

SUBSTITUTE FOR
HOUSE BILL NO. 4214

A bill to safeguard the continued financial viability of units of local government, including school districts; to preserve the capacity of units of local government to provide necessary services essential to the public health, safety, and welfare; to provide for review, management, planning, and control of the financial operation of units of local government, including school districts; to provide criteria to be used in determining the financial condition of units of local government, including school districts; to permit a declaration of the existence of a local government financial emergency and to prescribe the powers and duties of the governor, other state departments, boards, agencies, officials, and employees, and officials and employees of units of local government, including school districts; to provide for placing units of local government, including school districts, into state

receivership; to provide for a review and appeal process; to provide for the appointment and to prescribe the powers and duties of an emergency manager; to require the development of financial plans to regulate expenditures and investments by units of local government, including school districts, in a state of financial stress or financial emergency; to provide for the modification or termination of contracts under certain circumstances; to set forth the conditions for termination of a local government financial emergency; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "local
2 government and school district fiscal accountability act".

3 Sec. 3. The legislature hereby determines that the health,
4 safety, and welfare of the citizens of this state would be
5 materially and adversely affected by the insolvency of units of
6 local government, including certain school districts, and that the
7 survival and financial viability of units of local government is
8 vitally necessary to the interests of the citizens of this state to
9 assure the provision of necessary governmental services essential
10 to public health, safety, and welfare. The legislature further
11 determines that it is vitally necessary to protect the credit of
12 this state and its political subdivisions and that it is necessary
13 for the public good and it is a valid public purpose for this state
14 to take action and to assist a unit of local government in a
15 condition of financial stress or financial emergency so as to
16 remedy the stress or emergency by requiring prudent fiscal
17 management, permitting the restructuring of contractual

1 obligations, and prescribing the powers and duties of state and
2 local government officials and emergency managers. The legislature,
3 therefore, determines that the authority and powers conferred by
4 this act constitute a necessary program and serve a valid public
5 purpose.

6 Sec. 5. As used in this act:

7 (a) "Chief administrative officer" means any of the following:

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

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

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

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

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

22 (vi) The superintendent of a school district.

23 (b) "Emergency manager" or "manager" means the emergency
24 manager appointed under section 15.

25 (c) "Local government" means a municipal government or a
26 school district.

27 (d) "Local inspector" means a certified forensic accountant,

1 certified public accountant, attorney, or similarly credentialed
2 person whose responsibility it is to determine the existence of
3 proper internal and management controls, fraud, criminal activity,
4 or any other accounting or management deficiencies.

5 (e) "Municipal government" means a city, a village, a
6 township, a charter township, a county, an authority established by
7 law, or a public utility owned by a city, village, township, or
8 county.

9 (f) "Review team" means a review team designated under section
10 12.

11 (g) "School board" means the governing body of a school
12 district.

13 (h) "School district" means a school district, an intermediate
14 school district, or a public school academy as those terms are
15 defined in the revised school code, 1976 PA 451, MCL 380.1 to
16 380.1852.

17 (i) "State financial authority" means the following:

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

19 (ii) For a school district, the superintendent of public
20 instruction.

21 Sec. 12. (1) The state financial authority of a local
22 government may conduct a preliminary review to determine the
23 existence of a local government financial problem if 1 or more of
24 the following occur:

25 (a) The governing body or the chief administrative officer of
26 a local government requests a preliminary review under this act.
27 The request shall be in writing and shall identify the existing or

1 anticipated financial conditions or events that make the request
2 necessary.

3 (b) The state financial authority receives a written request
4 from a creditor with an undisputed claim that remains unpaid 6
5 months after its due date against the local government that exceeds
6 the greater of \$10,000.00 or 1% of the annual general fund budget
7 of the local government, provided that the creditor notifies the
8 local government in writing at least 30 days before his or her
9 request to the state financial authority of his or her intention to
10 submit a written request under this subdivision.

11 (c) The state financial authority receives a petition
12 containing specific allegations of local government financial
13 distress signed by a number of registered electors residing within
14 the local government's jurisdiction equal to not less than 5% of
15 the total vote cast for all candidates for governor within the
16 local government's jurisdiction at the last preceding election at
17 which a governor was elected. Petitions shall not be filed under
18 this subdivision within 60 days before any election of the local
19 government.

20 (d) The state financial authority receives written
21 notification that a local government has not timely deposited its
22 minimum obligation payment to the local government pension fund as
23 required by law.

24 (e) The state financial authority receives written
25 notification that the local government has failed for a period of 7
26 days or more after the scheduled date of payment to pay wages and
27 salaries or other compensation owed to employees or benefits owed

1 to retirees.

2 (f) The state financial authority receives written
3 notification from a trustee, paying agent, bondholder, or auditor
4 engaged by the local government of a default in a bond or note
5 payment or a violation of 1 or more bond or note covenants.

6 (g) The state financial authority of a local government
7 receives a resolution from either the senate or the house of
8 representatives requesting a preliminary review under this section.

9 (h) The local government has violated a requirement of, or a
10 condition of an order issued pursuant to, former 1943 PA 202, the
11 revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, the
12 revised municipal finance act, 2001 PA 34, MCL 141.2101 to
13 141.2821, or any other law governing the issuance of bonds or
14 notes.

15 (i) A municipal government has violated the conditions of an
16 order issued by the local emergency financial assistance loan board
17 pursuant to the emergency municipal loan act, 1980 PA 243, MCL
18 141.931 to 141.942.

19 (j) The local government has violated a requirement of
20 sections 17 to 20 of the uniform budgeting and accounting act, 1968
21 PA 2, MCL 141.437 to 141.440.

