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Budget Primer

Department of Community & Economic Development
Municipalities Financial Recovery Program (Act 47)

Kayla Burnham, Budget Analyst

ACT 47

The Municipalities Financial Recovery Act of July 10, 1987, P.L. 246, No.47 was established to assist municipalities facing financial insolvency. As amended, it gives the Department of Community and Economic Development the authority to:

- Provide resources to assist municipalities that are facing financial distress;
- Declare certain municipalities distressed;
- Reform the debt of financially distressed municipalities;
- Limit the ability of financially distressed municipalities to obtain government funding;
- Authorize municipalities to participate in Federal debt adjustment actions and bankruptcy actions under certain circumstances;
- Authorize certain taxes on municipalities deemed distressed; and
- Provide for the disincorporation of municipalities and the establishment of unincorporated service districts.

Overview

Act 47 established the Municipalities Financial Recovery Program within the Department of Community and Economic Development (DCED) to help financially distressed communities with grants, loans and a plan to help them regain financial stability. Funds provided to municipalities through this program are critical to the wellbeing of the municipality and its citizens.

Since Act 47, 32 municipalities throughout the commonwealth have been considered financially distressed. As illustrated, 16 municipalities in 12 counties are currently considered financially distressed under Act 47.

Current Act 47 designated municipalities	
Borough of Greenville, Mercer County	Distress Determined 05/08/02
City of New Castle, Lawrence County	Distress Determined 01/05/07
City of Aliquippa, beaver County	Distress Determined 12/22/87
Borough of Braddock, Allegheny County	Distress Determined 06/15/88
Borough of Rankin, Allegheny County	Distress Determined 01/09/89
City of Duquesne, Allegheny County	Distress Determined 06/20/91
Borough of Franklin, Cambria County	Distress Determined 07/26/88
City of Johnstown, Cambria County	Distress Determined 08/21/92
City of Harrisburg, Dauphin County	Distress Determined 12/15/10
City of Shamokin, Northumberland County	Distress Determined 06/16/14
City of Chester, Delaware County	Distress Determined 04/06/95
Borough of Colwyn, Delaware County	Distress Determined 05/06/15
City of Reading, Berks County	Distress Determined 11/12/09
Borough of Mahanoy City, Schuylkill County	Distress Determined 02/17/16
City of Hazelton, Luzerne County	Distress Determined 06/10/18



Significant changes to Act 47¹

Act 157 of 1988 established the Municipal Financial Recovering Revolving Fund where loan repayment would be deposited for future disbursements.

Act 69 of 1992 made several important changes to Act 47. Foremost, it changed the title of Act 47 to “Municipalities Financial Recovery Act.” Secondly, it made procedural changes, including how the coordinator’s plan is established and implemented. It also provided additional criteria for communities to meet before their distressed status is removed. It also gave priority to distressed municipalities over non-distressed municipalities for funding from the commonwealth.

Act 79 of 2011 gave the governor the power to declare a state of emergency if a distressed city of the third class refuses to adopt either a coordinator’s plan or an alternative plan despite the city’s insolvency or risk of insolvency. Once a declaration is declared, DCED is required to develop an emergency action plan that maintains vital services in the municipality until it establishes or adopts a recovery plan.

Act 79 also enables the Secretary of DCED secretary to appoint a receiver to implement the emergency action plan. The receiver has the authority to require implementation of the proposed plan and may directly approve, disapprove, modify, reject and terminate or renegotiate contracts and agreements within the distressed city,

Act 199 of 2014 - As a result of a Local Government Commission’s Act 47 Task Force report, Act 199 imposed a five-year limit for municipalities to continue as an Act 47 distressed community. After five years, a distressed municipality may do one of four things:

1. Withdraw its distressed status;
2. Disincorporate;
3. Receive a determination of fiscal emergency; or
4. Receive a one-time, three-year extension of its Act 47 status.

Act 199 also requires an annual performance evaluation of each coordinator to ensure they are complying with the provisions of the law and the coordinator’s contract.

