

Act 47, the Municipalities Financial Recovery Act of 1987

The Municipalities Financial Recovery Act of 1987, commonly referred to as Act 47, is a state statute that empowers the PA Department of Community and Economic Development (DCED) to declare certain municipalities as financially distressed to assist those cities and municipalities with short and long-term financial difficulties.

The PA Department of Community and Economic Development (DCED) administers the program, evaluates, and approves or disapproves a city's or municipality's application for protection and assistance under Act 47.

<http://www.readingpa.gov/documents/munirecoveryact.pdf>

WHO HAS STANDING TO REQUEST A DETERMINATION OF MUNICIPAL FINANCIAL DISTRESS?

1. DCED
2. The governing body, by passing a resolution by majority vote, after a special public meeting as specified by law.
3. The chief executive of any city.
4. Any creditor to whom the municipality owes \$10,000.00 or more.
5. The citizens – ten percent of the electors of the municipality that voted at the last municipal election must sign a petition to DECD alleging that the municipality is financially distressed.
6. By signing and filing a petition, ten percent or more of the beneficiaries of pension funds
7. By signing and filing a petition, ten percent or more of the employees of the municipality who have not been paid for over thirty days from the time of a missed payroll.
8. Trustees or paying agents of a municipal bond indenture.
9. The elected auditors, appointed independent auditors, or elected controllers of a municipality if they have reason to believe that a municipality is in a state of financial distress.
10. A trustee or actuary of a municipal pension fund if the municipality has not made timely deposit of its minimum municipal obligation (MMO) payment.

QUALIFICATIONS: The evaluation for the determination of distressed status is based upon meeting at least one of the following eleven criteria at the time of application:

1. The municipality has maintained a deficit over a three-year period, with a deficit of one percent or more in each of the previous fiscal years.
2. The municipality's expenditures have exceeded revenues for a period of three years or more.
3. The municipality has defaulted on payment of principal or interest on any of its bonds, notes, or rental due any authority.
4. The municipality has missed a payroll for thirty days.
5. The municipality has failed to make required payments to judgment creditors for thirty days beyond the date of the recording of the judgment.
6. The municipality, for a period of at least thirty days beyond the due date, has failed to forward taxes withheld on the income of employees, or has failed to transfer employer or employee contributions for Social Security.
7. The municipality has accumulated and has operated at a deficit equal to five percent or more of its revenues for each of two successive years.
8. The municipality has failed to make the budget payment of its minimum municipal obligation (MMO), as required by the Municipal Pension Plan Funding Standard and Recovery Act, during the fiscal year for which the payment was budgeted and failed to take action within that time period to make required payments.
9. The municipality has sought to negotiate resolution or adjustment of a claim in excess of thirty percent against a fund or budget and has failed to reach an agreement with creditors.

10. The municipality has filed a municipal debt readjustment plan pursuant to Chapter 9 of the U.S. Bankruptcy Code.
11. The municipality has experienced a decrease in a quantified level of municipal service from the preceding fiscal year, which has resulted from the municipality reaching its legal limit in levying real estate taxes for general purposes.

THEN WHAT?

Within ten days of receiving a request, the Secretary of DCED will set a time and place for a public hearing at least two weeks but not more than thirty days later in the county of the subject municipality.

After receiving the request and prior to the public hearing, the Secretary may make an investigation into the financial affairs of the municipality. The results of the investigation of Reading can be found below:

http://www.readingpa.gov/documents/consultative_report.pdf

In accordance with the Sunshine Law, the Secretary will:

- a. publish notice of the public hearing at least once in a general circulation newspaper in the municipality.
- b. give written notice of the hearing by certified mail with return receipt requested to the municipal clerk or municipal secretary, mayor, municipal solicitor, each member of the governing body of the municipality, and the petitioner.

The secretary or an official of DCED designated by the Secretary will conduct the public hearing to hear testimony of the petitioners and other interested people.

Within thirty days after the hearing, the Secretary will issue an administrative determination of whether or not the municipality is financially distressed.

The Secretary will appoint a recovery plan coordinator no later than thirty days after a determination of municipal financial distress.

WHAT WILL THE COORDINATOR DO?

The recovery plan coordinator will prepare and administer a plan that addresses the financial problems of the municipality he's been appointed to serve. The coordinator may be an employee of DCED, furnished with additional staff or consultative assistance, or may be a consultant or consulting firm. The consultant will be compensated by DCED for reasonable salary and expenses. The plan must be formulated within ninety days of the coordinator's appointment.

AFTER THE PLAN IS CREATED?

The recovery plan requires adoption or rejection by the governing body of the municipality no later than twenty-five days following the coordinator's public meeting on the plan. Plan approval would be in the form of an ordinance and that approval would be by City Council. The plan would be implemented no later than seven days from the enactment of the ordinance by City Council.

If the plan is rejected, then the municipality would be responsible for developing its own recovery plan and is required to submit that plan to DCED for approval.

WHAT ARE THE BENEFITS TO THE CITY OF READING?

A free recovery coordinator, emergency financial aid in the form of loans and grants, assistance with new collective bargaining contracts, and arbitration awards, and new options to generate revenues not available to the City of Reading without Act 47, for example a wage tax on non-residents that work in Reading.

DOES ACT 47 IMPACT CURRENT BARGAINING AGREEMENTS?