22 (k) The local government fails to timely file an annual
23 financial report or audit that conforms with the minimum procedures
24 and standards of the state financial authority and is required for
25 local governments under the uniform budgeting and accounting act,
26 1968 PA 2, MCL 141.421 to 141.440a, or 1919 PA 71, MCL 21.41 to
27 21.55. In addition, if the local government is a school district,

House Bill No. 4214 (H-2) as amended February 22, 2011

1 the school district fails to provide an annual financial report or
2 audit that conforms with the minimum procedures and standards of
3 the superintendent of public instruction and is required under the
4 revised school code, 1976 PA 451, MCL 380.1 to 380.1852, and the
5 state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772.

6 (l) A municipal government is delinquent in the distribution of
7 tax revenues, as required by law, that it has collected for another
8 taxing jurisdiction, and that taxing jurisdiction requests a
9 preliminary review.

10 (m) A local government is in breach of its obligations under a
11 deficit elimination plan or an agreement entered into pursuant to a
12 deficit elimination plan.

13 (n) A court has ordered an additional tax levy without the
14 prior approval of the governing body of the local government.

15 (o) A municipal government has ended a fiscal year in a
16 deficit condition as defined in section 21 of the Glenn Steil state
17 revenue sharing act of 1971, 1971 PA 140, MCL 141.921, or has
18 failed to comply with the requirements of that section for filing
19 or instituting a financial plan to correct the deficit condition.

20 (p) A school district ended its most recently completed fiscal
21 year with a deficit in 1 or more of its funds and the school
22 district has not submitted a deficit elimination plan to the state
23 financial authority within [30 days] after the district's deadline
24 for submission of its annual financial statement.

25 (q) A local government has been assigned a long-term debt
26 rating within or below the BBB category or its equivalent by 1 or
27 more nationally recognized credit rating agencies.

1 (r) The existence of other facts or circumstances that in the
2 state treasurer's sole discretion for a municipal government are
3 indicative of municipal financial stress, or, that in the
4 superintendent of public instruction's sole discretion for a school
5 district are indicative of school district financial stress.

6 (2) If the state financial authority determines that a
7 preliminary review is appropriate under this section, before
8 commencing the preliminary review the state financial authority
9 shall give the local government specific written notification of
10 the review. The preliminary review shall be completed within 30
11 days following its commencement. Elected and appointed officials of
12 a local government shall promptly and fully provide the assistance
13 and information requested by the state financial authority for that
14 local government in conducting the preliminary review.

15 (3) If a finding of probable financial stress is made for a
16 municipal government under subsection (2), the governor shall
17 appoint a review team for that municipal government consisting of
18 the state treasurer or his or her designee, the director of the
19 department of technology, management, and budget or his or her
20 designee, a nominee of the senate majority leader, and a nominee of
21 the speaker of the house of representatives. The governor may
22 appoint other state officials or other persons with relevant
23 professional experience to serve on a review team to undertake a
24 municipal financial management review.

25 (4) If a finding of probable financial stress is made for a
26 school district under subsection (2), the governor shall appoint a
27 review team for that school district consisting of the state

1 treasurer or his or her designee, the superintendent of public
2 instruction or his or her designee, the director of the department
3 of technology, management, and budget or his or her designee, a
4 nominee of the senate majority leader, and a nominee of the speaker
5 of the house of representatives. The governor may appoint other
6 state officials or other persons with relevant professional
7 experience to serve on a review team to undertake a school district
8 financial management review.

9 (5) The department of treasury shall provide staff support to
10 each review team.

11 (6) A review team appointed under former 1988 PA 101 or former
12 1990 PA 72 and serving on the effective date of this act shall
13 continue under this act to fulfill their powers and duties. All
14 proceedings and actions taken by the governor, the state treasurer,
15 or a review team under former 1988 PA 101 or former 1990 PA 72
16 before the effective date of this act are ratified and are
17 enforceable as if the proceedings and actions were taken under this
18 act, and a consent agreement entered into under former 1988 PA 101
19 or 1990 PA 72 is ratified and is binding and enforceable under this
20 act.

21 Sec. 13. (1) The review team shall have full power in its
22 review to perform all of the following functions:

23 (a) Examine the books and records of the local government.

24 (b) Utilize the services of other state agencies and
25 employees.

26 (c) Negotiate and sign a consent agreement with the chief
27 administrative officer of the local government. The consent

1 agreement may provide for remedial measures considered necessary to
2 address the local financial problem and provide for the financial
3 stability of the local government and may include either a
4 continuing operations plan or recovery plan as described in section
5 14a. The consent agreement may utilize state financial management
6 and technical assistance as necessary in order to alleviate the
7 local financial problem. The consent agreement shall also provide
8 for periodic financial status reports to the state financial
9 authority. In order for the consent agreement to go into effect, it
10 shall be approved, by resolution, by the governing body of the
11 local government and shall be approved and executed by the state
12 financial authority. A consent agreement shall provide that in the
13 event of a material uncured breach of the consent agreement, the
14 state treasurer, with the concurrence of the superintendent of
15 public instruction if the local government is a school district, is
16 authorized to place the local government in receivership as
17 provided under section 15.

18 (2) The review team shall meet with the local government as
19 part of its review. At this meeting, the review team shall receive,
20 discuss, and consider information provided by the local government
21 concerning the financial condition of the local government.

22 (3) The review team shall report its findings to the governor,
23 with a copy to the state financial authority, within 60 days
24 following the appointment of the review team under section 12 or
25 earlier if required by the governor or the state financial
26 authority. Upon request, the governor may grant one 30-day
27 extension of this 60-day time limit. A copy of the report shall be

1 forwarded by the state treasurer to the chief administrative
2 officer and the governing body of the local government, the speaker
3 of the house of representatives, the senate majority leader, and
4 the superintendent of public instruction if the local government is
5 a school district. The report shall include the existence, or an
6 indication of the likely occurrence, of any of the following:

7 (a) A default in the payment of principal or interest upon
8 bonded obligations, notes, or other municipal securities for which
9 no funds or insufficient funds are on hand and, if required,
10 segregated in a special trust fund.

