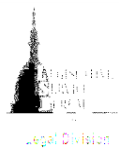


HOUSE BILL NO. 4751

June 20, 2019, Introduced by Reps. Sneller and Yaroach and referred to the Committee on Government Operations.

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



THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

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



1 Sec. 2. As used in this act:

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

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

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

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

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

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

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

20 (vi) The superintendent of a school district.

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

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

27 (ii) An entity that would have a noncontingent claim against
28 the local government upon the rejection of an executory contract or
29 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~~ **Emergency** manager includes an
8 emergency financial manager appointed under former 1988 PA 101 or
9 former 1990 PA 72 who was acting in that capacity on March 28,
10 2013.

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

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

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

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

27 (j) ~~(i)~~—"Interested party" means a trustee, a committee of
28 creditors, an affected creditor, an indenture trustee, a pension
29 fund, a bondholder, a union that under its collective bargaining



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

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

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

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

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

27 (o) ~~(n)~~—"Municipal government" means a city, a village, a
 28 township, a charter township, a county, a department of county
 29 government if the county has an elected county executive under 1966



1 PA 293, MCL 45.501 to 45.521, an authority established by law, or a
2 public utility owned by a city, village, township, or county.

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

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

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

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

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

20 (u) ~~(j)~~—"School district" means a school district as that term
21 is defined in section 6 of the revised school code, 1976 PA 451,
22 MCL 380.6, or an intermediate school district as that term is
23 defined in section 4 of the revised school code, 1976 PA 451, MCL
24 380.4.

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

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

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

29 (iii) For a school district subject to a deficit elimination



1 plan under section 1220 of the revised school code, 1976 PA 451,
2 MCL 380.1220, the state treasurer.

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

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

7 (i) The strong mayor approves the resolution.

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

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

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

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

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



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

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

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

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

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

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

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

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

29 (2) Subject to subsection (3), if the local government has a



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

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

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

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

29 Sec. 8. (1) The chief administrative officer of a local



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



1 state treasurer shall require the local government to proceed under
2 1 of the other local options provided for in section 7.

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

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

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

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



1 budget period.

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

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

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

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

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

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



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

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

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

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

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

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

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

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



1 government is responsible and a plan for how those costs will be
2 addressed to assure 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. Procedures
7 for cash control and cash management may include the designation of
8 appropriate fiduciaries.

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

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

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



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

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

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

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

28 (13) A local government is released from the requirements
 29 under this section upon compliance with the consent agreement as



1 determined by the state treasurer.

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

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

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

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

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

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

27 (d) Except as otherwise provided in this subdivision, the
 28 emergency manager ~~shall serve~~ **serves** at the pleasure of the
 29 governor. An emergency manager is subject to impeachment and



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

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

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

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

28 (5) The emergency manager shall submit quarterly reports to
 29 the state treasurer with respect to the financial condition of the



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

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

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

18 (b) Until the financial emergency is rectified.

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



1 **period**, the local government shall proceed with the neutral
 2 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, shall be~~ **before March 28, 2013, is**
 26 considered an emergency manager under this act and shall continue
 27 under this act to fulfill his or her powers and duties.

28 Notwithstanding any other provision of this act, the governor may
 29 appoint a person who was appointed as an emergency manager under



1 former 2011 PA 4 or an emergency financial manager under former
 2 1988 PA 101 or former 1990 PA 72 to serve as an emergency manager
 3 under this act.

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

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



1 government shall take and direct those actions that are necessary
 2 and advisable to maintain compliance with the financial and
 3 operating plan.

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

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

22 (a) Conducting all aspects of the operations of the local
 23 government within the resources available according to the
 24 emergency manager's **or financial management team's** revenue
 25 estimate.

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



1 uncontested legal obligations.

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

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

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

8 (f) Any other actions considered necessary by the emergency
9 manager **or financial management team** in the emergency manager's **or**
10 **financial management team's** discretion to achieve the objectives of
11 the financial and operating plan, alleviate the financial
12 emergency, and remove the local government from receivership.