Current bargaining agreements remain in place until they expire. Collective bargaining agreements or arbitration settlements executed after the adoption of a recovery plan must adhere to the provisions of the plan.

IS ACT 47 BANKRUPTCY?

Municipal Bankruptcy is a filing of Chapter 9 in federal court and its impact is more severe than Act 47. Act 47 is a state program that gives financially distressed municipalities state help in dealing with their financial crises.

ADDITIONAL ACT 47 INFORMATION:

www.newpa.com

Municipalities Financial Recovery Act

<http://www.readingpa.gov/documents/munirecoveryact.pdf>

List of distress determinations and determination rescissions

www.newpa.com/get-local-gov-support/technical-assistance/request-assistance/act-47/index.aspx

City of Reading Consultative Report (10/14/09)

http://www.readingpa.gov/documents/consultative_report.pdf

Questions regarding the City of Reading and Act 47 can be sent to Act47@readingpa.org

<p>Pittsburgh Year entered Act 47: 2003 Population: 296,324 Jobless rate in June: 6.9% Median home value*: \$78,400 Median household income: \$32,344 Housing vacancy rate: 17% Rental housing rate: 47% Poverty rate: 16% Year of last reassessment: 2002 Property tax rate (mills): 10.8 Non-resident wage tax: 1.0%</p>	<p>Reading Year entered Act 47: 2009 Population: 80,951 Jobless rate in June: 13.7% Median home value*: \$54,500 Median household income: \$27,047 Housing vacancy rate: 15% Rental housing rate: 54% Poverty rate: 29% Year of last reassessment: 1994 Property tax rate (mills): 11.445 Non-resident wage tax: 0</p>
<p>Scranton Year entered Act 47: 1992 Population: 74,566 Jobless rate in June: 9.0% Median home value*: \$98,100 Median household income: \$32,484 Housing vacancy rate: 13% Rental housing rate: 46% Poverty rate: 15% Year of last reassessment: 1967 Property tax rate (mills): 22.432 Non-resident wage tax: 1.0%</p>	<p>Chester Year entered Act 47: 1995 Population: 30,409 Jobless rate in June: 10.8% Median home value*: \$58,900 Median household income: \$25,448 Housing vacancy rate: 23% Rental housing rate: 56% Poverty rate: 34% Year of last reassessment: 1998 Property tax rate (mills): 29.792 Non-resident wage tax: 1.25%</p>
<p>New Castle Year entered Act 47: 2007 Population: 24,300 Jobless rate in June: 9.9% Median home value*: \$58,500 Median household income: \$31,443 Housing vacancy rate: 15% Rental housing rate: 33% Poverty rate: 20% Year of last reassessment: 2003 Property tax rate (mills): 13.342 Non-resident wage tax: 2.1%</p>	<p>Johnstown Year entered Act 47: 1992 Population: 20,660 Jobless rate in June: 8.7% Median home value*: \$39,600 Median household income: \$24,758 Housing vacancy rate: 18% Rental housing rate: 50% Poverty rate: 23% Year of last reassessment: 1967 Property tax rate (mills): 42.44 Non-resident wage tax: 0.15%</p>
<p>Aliquippa Year entered Act 47: 1987 Population: 10,759 Jobless rate in June: 8.5% Median home value*: \$67,420 Median household income: \$28,128 Housing vacancy rate: 12% Rental housing rate: 35% Poverty rate: 23% Year of last reassessment: 1982 Property tax rate (mills): 24.9 Non-resident wage tax: 0.5%</p>	<p>Nanticoke Year entered Act 47: 2006 Population: 10,246 Jobless rate in June: 9.3% Median home value*: \$84,040 Median household income: \$29,166 Housing vacancy rate: 12% Rental housing rate: 34% Poverty rate: 16% Year of last reassessment: 2009 Property tax rate (mills): 2.415 Non-resident wage tax: 0.33%</p>
<p>Clairton Year entered Act 47: 1988 Population: 7,895 Jobless rate in June: 6.9% Median home value*: \$46,600 Median household income: \$28,406 Housing vacancy rate: 15% Rental housing rate: 28% Poverty rate: 20% Year of last reassessment: 2002 Property tax rate (mills): 2.22 Non-resident wage tax: 0</p>	<p>Duquesne Year entered Act 47: 1991 Population: 6,724 Jobless rate in June: 6.9% Median home value*: \$39,950 Median household income: \$21,174 Housing vacancy rate: 16% Rental housing rate: 41% Poverty rate: 36% Year of last reassessment: 2002 Property tax rate (mills): 13.47 Non-resident wage tax: 3.0%</p>
<p>Farrell Year entered Act 47: 1987 Population: 5,795 Jobless rate in June: 10.2% Median home value*: \$52,390 Median household income: \$26,579 Housing vacancy rate: 9% Rental housing rate: 27% Poverty rate: 28% Year of last reassessment: 1970 Property tax rate (mills): 24.67 Non-resident wage tax: 0.4%</p>	<p>*Of owner-occupied homes</p> <p>**Three cities charge separate property taxes, at separate rates, on the land and on the buildings and improvements on that land.</p> <p>Sources: City officials, U.S. Census' 2005-2007 American Community Survey; U.S. Census 2000 survey, City-Data.com.</p>