11 (b) Failure for a period of 30 days or more beyond the due
12 date to transfer 1 or more of the following to the appropriate
13 agency:

14 (i) Taxes withheld on the income of employees.

15 (ii) For a municipal government, taxes collected by the
16 municipal government as agent for another governmental unit, school
17 district, or other entity or taxing authority.

18 (iii) Any contribution required by a pension, retirement, or
19 benefit plan.

20 (c) Failure for a period of 7 days or more after the scheduled
21 date of payment to pay wages and salaries or other compensation
22 owed to employees or benefits owed to retirees.

23 (d) The total amount of accounts payable for the current
24 fiscal year, as determined by the state financial authority's
25 uniform chart of accounts, is in excess of 10% of the total
26 expenditures of the local government in that fiscal year.

27 (e) Failure to eliminate an existing deficit in any fund of

1 the local government within the 2-year period preceding the end of
2 the local government's fiscal year during which the review team
3 report is received.

4 (f) Projection of a deficit in the general fund of the local
5 government for the current fiscal year in excess of 5% of the
6 budgeted revenues for the general fund.

7 (g) Failure to comply in all material respects with the terms
8 of an approved deficit elimination plan or an agreement entered
9 into pursuant to a deficit elimination plan.

10 (h) Existence of material loans to the general fund from other
11 local government funds.

12 (i) Existence of material recurring unbudgeted subsidies from
13 the general fund to other major funds as defined under government
14 accounting standards board principles.

15 (j) Existence of a structural operating deficit.

16 (k) Use of restricted revenues for purposes not authorized by
17 law.

18 (l) Any other facts and circumstances indicative of local
19 government financial stress or financial emergency.

20 (4) The review team shall include 1 of the following
21 conclusions in its report:

22 (a) The local government is not in financial stress or is in a
23 condition of mild financial stress as provided in section 14.

24 (b) The local government is in a condition of severe financial
25 stress as provided in section 14, but a consent agreement
26 containing a plan to resolve the problem has been adopted pursuant
27 to subsection (1)(c).

1 (c) The local government is in a condition of severe financial
2 stress as provided in section 14, and a consent agreement has not
3 been adopted pursuant to subsection (1)(c).

4 (d) A financial emergency exists as provided in section 14 and
5 no satisfactory plan exists to resolve the emergency.

6 (5) The review team may appoint an individual or firm to carry
7 out the review and submit a report to the review team for approval.
8 The department of treasury may enter into a contract with the
9 individual or firm respecting the terms and conditions of the
10 appointment.

11 Sec. 14. (1) For purposes of this act, a local government is
12 considered to be in a condition of no financial stress or mild
13 financial stress if the report required in section 13 concludes
14 that none of the factors in section 13(3) exist or are likely to
15 occur within the current or next succeeding fiscal year or, if they
16 occur, do not threaten the local government's capability to provide
17 necessary governmental services essential to public health, safety,
18 and welfare.

19 (2) For purposes of this act, a local government is considered
20 to be in a condition of severe financial stress if either of the
21 following occurs:

22 (a) The report required in section 13 concludes that 1 or more
23 of the factors in section 13(3) exist or are likely to occur within
24 the current or next succeeding fiscal year and, if left
25 unaddressed, may threaten the local government's future capability
26 to provide necessary governmental services essential to the public
27 health, safety, and welfare.

1 (b) The chief administrative officer of the local government
2 recommends that the local government be considered in severe
3 financial stress.

4 (3) For purposes of this act, a local government is considered
5 to be in a condition of financial emergency if any of the following
6 occur:

7 (a) The report required in section 13 concludes that 2 or more
8 of the factors in section 13(3) exist or are likely to occur within
9 the current fiscal year and threaten the local government's current
10 and future capability to provide necessary governmental services
11 essential to the public health, safety, and welfare.

12 (b) The local government has failed to provide timely and
13 accurate information enabling the review team to complete its
14 report under section 13.

15 (c) The local government has failed to comply in all material
16 respects with a continuing operations plan or recovery plan, as
17 provided in section 14a, or with the terms of an approved deficit
18 elimination plan or an agreement entered into pursuant to a deficit
19 elimination plan.

20 (d) The local government is in material breach of a consent
21 agreement entered into under section 13(1)(c).

22 (e) The local government is in a condition of severe financial
23 stress as provided in subsection (2), and a consent agreement has
24 not been adopted pursuant to section 13(1)(c).

25 (f) The chief administrative officer of the local government,
26 based upon the existence or likely occurrence of 1 or more of the
27 factors in section 13(3), recommends that a financial emergency be

1 declared and the state treasurer, with the concurrence of the
2 superintendent of public instruction if the local government is a
3 school district, concurs with the recommendation.

4 Sec. 14a. (1) A consent agreement as provided in section
5 13(1)(c) may require a continuing operations plan or a recovery
6 plan if required by the state financial authority.

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

25 (3) The continuing operations plan shall be in a form
26 prescribed by the state financial authority, but shall, at a
27 minimum, include all of the following:

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

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

7 (c) An operating plan for the budget period that ensures
8 continued viability for the local government.

9 (d) A plan showing reasonable and necessary maintenance and
10 capital expenditures so as to ensure the local government's
11 continued viability.

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

16 (f) A provision for submitting quarterly compliance reports to
17 the state financial authority demonstrating compliance with the
18 continuing operations plan.

19 (4) If a continuing operations plan is approved for a local
20 government, the local government shall amend the budget and general
21 appropriations ordinance adopted by the local government under the
22 uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to
23 141.440a, to the extent necessary or advisable to give full effect
24 to the continuing operations plan. The chief administrative
25 officer, the chief financial officer, the governing body, and other
26 officials of the local government shall take and direct such
27 actions as may be necessary or advisable to maintain the local

1 government's operations in compliance with the continuing
2 operations plan.