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

28 (3) The financial and operating plan ~~shall~~**must** be in a form
29 as provided by the state treasurer and ~~shall~~**must** contain that



1 information for each year during which year the plan is in effect
 2 that the emergency manager **or financial management team**, in
 3 consultation with the state financial authority, specifies. The
 4 financial and operating plan may serve as a deficit elimination
 5 plan otherwise required by law if so approved by the state
 6 financial authority.

7 (4) The emergency manager **or financial management team**, within
 8 30 days ~~of~~**after** submitting the financial and operating plan to the
 9 state financial authority, shall conduct a public informational
 10 meeting on the plan and any modifications to the plan. This
 11 subsection does not mean that the emergency manager **or financial**
 12 **management team** must receive public approval before ~~he or she~~
 13 ~~implements~~**implementing** the plan or any modification of the plan.

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

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

26 (a) Analyze factors and circumstances contributing to the
 27 financial emergency of the local government and initiate steps to
 28 correct the condition.

29 (b) Amend, revise, approve, or disapprove the budget of the



1 local government, and limit the total amount appropriated or
2 expended.

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

7 (d) Require and approve or disapprove, or amend or revise, a
8 plan for paying all outstanding obligations of the local
9 government.

10 (e) Require and prescribe the form of special reports to be
11 made by the finance officer of the local government to its
12 governing body, the creditors of the local government, the
13 emergency manager **or financial management team**, or the public.

14 (f) Examine all records and books of account, and require
15 under the procedures of the uniform budgeting and accounting act,
16 1968 PA 2, MCL 141.421 to 141.440a, or 1919 PA 71, MCL 21.41 to
17 21.55, or both, the attendance of witnesses and the production of
18 books, papers, contracts, and other documents relevant to an
19 analysis of the financial condition of the local government.

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

23 (h) Review payrolls or other claims against the local
24 government before payment.

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

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



1 (k) Subject to section 19, after meeting and conferring with
2 the appropriate bargaining representative and, if in the emergency
3 manager's **or financial management team's** sole discretion and
4 judgment, a prompt and satisfactory resolution is unlikely to be
5 obtained, reject, modify, or terminate 1 or more terms and
6 conditions of an existing collective bargaining agreement. The
7 rejection, modification, or termination of 1 or more terms and
8 conditions of an existing collective bargaining agreement under
9 this subdivision is a legitimate exercise of the state's sovereign
10 powers if the emergency manager **or financial management team**, and
11 state treasurer, determine that all of the following conditions are
12 satisfied:

13 (i) The financial emergency in the local government has created
14 a circumstance in which it is reasonable and necessary for the
15 state to intercede to serve a significant and legitimate public
16 purpose.

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

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

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



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

4 (m) If a municipal government's pension fund is not
 5 actuarially funded at a level of 80% or more, according to the most
 6 recent governmental accounting standards board's applicable
 7 standards, at the time the most recent comprehensive annual
 8 financial report for the municipal government or its pension fund
 9 was due, the emergency manager **or financial management team** may
 10 remove 1 or more of the serving trustees of the local pension board
 11 or, if the state treasurer appoints the emergency manager **or**
 12 **financial management team** as the sole trustee of the local pension
 13 board, replace all the serving trustees of the local pension board.
 14 For the purpose of determining the pension fund level under this
 15 subdivision, the valuation ~~shall~~**must** exclude the net value of
 16 pension bonds or evidence of indebtedness. The annual actuarial
 17 valuation for the municipal government's pension fund ~~shall~~**must**
 18 use the actuarial accrued liabilities and the actuarial value of
 19 assets. If a pension fund uses the aggregate actuarial cost method
 20 or a method involving a frozen accrued liability, the retirement
 21 system actuary shall use the entry age normal actuarial cost
 22 method. If the emergency manager **or financial management team**
 23 serves as sole trustee of the local pension board, all of the
 24 following apply:

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



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

7 (iii) The emergency manager **or financial management team** shall
8 not make changes to a local pension fund without identifying the
9 changes and the costs and benefits associated with the changes and
10 receiving the state treasurer's approval for the changes. If a
11 change includes the transfer of funds from 1 pension fund to
12 another pension fund, the valuation of the pension fund receiving
13 the transfer must be actuarially funded at a level of 80% or more,
14 according to the most recent governmental accounting standards
15 board's applicable standards, at the time the most recent
16 comprehensive annual financial report for the municipal government
17 was due.

