
 7 receivership exists, then the emergency manager **OR FINANCIAL**
 8 **MANAGEMENT TEAM** may recommend to the governor and the state
 9 treasurer that the local government be authorized to proceed under
 10 chapter 9. If the governor approves of the recommendation, the
 11 governor shall inform the state treasurer and the emergency manager
 12 **OR FINANCIAL MANAGEMENT TEAM** in writing of the decision, with a
 13 copy to the superintendent of public instruction if the local
 14 government is a school district. The governor may place
 15 contingencies on a local government in order to proceed under
 16 chapter 9. Upon receipt of the written approval, the emergency
 17 manager **OR FINANCIAL MANAGEMENT TEAM** is authorized to proceed under
 18 chapter 9. This section empowers the local government for which an
 19 emergency manager **OR A FINANCIAL MANAGEMENT TEAM** has been appointed
 20 to become a debtor under title 11 of the United States Code, 11 USC
 21 101 to 1532, as required by section 109 of title 11 of the United
 22 States Code, 11 USC 109, and empowers the emergency manager **OR**
 23 **FINANCIAL MANAGEMENT TEAM** to act exclusively on the local
 24 government's behalf in any such case under chapter 9.

25 (2) The recommendation to the governor and the state treasurer
 26 under subsection (1) ~~shall~~ **MUST** include 1 of the following:

27 (a) A determination by the emergency manager **OR FINANCIAL**

1 **MANAGEMENT TEAM** that no feasible financial plan can be adopted that
2 can satisfactorily rectify the financial emergency of the local
3 government in a timely manner.

4 (b) A determination by the emergency manager **OR FINANCIAL**
5 **MANAGEMENT TEAM** that a plan, in effect for at least 180 days,
6 cannot be implemented as written or as it might be amended in a
7 manner that can satisfactorily rectify the financial emergency in a
8 timely manner.

9 (3) The emergency manager **OR FINANCIAL MANAGEMENT TEAM** shall
10 provide a copy of the recommendation as provided under subsection
11 (1) to the superintendent of public instruction if the local
12 government is a school district.

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

1 \$50,000.00 or more.

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

24 Sec. 20. (1) An emergency manager, **OR EACH MEMBER OF A**
25 **FINANCIAL MANAGEMENT TEAM**, is immune from liability as provided in
26 section 7(5) of 1964 PA 170, MCL 691.1407. A person employed by an
27 emergency manager **OR A FINANCIAL MANAGEMENT TEAM** is immune from

1 liability as provided in section 7(2) of 1964 PA 170, MCL 691.1407.

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

4 (a) The validity of this act.

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

7 (c) The authority of an emergency manager **OR A FINANCIAL**
8 **MANAGEMENT TEAM** if the emergency manager **OR FINANCIAL MANAGEMENT**
9 **TEAM** is or was acting within the scope of authority for an
10 emergency manager **OR A FINANCIAL MANAGEMENT TEAM** under this act.

11 (3) With respect to any aspect of a receivership under this
12 act, the costs incurred by the attorney general in carrying out the
13 responsibilities of subsection (2) for attorneys, experts, court
14 filing fees, and other reasonable and necessary expenses ~~shall be~~
15 **ARE** at the expense of the local government that is subject to that
16 receivership and ~~shall~~ **MUST** be reimbursed to the attorney general
17 by the local government. The failure of a municipal government that
18 is or was in receivership to remit to the attorney general the
19 costs incurred by the attorney general within 30 days after written
20 notice to the municipal government from the attorney general of the
21 costs is a debt owed to this state and ~~shall~~ **MUST** be recovered by
22 the state treasurer as provided in section 17a(5) of the Glenn
23 Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.917a.
24 The failure of a school district that is or was in receivership to
25 remit to the attorney general the costs incurred by the attorney
26 general within 30 days after written notice to the school district
27 from the attorney general of the costs is a debt owed to this state

1 and ~~shall~~**MUST** be recovered by the state treasurer as provided in
2 the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to
3 388.1896.