3 (5) If the state financial authority requires that a consent
4 agreement include a recovery plan, the state financial authority
5 shall develop and adopt, in consultation with the review team if
6 desired by the state financial authority, a recovery plan. If a
7 recovery plan is developed and adopted for the local government,
8 the local government thereafter is required to file annual updates
9 to its recovery plan. The annual updates shall be included with the
10 annual filing of the local government's audit report with the state
11 financial authority as long as the recovery plan remains in effect.

12 (6) A recovery plan may include terms and provisions as may be
13 approved in the discretion of the state treasurer, including, but
14 not limited to, any 1 or more of the following:

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

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

21 (c) An operating plan for the budget period that ensures
22 continued viability for the local government.

23 (d) A plan showing reasonable and necessary maintenance and
24 capital expenditures so as to ensure the local government's
25 continued viability.

26 (e) An evaluation of costs associated with pension and
27 postemployment health care obligations for which the local

1 government is responsible and a plan for how those costs will be
2 addressed to ensure that current obligations are met and that steps
3 are taken to reduce future unfunded obligations.

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

8 (g) A provision for submitting quarterly compliance reports to
9 the state financial authority and the chief administrative officer
10 of the local government that demonstrates compliance with the
11 recovery plan.

12 (7) The recovery plan may include the appointment of a local
13 auditor or local inspector, or both, in accordance with section
14 19(1)(o).

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

1 in compliance with the recovery plan.

2 (9) The consent agreement may include a grant to the chief
3 administrative officer, the chief financial officer, the governing
4 body, or other officers of the local government by the state
5 financial authority of 1 or more of the powers prescribed for
6 emergency managers in section 19 for such periods and upon such
7 terms and conditions as the state financial authority considers
8 necessary or convenient, in the state financial authority's sole
9 discretion, to enable the local government to achieve the goals and
10 objectives of the consent agreement.

11 (10) The consent agreement may provide for the required
12 retention by the local government of a consultant for the purpose
13 of assisting the local government to achieve the goals and
14 objectives of the consent agreement.

15 (11) A local government is released from the requirements
16 under this section upon compliance with the consent agreement as
17 determined by the state financial authority.

18 Sec. 15. (1) Within 10 days after receipt of the report
19 provided for in section 13, the governor shall make 1 of the
20 following determinations:

21 (a) The local government is not in a condition of severe
22 financial stress.

23 (b) The local government is in a condition of severe financial
24 stress as provided in section 14, but a consent agreement
25 containing a plan to resolve the financial stress has been adopted
26 under this act.

27 (c) A local government financial emergency exists as provided

House Bill No. 4214 (H-2) as amended February 22, 2011

1 in section 14 and no satisfactory plan exists to resolve the
2 emergency.

[(d) The local government entered into a consent agreement
containing a continuing operations plan or recovery plan to resolve a
financial problem, but materially breached that consent agreement.]

3 (2) If the governor determines pursuant to subsection (1) that
4 a financial emergency exists, the governor shall provide the
5 governing body and chief administrative officer of the local
6 government with a written notification of the determination,
7 findings of fact utilized as the basis upon which this
8 determination was made, a concise and explicit statement of the
9 underlying facts supporting the factual findings, and notice that
10 the chief administrative officer or the governing body of the local
11 government has 7 days after the date of the notification to request
12 a hearing conducted by the state financial authority or the state
13 financial authority's designee. Following the hearing, or if no
14 hearing is requested following the expiration of the deadline by
15 which a hearing may be requested, the governor, in his or her sole
16 discretion based upon the record, shall either confirm or revoke,
17 in writing, the determination of the existence of a financial
18 emergency. If confirmed, the governor shall provide a written
19 report to the governing body and chief administrative officer of
20 the local government of the findings of fact of the continuing or
21 newly developed conditions or events providing a basis for the
22 confirmation of a financial emergency, and a concise and explicit
23 statement of the underlying facts supporting these factual
24 findings.

25 (3) A local government for which a financial emergency
26 determination under this section has been confirmed to exist may,
27 by resolution adopted by a vote of 2/3 of the members of its

1 governing body elected and serving, appeal this determination to
2 the Ingham county circuit court. The court shall not set aside a
3 determination of financial emergency by the governor unless it
4 finds that the determination is either of the following:

5 (a) Not supported by competent, material, and substantial
6 evidence on the whole record.

7 (b) Arbitrary, capricious, or clearly an abuse or unwarranted
8 exercise of discretion.

9 (4) Upon the confirmation of a finding of a financial
10 emergency, the state treasurer, with the concurrence of the
11 superintendent of public instruction if the local government is a
12 school district, shall declare the local government in receivership
13 and shall appoint an emergency manager to act for and in the place
14 and stead of the governing body and the office of chief
15 administrative officer of the local government. The emergency
16 manager shall have broad powers in receivership to rectify the
17 financial emergency and to preserve the local government's capacity
18 to provide necessary governmental services essential to the public
19 health, safety, and welfare. Upon the declaration of receivership
20 and during the pendency of receivership, the governing body and the
21 chief administrative officer of the local government may not
22 exercise any of the powers of those offices except as may be
23 specifically authorized in writing by the emergency manager and are
24 subject to any conditions required by the emergency manager.

25 (5) All of the following apply to an emergency manager:

26 (a) The emergency manager shall be chosen on the basis of
27 competence.

House Bill No. 4214 (H-2) as amended February 22, 2011

1 (b) The emergency manager may but need not be a resident of
2 the local government.

3 (c) The emergency manager may be an individual or firm. If an
4 emergency manager is a firm, the firm shall select an individual
5 employed by that firm to serve as a spokesperson and point of
6 contact to the public.

7 (d) The emergency manager, or at least 1 person within the
8 firm if the emergency manager is a firm, shall have attained a
9 degree in accounting, business, public administration, or a related
10 field from an accredited institution and have a minimum of 5 years'
11 experience in local or state budgetary or fiscal management.