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

23 (n) Consolidate or eliminate departments of the local
24 government or transfer functions from 1 department to another and
25 appoint, supervise, and, at his or her discretion, remove
26 administrators, including heads of departments other than elected
27 officials.

28 (o) Employ or contract for, at the expense of the local
29 government and with the approval of the state financial authority,



1 auditors and other technical personnel considered necessary to
2 implement this act.

3 (p) Retain 1 or more persons or firms, which may be an
4 individual or firm selected from a list approved by the state
5 treasurer, to perform the duties of a local inspector or a local
6 auditor as described in this subdivision. The duties of a local
7 inspector are to assure integrity, economy, efficiency, and
8 effectiveness in the operations of the local government by
9 conducting meaningful and accurate investigations and forensic
10 audits, and to detect and deter waste, fraud, and abuse. At least
11 annually, a report of the local inspector ~~shall~~**must** be submitted
12 to the emergency manager **or financial management team**, the state
13 treasurer, the superintendent of public instruction if the local
14 government is a school district, and each state senator and state
15 representative who represents that local government. The annual
16 report of the local inspector ~~shall~~**must** be posted on the local
17 government's website within 7 days after the report is submitted.
18 The duties of a local auditor are to assure that internal controls
19 over local government operations are designed and operating
20 effectively to mitigate risks that hamper the achievement of the
21 emergency manager's **or financial management team's** financial plan,
22 assure that local government operations are effective and
23 efficient, assure that financial information is accurate, reliable,
24 and timely, comply with policies, regulations, and applicable laws,
25 and assure assets are properly managed. At least annually, a report
26 of the local auditor ~~shall~~**must** be submitted to the emergency
27 manager **or financial management team**, the state treasurer, the
28 superintendent of public instruction if the local government is a
29 school district, and each state senator and state representative



1 who represents that local government. The annual report of the
 2 local auditor ~~shall~~**must** be posted on the local government's
 3 website within 7 days after the report is submitted.

4 (q) ~~An emergency manager may initiate~~**Initiate** court
 5 proceedings in the Michigan court of claims or in the circuit court
 6 of the county in which the local government is located in the name
 7 of the local government to enforce compliance with any ~~of his or~~
 8 ~~her~~**emergency manager or financial management team** orders or any
 9 constitutional or legislative mandates, or to restrain violations
 10 of any constitutional or legislative power or ~~his or her~~**emergency**
 11 **manager or financial management team** orders.

12 (r) Subject to section 19, if provided in the financial and
 13 operating plan, or otherwise with the prior written approval of the
 14 governor or his or her designee, sell, lease, convey, assign, or
 15 otherwise use or transfer the assets, liabilities, functions, or
 16 responsibilities of the local government, provided the use or
 17 transfer of assets, liabilities, functions, or responsibilities for
 18 this purpose does not endanger the health, safety, or welfare of
 19 residents of the local government or unconstitutionally impair a
 20 bond, note, security, or uncontested legal obligation of the local
 21 government.

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

25 (t) Order, as necessary, 1 or more millage elections for the
 26 local government consistent with the Michigan election law, 1954 PA
 27 116, MCL 168.1 to 168.992, sections 6 and 25 ~~through~~**to** 34 of
 28 article IX of the state constitution of 1963, and any other
 29 applicable state law.



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

3 (v) Approve or disapprove of the issuance of obligations of
4 the local government on behalf of the local government under this
5 subdivision. An election to approve or disapprove of the issuance
6 of obligations of the local government pursuant to this subdivision
7 ~~shall~~**must** only be held at the general November election.

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

11 (x) Enter into agreements with creditors or other persons or
12 entities to restructure debt on terms, at rates of interest, and
13 with security as ~~shall be~~**is** agreed among the parties, subject to
14 approval by the state treasurer.

15 (y) Enter into agreements with other local governments, public
16 bodies, or entities for the provision of services, the joint
17 exercise of powers, or the transfer of functions and
18 responsibilities.