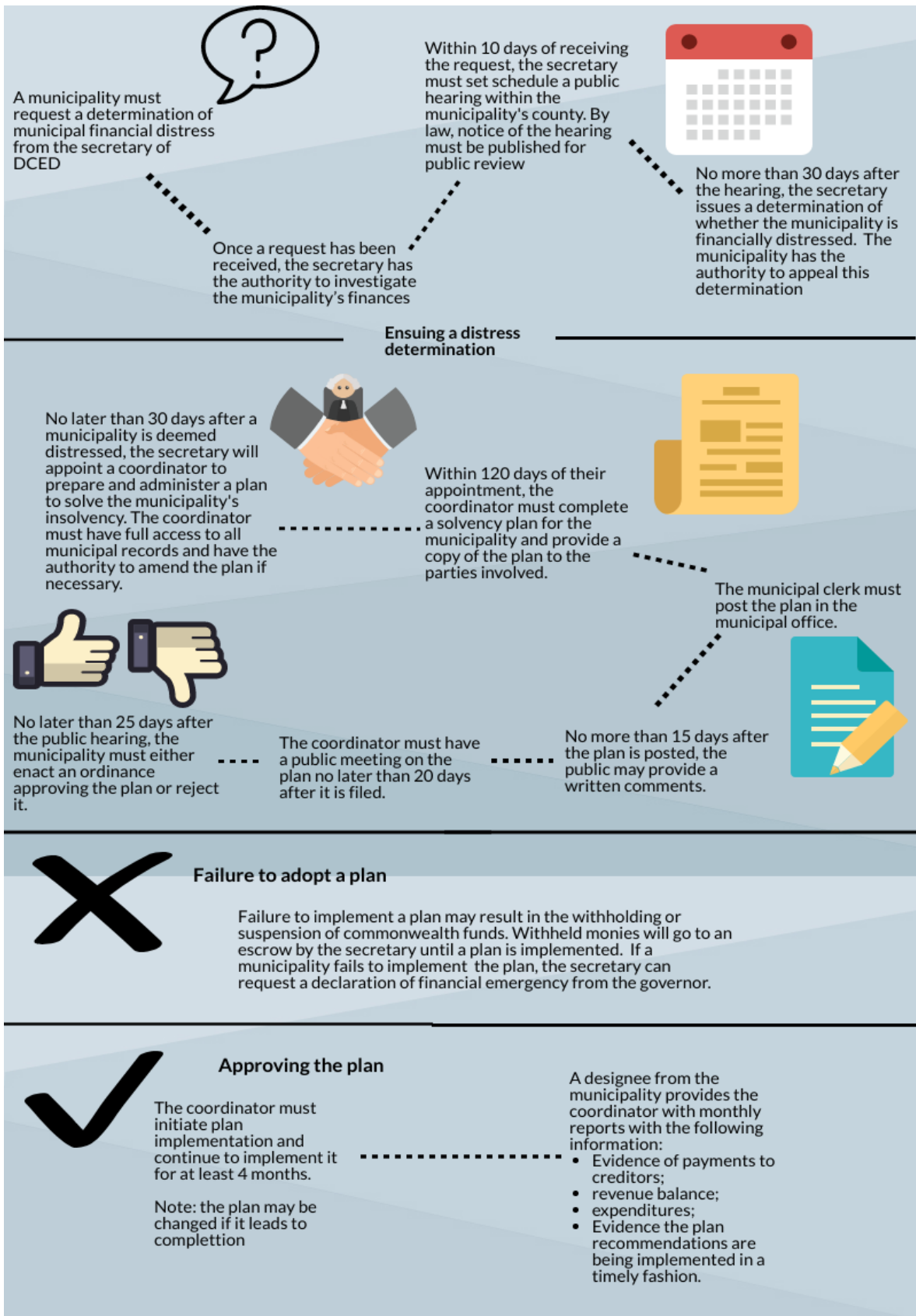
A coordinator’s contract may be terminated if the evaluation finds the coordinator is not fulfilling their contractual terms.

Furthermore, Act 199 incorporated the Early Intervention Program (EIP) to preemptively assist municipalities before insolvency.