12 (e) The emergency manager shall serve at the pleasure of the
13 state treasurer, with the concurrence of the superintendent of
14 public instruction if the local government is a school district.

15 (f) The emergency manager's compensation and reimbursement for
16 actual and necessary expenses shall be paid by the local government
17 and shall be set forth in a contract approved by the state
18 treasurer. [The contract shall be posted on the department of treasury's
website within 7 days after the contract is approved by the state
treasurer.]

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

23 (7) The emergency manager shall make quarterly reports to the
24 state treasurer with respect to the financial condition of the
25 local government in receivership, with a copy to the superintendent
26 of public instruction if the local government is a school district.

27 (8) The emergency manager shall continue in this capacity

1 until removed or replaced by the state treasurer, with the
2 concurrence of the superintendent of public instruction if the
3 local government is a school district, or until the financial
4 emergency is rectified.

5 (9) A local government shall be removed from receivership when
6 the financial conditions are corrected in a sustainable fashion as
7 determined by the state treasurer, with the concurrence of the
8 superintendent of public instruction if the local government is a
9 school district, in accordance with this act.

10 (10) The governor may delegate his or her duties under this
11 section to the state treasurer, with the concurrence of the
12 superintendent of public instruction if the local government is a
13 school district.

14 Sec. 16. An emergency financial manager appointed under former
15 1988 PA 101 or former 1990 PA 72, and serving on the effective date
16 of this act, shall continue under this act to fulfill his or her
17 powers and duties.

18 Sec. 17. (1) The emergency manager shall issue to the
19 appropriate officials or employees of the local government the
20 orders the manager considers necessary to accomplish the purposes
21 of this act, including, but not limited to, orders for the timely
22 and satisfactory implementation of a financial and operating plan
23 developed pursuant to section 18, including an academic plan for a
24 school district, or to take actions, or refrain from taking
25 actions, to enable the orderly accomplishment of the financial and
26 operating plan. An order issued under this section is binding on
27 the local officials or employees to whom it is issued.

1 (2) If an order of the emergency manager to officials or
2 employees of the local government under subsection (1) is not
3 reasonably carried out and the failure to carry out an order is
4 disrupting the emergency manager's ability to manage the local
5 government, the emergency manager, in addition to other remedies
6 provided in this act, may prohibit the official or employee from
7 access to the local government's office facilities, electronic
8 mail, and internal information systems.

9 Sec. 18. (1) The emergency manager shall develop and may amend
10 a written financial and operating plan for the local government.
11 The plan shall have the objectives of ensuring that the local
12 government is able to provide necessary governmental services
13 essential to the public health, safety, and welfare on an ongoing
14 and sustainable basis, and protecting the continued financial
15 viability of the local government. The financial and operating plan
16 shall provide for all of the following:

17 (a) Conducting all aspects of the operations of the local
18 government within the resources available according to the
19 emergency manager's revenue estimate.

20 (b) The payment in full of the scheduled debt service
21 requirements on all bonds, notes, and municipal securities of the
22 local government and all other uncontested legal obligations.

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

25 (d) The timely deposit of required payments to the pension
26 fund for the local government or in which the local government
27 participates.

1 (e) For school districts, an academic plan.

2 (f) Any other actions considered necessary by the emergency
3 manager in the emergency manager's discretion to achieve the
4 objectives of the financial and operating plan, alleviate the
5 financial emergency, and remove the local government from
6 receivership.

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

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

24 (4) The emergency manager, within 30 days of submitting the
25 financial and operating plan to the state financial authority,
26 shall conduct a public informational meeting on the plan and any
27 modifications to the plan. This subsection does not mean that the

1 emergency manager must receive public approval before he or she
2 implements the plan or any modification of the plan.

3 Sec. 19. (1) An emergency manager may take 1 or more of the
4 following additional actions with respect to a local government
5 which is in receivership, notwithstanding any provisions of law or
6 charter to the contrary:

7 (a) Analyze factors and circumstances contributing to the
8 financial emergency of the local government and initiate steps to
9 correct the condition.

10 (b) Amend, revise, approve, or disapprove the budget of the
11 local government, and limit the total amount appropriated or
12 expended.

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

17 (d) Require and approve or disapprove, or amend or revise a
18 plan for paying all outstanding obligations of the local
19 government.

20 (e) Require and prescribe the form of special reports to be
21 made by the finance officer of the local government to its
22 governing body, the creditors of the local government, the
23 emergency manager, or the public.

24 (f) Examine all records and books of account, and require
25 under the procedures of the uniform budgeting and accounting act,
26 1968 PA 2, MCL 141.421 to 141.440a, or 1919 PA 71, MCL 21.41 to
27 21.55, or both, the attendance of witnesses and the production of

1 books, papers, contracts, and other documents relevant to an
2 analysis of the financial condition of the local government.

3 (g) Make, approve, or disapprove any appropriation, contract,
4 expenditure, or loan, the creation of any new position, or the
5 filling of any vacancy in a permanent position by any appointing
6 authority.

7 (h) Review payrolls or other claims against the local
8 government before payment.

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

12 (j) Reject, modify, or terminate 1 or more terms and
13 conditions of an existing contract. After meeting and conferring
14 with the appropriate bargaining representative and, if in the
15 emergency manager's sole discretion and judgment, a prompt and
16 satisfactory resolution is unlikely to be obtained, reject, modify,
17 or terminate 1 or more terms and conditions of an existing
18 collective bargaining agreement. The rejection, modification, or
19 termination of 1 or more terms and conditions of an existing
20 collective bargaining agreement under this subdivision is a
21 legitimate exercise of the state's sovereign powers if the
22 emergency manager and state financial authority determine that all
23 of the following conditions are satisfied:

24 (i) The financial emergency in the local government has created
25 a circumstance in which it is reasonable and necessary for the
26 state to intercede to serve a significant and legitimate public
27 purpose.