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

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

26 (bb) For a city, village, or township, ~~the emergency manager~~
27 ~~may~~ recommend to the state boundary commission that the municipal
28 government consolidate with 1 or more other municipal governments,
29 if the emergency manager **or financial management team** determines



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

7 (cc) For municipal governments, with approval of the governor,
 8 disincorporate or dissolve the municipal government and assign its
 9 assets, debts, and liabilities as provided by law. The
 10 disincorporation or dissolution of the local government is subject
 11 to a vote of the electors of that local government if required by
 12 law.

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

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

19 (ii) The fourth class city act, 1895 PA 215, MCL 81.1 to
 20 113.20.

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

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

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

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

25 (vii) The home rule village act, 1909 PA 278, MCL 78.1 to
 26 78.28.

27 (viii) The revised school code, 1976 PA 451, MCL 380.1 to
 28 380.1852.



1 (ix) The state school aid act of 1979, 1979 PA 94, MCL 388.1601
2 to ~~388.1896~~. **388.1897l**.

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

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

13 (2) Except as otherwise provided in this act, during the
14 pendency of the receivership, the authority of the chief
15 administrative officer and governing body to exercise power for and
16 on behalf of the local government under law, charter, and ordinance
17 ~~shall be~~ **is** suspended and vested in the emergency manager **or**
18 **financial management team**.

19 (3) Except as otherwise provided in this subsection, any
20 contract involving a cumulative value of \$50,000.00 or more is
21 subject to competitive bidding by an emergency manager **or financial**
22 **management team**. However, if a potential contract involves a
23 cumulative value of \$50,000.00 or more, the emergency manager **or**
24 **financial management team** may submit the potential contract to the
25 state treasurer for review and the state treasurer may authorize
26 that the potential contract is not subject to competitive bidding.

27 (4) An emergency manager **or a financial management team**
28 appointed for a city or village shall not sell or transfer a public
29 utility furnishing light, heat, or power without the approval of a



1 majority of the electors of the city or village voting thereon, or
 2 a greater number if the city or village charter provides, as
 3 required by section 25 of article VII of the state constitution of
 4 1963. In addition, an emergency manager **or a financial management**
 5 **team** appointed for a city or village shall not utilize the assets
 6 of a public utility furnishing heat, light, or power, the finances
 7 of which are separately maintained and accounted for by the city or
 8 village, to satisfy the general obligations of the city or village.

9 **(5) An emergency manager or a financial management team**
 10 **appointed for a local government shall not change the public water**
 11 **supply that provides drinking water in that local government**
 12 **without the approval of a majority of the electors of that local**
 13 **government voting on the issue.**

14 **(6) An emergency manager or a financial management team must**
 15 **not use cost as the primary factor for any action or decision that**
 16 **directly impacts the public health, safety, or welfare of the**
 17 **residents of the local government in which that emergency manager**
 18 **or financial management team is appointed.**

19 Sec. 13. Upon appointment of an emergency manager **or a**
 20 **financial management team** and during the pendency of the
 21 receivership, the salary, wages, or other compensation, including
 22 the accrual of postemployment benefits, and other benefits of the
 23 chief administrative officer and members of the governing body of
 24 the local government ~~shall be~~ **are** eliminated. This section does not
 25 authorize the impairment of vested pension benefits. If an
 26 emergency manager has reduced, suspended, or eliminated the salary,
 27 wages, or other compensation of the chief administrative officer
 28 and members of the governing body of a local government before ~~the~~
 29 ~~effective date of this act,~~ **March 28, 2013**, the reduction,



1 suspension, or elimination is valid to the same extent had it
 2 occurred after ~~the effective date of this act.~~ **March 28, 2013.** The
 3 emergency manager **or financial management team** may restore, in
 4 whole or in part, any of the salary, wages, other compensation, or
 5 benefits of the chief administrative officer and members of the
 6 governing body during the pendency of the receivership, for such
 7 time and on such terms as the emergency manager **or financial**
 8 **management team** considers appropriate, to the extent that the
 9 emergency manager **or financial management team** finds that the
 10 restoration of salary, wages, compensation, or benefits is
 11 consistent with the financial and operating plan.