4 (4) An emergency manager **OR A FINANCIAL MANAGEMENT TEAM** may
5 procure and maintain, at the expense of the local government for
6 which the emergency manager **OR FINANCIAL MANAGEMENT TEAM** is
7 appointed, worker's compensation, general liability, professional
8 liability, and motor vehicle insurance for the emergency manager **OR**
9 **ANY MEMBER OF THE FINANCIAL MANAGEMENT TEAM** and any employee,
10 agent, appointee, or contractor of the emergency manager **OR**
11 **FINANCIAL MANAGEMENT TEAM** as may be provided to elected officials,
12 appointed officials, or employees of the local government. The
13 insurance procured and maintained by an emergency manager **OR A**
14 **FINANCIAL MANAGEMENT TEAM** may extend to any claim, demand, or
15 lawsuit asserted or costs recovered against the emergency manager
16 **OR ANY MEMBER OF THE FINANCIAL MANAGEMENT TEAM** and any employee,
17 agent, appointee, or contractor of the emergency manager **OR**
18 **FINANCIAL MANAGEMENT TEAM** from the date of appointment of the
19 emergency manager **OR FINANCIAL MANAGEMENT TEAM** to the expiration of
20 the applicable statute of limitation if the claim, demand, or
21 lawsuit asserted or costs recovered against the emergency manager
22 **OR FINANCIAL MANAGEMENT TEAM** or any employee, agent, appointee, or
23 contractor of the emergency manager **OR FINANCIAL MANAGEMENT TEAM**
24 resulted from conduct of the emergency manager **OR FINANCIAL**
25 **MANAGEMENT TEAM** or any employee, agent, appointee, or contractor of
26 the emergency manager **OR FINANCIAL MANAGEMENT TEAM** taken in
27 accordance with this act during the emergency manager's **OR**

1 **FINANCIAL MANAGEMENT TEAM'S** term of service.

2 (5) If, after the date that the service of an emergency
3 manager **OR A FINANCIAL MANAGEMENT TEAM** is concluded, the emergency
4 manager **OR FINANCIAL MANAGEMENT TEAM** or any employee, agent,
5 appointee, or contractor of the emergency manager **OR FINANCIAL**
6 **MANAGEMENT TEAM** is subject to a claim, demand, or lawsuit arising
7 from an action taken during the service of that emergency manager
8 **OR FINANCIAL MANAGEMENT TEAM**, and not covered by a procured
9 worker's compensation, general liability, professional liability,
10 or motor vehicle insurance, litigation expenses of the emergency
11 manager **OR FINANCIAL MANAGEMENT TEAM** or any employee, agent,
12 appointee, or contractor of the emergency manager **OR FINANCIAL**
13 **MANAGEMENT TEAM**, including attorney fees for civil and criminal
14 proceedings and preparation for reasonably anticipated proceedings,
15 and payments made in settlement of civil proceedings both filed and
16 anticipated, ~~shall~~ **MUST** be paid out of the funds of the local
17 government that is or was subject to the receivership administered
18 by that emergency manager **OR FINANCIAL MANAGEMENT TEAM**, provided
19 that the litigation expenses are approved by the state treasurer
20 and that the state treasurer determines that the conduct resulting
21 in actual or threatened legal proceedings that is the basis for the
22 payment is based upon both of the following:

23 (a) The scope of authority of the person or entity seeking the
24 payment.

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

27 (6) The failure of a municipal government to honor and remit

1 the legal expenses of a former emergency manager **OR FINANCIAL**
2 **MANAGEMENT TEAM** or any employee, agent, appointee, or contractor of
3 the emergency manager **OR FINANCIAL MANAGEMENT TEAM** as required by
4 this section is a debt owed to this state and ~~shall~~**MUST** be
5 recovered by the state treasurer as provided in section 17a(5) of
6 the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL
7 141.917a. The failure of a school district to honor and remit the
8 legal expenses of a former emergency manager **OR FINANCIAL**
9 **MANAGEMENT TEAM** or any employee, agent, appointee, or contractor of
10 the emergency manager **OR FINANCIAL MANAGEMENT TEAM** as required by
11 this section is a debt owed to this state and ~~shall~~**MUST** be
12 recovered by the state treasurer as provided in the state school
13 aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1896.

14 Sec. 21. (1) Before the termination of receivership and the
15 completion of the emergency manager's **OR FINANCIAL MANAGEMENT**
16 **TEAM'S** term, or if a **RECEIVERSHIP** transition advisory board is
17 appointed under section 23, then before the **RECEIVERSHIP** transition
18 advisory board is appointed, the emergency manager **OR FINANCIAL**
19 **MANAGEMENT TEAM** shall adopt and implement a 2-year budget,
20 including all contractual and employment agreements, for the local
21 government commencing with the termination of receivership.