House Bill No. 4214 (H-2) as amended February 22, 2011

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

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

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

14 (k) Act as sole agent of the local government in collective
15 bargaining with employees or representatives and approve any
16 contract or agreement.

17 (l) For municipal governments, if the municipal government's
18 pension fund [does not include any funds received from bonding and] is
19 not funded at a level of 80% or more according to
20 the most recent governmental accounting standard board's standards
21 at the time the most recent comprehensive annual financial report
22 for the municipal government was due, elect to have the municipal
23 government participate in the municipal employees retirement system
24 under the municipal employees retirement act of 1984, 1984 PA 427,
25 MCL 38.1501 to 38.1555, or elect to have the municipal government
26 participate in another retirement system governed under the public
27 employee retirement system investment act, 1965 PA 314, MCL 38.1132
to 38.1140m.

1 (m) Consolidate or eliminate departments of the local
2 government or transfer functions from 1 department to another and
3 appoint, supervise, and, at his or her discretion, remove
4 administrators, including heads of departments other than elected
5 officials.

6 (n) Employ or contract for, at the expense of the local
7 government and with the approval of the state financial authority,
8 auditors and other technical personnel considered necessary to
9 implement this act.

10 (o) Retain 1 or more persons or firms, which may be an
11 individual or firm selected from a list approved by the state
12 financial authority, to perform the duties of a local inspector or
13 a local auditor as described in this subdivision. The duties of a
14 local inspector are to ensure integrity, economy, efficiency, and
15 effectiveness in the operations of the local government by
16 conducting meaningful and accurate investigations and forensic
17 audits, and to detect and deter waste, fraud, and abuse. At least
18 annually, a report of the local inspector shall be submitted to the
19 emergency manager, the state treasurer, and the superintendent of
20 public instruction if the local government is a school district.
21 The duties of a local auditor are to ensure that internal controls
22 over local government operations are designed and operating
23 effectively to mitigate risks that hamper the achievement of the
24 emergency manager's financial plan, ensure that local government
25 operations are effective and efficient, ensure that financial
26 information is accurate, reliable, and timely, comply with
27 policies, regulations, and applicable laws, and ensure assets are

House Bill No. 4214 (H-2) as amended February 22, 2011

1 properly safeguarded. At least annually, a report of the local
2 auditor shall be submitted to the emergency manager, the state
3 treasurer, and the superintendent of public instruction if the
4 local government is a school district.

5 (p) Require compliance with his or her orders by court action
6 if necessary [in the circuit court in which the local government is
7 located or Ingham county circuit court].

8 (q) If provided in the financial and operating plan, or
9 otherwise with the prior written approval of the state treasurer in
10 the case of a municipal government or the superintendent of public
11 instruction in the case of a school district, sell, lease, convey,
12 or otherwise use the assets of the local government to meet past or
13 current obligations, provided the use of assets for this purpose
14 does not endanger the health, safety, or welfare of residents of
15 the local government.

16 (r) Apply for a loan from the state on behalf of the local
17 government, subject to the conditions of the emergency municipal
18 loan act, 1980 PA 243, MCL 141.931 to 141.942, in a sufficient
19 amount to pay the expenses of the emergency manager and for other
20 lawful purposes.

21 (s) Order, as necessary, 1 or more millage elections for the
22 local government consistent with the Michigan election law, 1954 PA
23 116, MCL 168.1 to 168.992, sections 6 and 25 through 34 of article
24 IX of the state constitution of 1963, and any other applicable
25 state law.

26 (t) Authorize the borrowing of money by the local government
27 as provided by law.

(u) Approve or disapprove of the issuance of obligations of

House Bill No. 4214 (H-2) as amended February 22, 2011
1 the local government on behalf of the local government.

2 (v) Enter into agreements with creditors for the payment of
3 existing debts, including the settlement of claims by the
4 creditors.

5 (w) Enter into agreements with creditors to restructure debt
6 on terms, at rates of interest, and with security as shall be
7 agreed among the parties, subject to approval by the state
8 treasurer.

9 (x) If the municipal government's pension fund [does not include
10 any funds received from bonding and] is not funded
11 at a level of 80% or more according to the most recent governmental
12 accounting standard board's standards at the time the most recent
13 comprehensive annual financial report for the municipal government
14 was due, to the extent applicable, set and approve all actuarial
15 assumptions for pension obligations of a municipal government to a
16 pension fund.

17 (y) Enter into agreements with other local governments, or
18 with private entities to the extent provided by law, for the
19 provision of services.

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

24 (aa) Enter into agreements with 1 or more other local
25 governments for the consolidation of services.

26 (bb) For a city, village, or township, may recommend to the
27 state boundary commission that the municipal government consolidate
with 1 or more other municipal governments, if the emergency

House Bill No. 4214 (H-2) as amended February 22, 2011

1 manager determines that consolidation would materially alleviate
2 the financial emergency of the municipal government and would not
3 materially and adversely affect the financial situation of the
4 government or governments with which the municipal government in
5 receivership is consolidated. Consolidation under this subdivision
6 shall proceed as provided by law.

7 (cc) For municipal governments, disincorporate or dissolve the
8 municipal government and assign its assets, debts, and liabilities
9 as provided by law.

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

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

16 (ii) The fourth class city act, 1895 PA 215, MCL 81.1 to
17 113.20.

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

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

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

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

22 (vii) The home rule village act, 1909 PA 278, MCL 78.1 to
23 78.28.

24 (viii) The revised school code, 1976 PA 451, MCL 380.1 to
25 380.1852.

26 (ee) If the municipal government's pension fund [does not include
27 any funds received from bonding and] is not funded
at a level of 80% or more according to the most recent governmental

House Bill No. 4214 (H-2) as amended February 22, 2011

1 accounting standard board's standards at the time the most recent
2 comprehensive annual financial report for the municipal government
3 was due, replace the serving trustees and assume and exercise the
4 authority and fiduciary responsibilities of a local pension board
5 as sole trustee of the pension fund of the municipal government if
6 appointed to that role by the state treasurer.