12 Sec. 14. In addition to the actions otherwise authorized in
 13 this act, an emergency manager **or a financial management team** for a
 14 school district may take 1 or more of the following additional
 15 actions with respect to a school district that is in receivership:

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

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

22 (c) Seek approval from the superintendent of public
 23 instruction for a reduced class schedule in accordance with
 24 administrative rules governing the distribution of state school
 25 aid.

26 (d) Subject to section 19, sell, assign, transfer, or
 27 otherwise use the assets of the school district to meet past or
 28 current obligations or assure the fiscal accountability of the
 29 school district, provided the ~~use,~~ **sale**, assignment, ~~or~~ transfer,



1 **or use** of assets for this purpose does not impair the education of
 2 the pupils of the school district. The power under this subdivision
 3 includes the closing of schools or other school buildings in the
 4 school district.

5 (e) Approve or disapprove of the issuance of obligations of
 6 the school district.

7 (f) Exercise solely, for and on behalf of the school district,
 8 all other authority and responsibilities affecting the school
 9 district that are prescribed by law to the school board and
 10 superintendent of the school district.

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

14 Sec. 15. (1) Unless the potential sale and value of an asset
 15 is included in the emergency manager's **or financial management**
 16 **team's** financial and operating plan, the emergency manager **or**
 17 **financial management team** shall not sell an asset of the local
 18 government valued at more than \$50,000.00 without the state
 19 treasurer's approval.

20 (2) A provision of an existing collective bargaining agreement
 21 that authorizes the payment of a benefit upon the death of a police
 22 officer or firefighter that occurs in the line of duty ~~shall~~**must**
 23 not be impaired and is not subject to any provision of this act
 24 authorizing an emergency manager **or a financial management team** to
 25 reject, modify, or terminate 1 or more terms of an existing
 26 collective bargaining agreement.

27 Sec. 16. An emergency manager **or a financial management team**
 28 shall, on his, ~~or~~her, **or its** own or upon the advice of the local
 29 inspector if a local inspector has been retained, make a



1 determination as to whether possible criminal conduct contributed
 2 to the financial situation resulting in the local government's
 3 receivership status. If the emergency manager **or financial**
 4 **management team** determines that there is reason to believe that
 5 criminal conduct has occurred, the **emergency manager or financial**
 6 **management team** shall refer the matter to the attorney general and
 7 the local prosecuting attorney for investigation.

8 Sec. 17. Beginning 6 months after an emergency manager's **or a**
 9 **financial management team's** appointment, and every 3 months
 10 thereafter, an emergency manager **or a financial management team**
 11 shall submit to the governor, the state treasurer, the senate
 12 majority leader, the speaker of the house of representatives, each
 13 state senator and state representative who represents the local
 14 government that is in receivership, and the clerk of the local
 15 government that is in receivership, and shall post on the internet
 16 on the website of the local government, a report that contains all
 17 of the following:

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

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

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

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



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

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

6 (g) The salary and benefits of the emergency manager **or the**
7 **salary and benefits for each member of the financial management**
8 **team.**

9 (h) The financial and operating plan.

10 Sec. 18. (1) If, in the judgment of the emergency manager **or**
11 **financial management team**, no reasonable alternative to rectifying
12 the financial emergency of the local government which is in
13 receivership exists, then the emergency manager **or financial**
14 **management team** may recommend to the governor and the state
15 treasurer that the local government be authorized to proceed under
16 chapter 9. If the governor approves of the recommendation, the
17 governor shall inform the state treasurer and the emergency manager
18 **or financial management team** in writing of the decision, with a
19 copy to the superintendent of public instruction if the local
20 government is a school district. The governor may place
21 contingencies on a local government in order to proceed under
22 chapter 9. Upon receipt of the written approval, the emergency
23 manager **or financial management team** is authorized to proceed under
24 chapter 9. This section empowers the local government for which an
25 emergency manager **or a financial management team** has been appointed
26 to become a debtor under title 11 of the United States Code, 11 USC
27 101 to 1532, as required by section 109 of title 11 of the United
28 States Code, 11 USC 109, and empowers the emergency manager **or**
29 **financial management team** to act exclusively on the local



1 government's behalf in any such case under chapter 9.