¹ Local Government. *Act 47 of 1987 Municipalities Financial Recovery Act - 2013 Task force Report* . Harrisburg: Local Government Commission- General Assembly of the Commonwealth of Pennsylvania, 2013



The Conventional Process



A municipality may be considered financially distressed if at least one of the following applies²

- Maintained at least a 1 percent deficit over a three-year period;
- Expenditures have exceeded revenues for three years or more;
- Defaulted in payment of principal or interest on any of its bonds or notes or in payment of rentals due any authority;
- Missed payroll for 30 days;
- Failed to make required payments to judgment creditors for 30 days beyond the date of the recording of the judgment;
- Incapable to forward taxes withheld on the income of employees or has failed to transfer employer or employee contributions for Social Security for at least 30 days beyond the due date;
- Accumulated a deficit equal to 5 percent or more of its revenues for 2 consecutive years or more;
- Failed to make the minimum budgeted payment of its minimum municipal obligation prescribed by the Municipal Pension Plan Funding Standard and Recovery Act;
- Sought to negotiate resolution or adjustment of a claim in excess of 30 percent against a fund or budget and has failed to reach an agreement with creditors;
- Filed a municipal debt readjustment plan; or
- Reached its legal limit in levying real-estate taxes for general purposes; thus, experienced a decrease in municipal services.

Termination of distressed status³

Using monthly municipal reports, the coordinator must prepare a report within 180 days of the last year of distressed status. The coordinator's report may recommend one of the following:

- That the distressed status be terminated;
- That the municipality be disincorporated;
- That the municipality, because of noncompliance with recovery recommendations, should be declared to be in a state of fiscal emergency; or
- That a three-year exit plan be adopted (at the end of the exit plan, the secretary may terminate the municipality's distressed status without further proceedings)

Since the program's inception, 15 municipalities have recovered from financial distress under Act 47. These municipalities are highlighted in the tables below.

² Pennsylvania Governor's Center For Local Government. *Municipalities Financial Recovery Act*. Harrisburg: Pennsylvania Department of Community and Economic Development, 2013.

³ Pennsylvania General Assembly- Local Government. Summary of Amendments to Act 47 of 1987 Municipalities Financial Recovery Act Act 199 of 2014; House Bill 1773, PN 4312. Harrisburg Pennsylvania General Assembly- Local Government Commission, 2014.



Municipalities that have recovered from financial distress under Act 47

Borough of Shenandoah, Schuylkill County	Designated 5/20/1988	Rescinded 4/16/1993
Borough of Ambridge, Beaver County	Designated 4/10/1990	Rescinded 4/16/1993
Borough of Wilkinsburg Allegheny County	Designated 1/19/1988	Rescinded 11/10/1998
Borough of East Pittsburgh - Allegheny Count	Designated 11/13/1992	Rescinded 12/27/1999
Borough of North Braddock - Allegheny Coun	Designated 5/22/1995	Rescinded 4/11/2003
Borough of Homestead, Allegheny County	Designated 3/22/1993	Rescinded 3/28/2007
Borough of Millbourne, Delaware County	Designated 1/7/1993	Rescinded 3/11/2014
Westfall Township, Pike County,	Designated 4/14/2009	Rescinded 10/21/2014
Borough of West Hazleton, Luzerne County	Designated 3/27/2003	Rescinded 10/21/2014
City of Nanticoke, Luzerne County	Designated 5/26/2006	Rescinded 8/24/2015
City of Clairton, Allegheny County	Designated 1/19/1988	Rescinded 11/24/2015
Township of Plymouth, Luzerne County	Designated 7/27/2004	Rescinded 5/3/2016
City of Altoona, Blair County	Designated 5/3/2012	Rescinded 9/13/2017
City of Pittsburgh, Allegheny County	Designated 12/29/2003	Rescinded 02/12/2018
City of Farrell, Mercer County	Designated 11/12/1987	Rescinded 02/08/2019

Funding Source

In 1986, \$5 million was appropriated to launch Act 47. Most of the capital, \$4.5 million, provided grants and loans to financially distress municipalities. Since Act 157, the program's funding comes from the Municipalities Financial Recovery Revolving Aid Fund. In recent years, transfers from the General Fund to the Municipalities Financial Recovery Revolving Aid Fund have fluctuated, as illustrated by the table below.