7 (ff) Remove any serving trustees of a local pension board if
8 the municipal government's pension fund [does not include any funds
9 received from bonding and] is not funded at a level of
10 80% or more according to the most recent governmental accounting
11 standard board's standards at the time the most recent
12 comprehensive annual financial report for the municipal government
13 was due.

14 (gg) Take any other action or exercise any power or authority
15 of any officer, employee, department, board, commission, or other
16 similar entity of the local government, whether elected or
17 appointed, relating to the operation of the local government. The
18 power of the emergency manager shall be superior to and supersede
19 the power of any of the foregoing entities.

20 (hh) Remove, replace, appoint, or confirm the appointments to
21 any board, commission, authority, or other entity which is a
22 component unit of the local government.

23 (2) Except as otherwise provided in this act, during the
24 pendency of the receivership, the authority of the chief
25 administrative officer and governing body to exercise power for and
26 on behalf of the local government under law and charter shall be
27 suspended.

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

27 Sec. 19a. Immediately upon the local government being placed

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

20 Sec. 20. In addition to the actions authorized in section 19,
21 an emergency manager for a school district may take 1 or more of
22 the following additional actions with respect to a school district
23 that is in receivership:

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

26 (b) Receive and disburse on behalf of the school district all
27 federal, state, and local funds earmarked for the school district.

House Bill No. 4214 (H-2) as amended February 22, 2011

1 These funds may include, but are not limited to, funds for specific
2 programs and the retirement of debt.

3 (c) Seek approval from the superintendent of public
4 instruction for a reduced class schedule in accordance with
5 administrative rules governing the distribution of state school
6 aid.

7 (d) Sell or otherwise use the assets of the school district to
8 meet past or current obligations, provided the use of assets for
9 this purpose does not impair the education of the pupils of the
10 school district. [The power under this subdivision includes the closing
11 of schools or other school buildings in the school district.]

12 (e) Approve or disapprove of the issuance of obligations of
13 the school district.

14 (f) Recommend to the governor, the legislature, and the
15 superintendent of public instruction that the school district be
16 reorganized with 1 or more contiguous school districts.

17 (g) Exercise solely, for and on behalf of the school district,
18 all other authority and responsibilities affecting the school
19 district that are prescribed by law to the school board and
20 superintendent of the school district.

[(h) Employ or contract for, at the expense of the school district
and with the approval of the state financial authority, school
administrators considered necessary to implement this act.]

Sec. 20c. Unless the potential sale and value of an asset is
included in the emergency manager's financial and operating plan prepared
under section 18, the emergency manager shall not sell an asset of the
local government valued at more than \$50,000.00 without the state
treasurer's approval.]

21 Sec. 21. The emergency manager shall, on his or her own or
22 upon the advice of the local inspector if a local inspector has
23 been retained, make a determination as to whether possible criminal
24 conduct contributed to the financial situation resulting in the
25 local government's receivership status. If the emergency manager
26 determines that there is reason to believe that criminal conduct
27 has occurred, the manager shall refer the matter to the attorney
general and the local prosecuting attorney for investigation.

House Bill No. 4214 (H-2) as amended February 22, 2011

1 Sec. 22. (1) An emergency manager appointed under this act
2 shall file with the governor, the senate majority leader, the
3 speaker of the house of representatives, and the clerk of the local
4 government that is in receivership, and shall post on the internet
5 on the website of the local government, a report that contains all
6 of the following:

7 (a) A description of each expenditure made, approved, or
8 disapproved during the reporting period that has a cumulative value
9 of [\$1,000.00] or more and the source of the funds.

10 (b) A list of each contract that the emergency manager awarded
11 or approved with a cumulative value of [\$1,000.00] or more, the
12 purpose of the contract, and the identity of the contractor.

13 (c) A description of each loan sought, approved, or
14 disapproved during the reporting period that has a cumulative value
15 of [\$1,000.00] or more and the proposed use of the funds.

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

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

 [(f) A copy of the contract with the emergency manager as provided
in section 15(5)(f).]

 [(g) The salary and benefits of the emergency manager. If the
emergency manager is a firm, the salary and benefits for each employee in
the firm engaged in the contract shall be listed separately.]

20 (h) The financial and operating plan as required under section 18.]
 (2) The report required under this section shall be submitted
21 every [3] months, beginning 6 months after the emergency manager's
22 appointment.

23 Sec. 23. (1) If, in the judgment of the emergency manager, no
24 reasonable alternative to rectifying the financial emergency of the
25 local government which is in receivership exists, then the
26 emergency manager may recommend to the governor and the state
27 treasurer that the local government be authorized to proceed under

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

15 (2) The recommendation to the governor and the state treasurer
16 under subsection (1) shall include 1 of the following:

17 (a) A determination by the emergency manager that no feasible
18 financial plan can be adopted that can satisfactorily rectify the
19 financial emergency of the local government in a timely manner.

20 (b) A determination by the emergency manager that a plan, in
21 effect for at least 180 days, cannot be implemented as written or
22 as it might be amended in a manner that can satisfactorily rectify
23 the financial emergency in a timely manner.

24 (3) The emergency manager shall provide a copy of the
25 recommendation as provided under subsection (1) to the
26 superintendent of public instruction if the local government is a
27 school district.

1 Sec. 24. A local government that is in receivership is
2 considered to be in a condition of financial emergency until the
3 emergency manager declares the financial emergency to be rectified
4 in his or her quarterly report to the state treasurer required
5 under section 15, and is subject to the written concurrence of the
6 state treasurer, and the concurrence of the superintendent of
7 public instruction if the local government is a school district.
8 The declaration shall not be made until the financial conditions
9 have been addressed and rectified.