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

4 (a) A determination by the emergency manager **or financial**
5 **management team** that no feasible financial plan can be adopted that
6 can satisfactorily rectify the financial emergency of the local
7 government in a timely manner.

8 (b) A determination by the emergency manager **or financial**
9 **management team** that a plan, in effect for at least 180 days,
10 cannot be implemented as written or as it might be amended in a
11 manner that can satisfactorily rectify the financial emergency in a
12 timely manner.

13 (3) The emergency manager **or financial management team** shall
14 provide a copy of the recommendation as provided under subsection
15 (1) to the superintendent of public instruction if the local
16 government is a school district.

17 Sec. 19. (1) Except as otherwise provided in this subsection,
18 before an emergency manager **or a financial management team** executes
19 an action under section 12(1)(k), (r), or (u) or ~~section 14(d)~~, ~~he~~
20 ~~or she~~**the emergency manager or financial management team** shall
21 submit ~~his or her~~**the** proposed action to the governing body of the
22 local government. The governing body of the local government, ~~shall~~
23 ~~have within~~ 10 days ~~from~~**after** the date of submission, ~~to~~**shall**
24 approve or disapprove the action proposed by the emergency manager
25 **or financial management team**. If the governing body of the local
26 government does not act within ~~10 days~~,**that 10-day period**, the
27 proposed action is considered approved by the governing body of the
28 local government and the emergency manager **or financial management**
29 **team** may then execute the proposed action. For an action under



1 section 12(1)(r) or section 14(d), this subsection only applies if
 2 the asset, liability, function, or responsibility involves an
 3 amount of \$50,000.00 or more.

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

26 Sec. 20. (1) An emergency manager, **or each member of a**
 27 **financial management team**, is immune from liability as provided in
 28 section 7(5) of 1964 PA 170, MCL 691.1407. A person employed by an
 29 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
28 and ~~shall must~~ be recovered by the state treasurer as provided in
29 the state school aid act of 1979, 1979 PA 94, MCL 388.1601 to



1 ~~388.1896.~~**388.1897/.**

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

27 (5) If, after the date that the service of an emergency
 28 manager **or a financial management team** is concluded, the emergency
 29 manager **or financial management team** or any employee, agent,



1 appointee, or contractor of the emergency manager **or financial**
 2 **management team** is subject to a claim, demand, or lawsuit arising
 3 from an action taken during the service of that emergency manager
 4 **or financial management team**, 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 financial management team** or any employee, agent,
 8 appointee, or contractor of the emergency manager **or financial**
 9 **management team**, including attorney fees for civil and criminal
 10 proceedings and preparation for reasonably anticipated proceedings,
 11 and payments made in settlement of civil proceedings both filed and
 12 anticipated, ~~shall~~**must** be paid out of the funds of the local
 13 government that is or was subject to the receivership administered
 14 by that emergency manager **or financial management team**, provided
 15 that the litigation expenses are approved by the state treasurer
 16 and that the state treasurer determines that the conduct resulting
 17 in actual or threatened legal proceedings that is the basis for the
 18 payment is based ~~upon~~**on** both of the following:

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

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

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



1 141.917a. The failure of a school district to honor and remit the
 2 legal expenses of a former emergency manager **or financial**
 3 **management team** or any employee, agent, appointee, or contractor of
 4 the emergency manager **or financial management team** as required by
 5 this section is a debt owed to this state and ~~shall~~**must** be
 6 recovered by the state treasurer as provided in the state school
 7 aid act of 1979, 1979 PA 94, MCL 388.1601 to ~~388.1896~~**388.1897**.

8 Sec. 21. (1) Before the termination of receivership and the
 9 completion of the emergency manager's **or financial management**
 10 **team's** term, or if a **receivership** transition advisory board is
 11 appointed under section 23, then before the **receivership** transition
 12 advisory board is appointed, the emergency manager **or financial**
 13 **management team** shall adopt and implement a 2-year budget,
 14 including all contractual and employment agreements, for the local
 15 government commencing with the termination of receivership.