22 (2) After the completion of the emergency manager's **OR**
23 **FINANCIAL MANAGEMENT TEAM'S** term and the termination of
24 receivership, the governing body of the local government shall not
25 amend the 2-year budget adopted under subsection (1) without the
26 approval of the state treasurer, and shall not revise any order or
27 ordinance implemented by the emergency manager **OR FINANCIAL**

1 **MANAGEMENT TEAM** during ~~his or her~~ **THE** term prior to 1 year after
2 the termination of receivership.

3 Sec. 22. (1) If an emergency manager **OR A FINANCIAL MANAGEMENT**
4 **TEAM** determines that the financial emergency that ~~he or she~~ **THE**
5 **EMERGENCY MANAGER OR FINANCIAL MANAGEMENT TEAM** was appointed to
6 manage has been rectified, the emergency manager **OR FINANCIAL**
7 **MANAGEMENT TEAM** shall inform the governor and the state treasurer.

8 (2) If the governor disagrees with the emergency manager's **OR**
9 **FINANCIAL MANAGEMENT TEAM'S** determination that the financial
10 emergency has been rectified, the governor shall inform the
11 emergency manager **OR FINANCIAL MANAGEMENT TEAM** and the term of the
12 emergency manager **OR FINANCIAL MANAGEMENT TEAM** shall continue or
13 the governor shall **BEFORE THE EFFECTIVE DATE OF THE AMENDATORY ACT**
14 **THAT ADDED SECTION 9A** appoint a new emergency manager **OR BEGINNING**
15 **ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 9A**
16 **APPOINT A NEW FINANCIAL MANAGEMENT TEAM.**

17 (3) Subject to subsection (4), if the governor agrees that the
18 financial emergency has been rectified, the emergency manager **OR**
19 **FINANCIAL MANAGEMENT TEAM** has adopted a 2-year budget as required
20 under section 21, and the financial conditions of the local
21 government have been corrected in a sustainable fashion as required
22 under section 9(7) **OR 9A(16)**, the governor may do either of the
23 following:

24 (a) Remove the local government from receivership.

25 (b) Appoint a receivership transition advisory board as
26 provided in section 23.

27 (4) Before removing a local government from receivership, the

1 governor may impose 1 or more of the following conditions on the
2 local government:

3 (a) The implementation of financial best practices within the
4 local government.

5 (b) The adoption of a model charter or model charter
6 provisions.

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

9 Sec. 24. The governor may, upon his or her own initiative or
10 after receiving a recommendation from a receivership transition
11 advisory board, determine that the financial conditions of a local
12 government have not been corrected in a sustainable fashion as
13 required under section 9(7) **OR 9A(16)** and **BEFORE THE EFFECTIVE DATE**
14 **OF THE AMENDATORY ACT THAT ADDED SECTION 9A** appoint a new emergency
15 manager **OR BEGINNING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT**
16 **THAT ADDED SECTION 9A APPOINT A NEW FINANCIAL MANAGEMENT TEAM.**

17 Sec. 27. (1) The local elected and appointed officials and
18 employees, agents, and contractors of a local government shall
19 promptly and fully provide the assistance and information necessary
20 and properly requested by the state financial authority, a review
21 team, or the emergency manager **OR FINANCIAL MANAGEMENT TEAM** in the
22 effectuation of their duties and powers and of the purposes of this
23 act. If the review team or emergency manager **OR FINANCIAL**
24 **MANAGEMENT TEAM** believes that a local elected or appointed official
25 or employee, agent, or contractor of the local government is not
26 answering questions accurately or completely or is not furnishing
27 information requested, the review team or emergency manager **OR**

1 **FINANCIAL MANAGEMENT TEAM** may issue subpoenas and administer oaths
2 to the local elected or appointed official or employee, agent, or
3 contractor to furnish answers to questions or to furnish documents
4 or records, or both. If the local elected or appointed official or
5 employee, agent, or contractor refuses, the review team or
6 emergency manager **OR FINANCIAL MANAGEMENT TEAM** may bring an action
7 in the circuit court in which the local government is located or
8 the Michigan court of claims, as determined by the review team or
9 emergency manager **OR FINANCIAL MANAGEMENT TEAM**, to compel testimony
10 and furnish records and documents. An action in mandamus may be
11 used to enforce this section.

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

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

27 Sec. 28. This act does not give the emergency manager **OR**

1 **FINANCIAL MANAGEMENT TEAM** or the state financial authority the
2 power to impose taxes, over and above those already authorized by
3 law, without the approval at an election of a majority of the
4 qualified electors voting on the question.

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