10 Sec. 25. (1) An emergency manager is immune from liability as
11 provided in section 7(5) of 1964 PA 170, MCL 691.1407. A person
12 employed by an emergency manager is immune from liability as
13 provided in section 7(2) of 1964 PA 170, MCL 691.1407.

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

16 (a) The validity of this act.

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

19 (c) The authority of an emergency manager if the emergency
20 manager is or was acting within the scope of authority for an
21 emergency manager under this act.

22 (3) With respect to any aspect of a receivership under this
23 act, the costs incurred by the attorney general in carrying out the
24 responsibilities of subsection (2)(b) or (c) for attorneys,
25 experts, court filing fees, and other reasonable and necessary
26 expenses shall be at the expense of the local government that is
27 subject to that receivership and shall be reimbursed to the

House Bill No. 4214 (H-2) as amended February 22, 2011

1 attorney general by the local government. The failure of [a municipal]
2 government that is or was in receivership to remit to the attorney
3 general the costs incurred by the attorney general within 30 days
4 after written notice to the [municipal] government from the attorney
5 general of the costs is a debt owed to this state and shall be
6 recovered by the state treasurer as provided in section 17a(5) of
7 the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL
8 141.917a. [The failure of a school district that is or was in
receivership to remit to the attorney general the costs incurred by the
attorney general within 30 days after written notice to the school
district from the attorney general of the costs is a debt owed to this
state and shall be recovered by the state treasurer as provided in the
state school aid act of 1979, 1979 PA 94, MCL 388.1601 to 388.1772.]

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

27 (5) If, after the date that the service of an emergency

House Bill No. 4214 (H-2) as amended February 22, 2011

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

18 (a) The scope of authority of the person or entity seeking the
19 payment.

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

22 (6) The failure of [a municipal] government to honor and remit the
23 legal expenses of a former emergency manager or any employee,
24 agent, appointee, or contractor of the emergency manager as
25 required by this section is a debt owed to this state and shall be
26 recovered by the state treasurer as provided in section 17a(5) of
27 the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL

House Bill No. 4214 (H-2) as amended February 22, 2011

1 141.917a. [The failure of a school district to honor and remit the legal
expenses of a former emergency manager or employee, agent, appointee, or
contractor of the emergency manager as required by this section is a debt
owed to this state and shall be recovered by the state treasurer as
provided in the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to
388.1772.]

2 Sec. 26. (1) Elected and appointed officials of a local
3 government shall promptly and fully provide the assistance and
4 information necessary and properly requested by the state financial
5 authority, a review team, or the emergency manager in the
6 effectuation of their duties and powers and of the purposes of this
7 act. If the review team or emergency manager believes that an
8 official or employee of the local government is not answering
9 questions accurately or completely or is not furnishing information
10 requested, the review team or emergency manager may issue subpoenas
11 and administer oaths to the official or employee to furnish answers
12 to questions or to furnish documents or records, or both. If the
13 official or employee refuses, the review team or emergency manager
14 may bring an action in the circuit court in which the local
15 government is located or Ingham county circuit court, as determined
16 by the emergency manager, to compel testimony and furnish records
17 and documents. An action in mandamus may be used to enforce this
18 section.

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

1 (3) Subject to section 30(2), a local government placed in
2 receivership under this act is not subject to section 15 of 1947 PA
3 336, MCL 423.215, for a period of 5 years from the date the local
4 government is placed in receivership or until the time the
5 receivership is terminated, whichever occurs first.

6 Sec. 27. (1) Before the termination of receivership and the
7 completion of the emergency manager's term, the manager shall adopt
8 and implement a 2-year budget for the local government commencing
9 with the termination of receivership. In addition, if there are
10 collective bargaining agreements, the emergency manager shall
11 approve those collective bargaining agreements.

12 (2) After the completion of the emergency manager's term and
13 the termination of receivership, the governing body of the local
14 government shall not amend the collective bargaining agreement
15 approved under subsection (1) or the 2-year budget adopted under
16 subsection (1) without the approval of the state financial
17 authority, and shall not revise any ordinance implemented by the
18 emergency manager during his or her term prior to 1 year after the
19 termination of receivership.

20 Sec. 28. This act is not construed to give the emergency
21 manager or the state financial authority the power to impose taxes,
22 over and above those already authorized by law, without the
23 approval at an election of a majority of the qualified electors
24 voting on the question.

25 Sec. 29. The state financial authority is authorized and
26 directed to issue bulletins or adopt rules as necessary to carry
27 out the purposes of this act. A rule adopted under this section

House Bill No. 4214 (H-2) as amended February 22, 2011

1 shall be adopted in accordance with the administrative procedures
2 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

3 Sec. 30. (1) An emergency financial manager appointed and
4 serving under state law prior to the effective date of this act
5 shall continue under this act as an emergency manager for the local
6 government and shall fulfill his or her duties and responsibilities
7 and exercise all of the powers granted under former 1988 PA 101 or
8 former 1990 PA 72. Except as provided in subsection (2), the
9 provisions of this act shall apply to any local government for
10 which an emergency financial manager is appointed and serving as of
11 the effective date of this act.

12 (2) For a local government for which an emergency manager is
13 serving as of the effective date of this act, the provisions of
14 section 26(3) shall not become applicable until 60 days after the
15 effective date of this act.

16 Sec. 31. If any portion of this act or the application of this
17 act to any person or circumstances is found to be invalid by a
18 court, the invalidity shall not affect the remaining portions or
19 applications of the act which can be given effect without the
20 invalid portion or application. The provisions of this act are
21 severable.

22 Enacting section 1. The local government fiscal responsibility
23 act, 1990 PA 72, MCL 141.1201 to 141.1291, is repealed.

24 [Enacting section 2. This act does not take effect unless House
25 Bill No. 4246 of the 96th Legislature is enacted into law.

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House Bill No. 4214 (H-2) as amended February 22, 2011

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