16 (2) After the completion of the emergency manager's **or**
 17 **financial management team's** term and the termination of
 18 receivership, the governing body of the local government shall not
 19 amend the 2-year budget adopted under subsection (1) without the
 20 approval of the state treasurer, and shall not revise any order or
 21 ordinance implemented by the emergency manager **or financial**
 22 **management team** during ~~his or her~~**the** term ~~prior to~~**before** 1 year
 23 after the termination of receivership.

24 Sec. 22. (1) If an emergency manager **or a financial management**
 25 **team** determines that the financial emergency that ~~he or she~~**the**
 26 **emergency manager or financial management team** was appointed to
 27 manage has been rectified, the emergency manager **or financial**
 28 **management team** shall inform the governor and the state treasurer.

29 (2) If the governor disagrees with the emergency manager's **or**



1 **financial management team's** determination that the financial
 2 emergency has been rectified, the governor shall inform the
 3 emergency manager **or financial management team** and the term of the
 4 emergency manager **or financial management team** shall continue or
 5 the governor shall **before the effective date of the amendatory act**
 6 **that added section 9a** appoint a new emergency manager **or beginning**
 7 **on the effective date of the amendatory act that added section 9a**
 8 **appoint a new financial management team.**

9 (3) Subject to subsection (4), if the governor agrees that the
 10 financial emergency has been rectified, the emergency manager **or**
 11 **financial management team** has adopted a 2-year budget as required
 12 under section 21, and the financial conditions of the local
 13 government have been corrected in a sustainable fashion as required
 14 under section 9(7) **or 9a(16)**, the governor may do either of the
 15 following:

16 (a) Remove the local government from receivership.

17 (b) Appoint a receivership transition advisory board as
 18 provided in section 23.

19 (4) Before removing a local government from receivership, the
 20 governor may impose 1 or more of the following conditions on the
 21 local government:

22 (a) The implementation of financial best practices within the
 23 local government.

24 (b) The adoption of a model charter or model charter
 25 provisions.

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

28 Sec. 24. The governor may, upon his or her own initiative or
 29 after receiving a recommendation from a receivership transition



1 advisory board, determine that the financial conditions of a local
 2 government have not been corrected in a sustainable fashion as
 3 required under section 9(7) **or 9a(16)** and **before the effective date**
 4 **of the amendatory act that added section 9a** appoint a new emergency
 5 manager **or beginning on the effective date of the amendatory act**
 6 **that added section 9a appoint a new financial management team.**

7 Sec. 27. (1) The local elected and appointed officials and
 8 employees, agents, and contractors of a local government shall
 9 promptly and fully provide the assistance and information necessary
 10 and properly requested by the state financial authority, a review
 11 team, or the emergency manager **or financial management team** in the
 12 effectuation of their duties and powers and of the purposes of this
 13 act. If the review team or emergency manager **or financial**
 14 **management team** believes that a local elected or appointed official
 15 or employee, agent, or contractor of the local government is not
 16 answering questions accurately or completely or is not furnishing
 17 information requested, the review team or emergency manager **or**
 18 **financial management team** may issue subpoenas and administer oaths
 19 to the local elected or appointed official or employee, agent, or
 20 contractor to furnish answers to questions or to furnish documents
 21 or records, or both. If the local elected or appointed official or
 22 employee, agent, or contractor refuses, the review team or
 23 emergency manager **or financial management team** may bring an action
 24 in the circuit court in which the local government is located or
 25 the Michigan court of claims, as determined by the review team or
 26 emergency manager **or financial management team**, to compel testimony
 27 and furnish records and documents. An action in mandamus may be
 28 used to enforce this section.

29 (2) Failure of a local government official to abide by this



1 act ~~shall be~~ **is** considered gross neglect of duty, which the review
2 team or emergency manager **or financial management team** may report
3 to the state financial authority and the attorney general.
4 Following review and a hearing with a local government elected
5 official, the state financial authority may recommend to the
6 governor that the governor remove the elected official from office.
7 If the governor removes the elected official from office, the
8 resulting vacancy in office ~~shall~~ **must** be filled as prescribed by
9 law.

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

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

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

22 Enacting section 2. This amendatory act does not take effect
23 unless Senate Bill No. ____ or House Bill No. 4752 (request no.
24 02951'19) of the 100th Legislature is enacted into law.

