

THE GOVERNOR

Declaration of Fiscal Emergency—City of Harrisburg, Pennsylvania

October 24, 2011

Whereas, a duly authorized Request for Determination of Municipal Financial Distress was filed by the Honorable Linda D. Thompson, Mayor of the City of Harrisburg, pursuant to the provisions of Sections 202 and 203 of the Municipalities Financial Recovery Act, 53 P. S. § 11701.101 et seq. (Act 47), on October 1, 2010; and

Whereas, on December 15, 2010, the Secretary of Community and Economic Development determined that the City of Harrisburg had met the criteria set forth in Sections 201(3) and 201(9) of Act 47 and, therefore, issued a determination of municipal financial distress; and

Whereas, the City of Harrisburg has failed to adopt a plan for relieving the City's financial distress pursuant to Act 47, having rejected the Final Act 47 Recovery Plan filed by the Recovery Plan Coordinator in accordance with Section 244 of Act 47 on July 8, 2011, and the alternate Final Recovery Plan presented by Mayor Thompson pursuant to the provisions of Section 246 of Act 47 on August 22, 2011; and

Whereas, there exists a sustained failure by the City of Harrisburg's governing body to enact or implement a fiscal plan to adequately address or prevent insolvency despite repeated opportunities to do so; and

Whereas, the ongoing fiscal distress of the City of Harrisburg jeopardizes the health, safety and welfare of its citizens and threatens the fiscal stability of neighboring communities; and

Whereas, the City of Harrisburg is insolvent; and

Whereas, the City of Harrisburg is subject to various pending legal actions, all of which seek money judgments that the City does not have the ability to pay without jeopardizing the provision of vital and necessary services to its citizens and, therefore, is unable to ensure the continued provision of such services.

Now, Therefore, pursuant to the provisions of Sections 602(a)(1)(i) & (ii) and 602(a)(2)(i) of the Act of July 10, 1987 (P. L. 246, No. 47), as amended, 53 P. S. §§ 11701.101—11701.712 (Act 47 as amended), I hereby determine that a fiscal emergency exists in the City of Harrisburg.

Further, in accordance with Section 602(b)(1) of Act 47 as amended, and contemporaneously with this Proclamation, I hereby adopt and issue, and incorporate herein by reference, a Concise Statement of Facts supporting the determination of the existence of a fiscal emergency in the City of Harrisburg.

Further, in accordance with Section 602(b)(1) of Act 47, I hereby direct the Secretary of Community and Economic Development forthwith to serve written notice of this Declaration, along with the Concise Statement of Facts, upon the governing body of the City of Harrisburg and its Chief Executive Officer.

Further, having determined that a fiscal emergency exists in the City of Harrisburg, and acting pursuant to the powers by law vested in me to invoke the Commonwealth of Pennsylvania's sovereign and plenary police power in emergency fiscal conditions to protect the health, safety and welfare of a municipality's citizens when local officials are unwilling or unable to accept a solvency plan developed for the benefit of the community, and pursuant to the Commonwealth's paramount right and duty to maintain law and order and protect and preserve the health, safety and welfare of its citizens and ensure compliance with Act 47 as amended under Article IX of the Constitution of Pennsylvania, and pursuant to the provisions of

Section 602(a) & (b) of Act 47 as amended, I do hereby declare a state of fiscal emergency within the City of Harrisburg, Pennsylvania.

Further, I hereby direct the Secretary of Community and Economic Development, within ten (10) days of this Declaration, to develop an Emergency Action Plan as prescribed by Sections 602(c) and 603 of Act 47 as amended to ensure that vital and necessary services are maintained within the City of Harrisburg during the state of fiscal emergency.

Further, I hereby delegate the authority conferred upon me as Governor pursuant to the provisions of Section 604 of Act 47 as amended to the Secretary of Community and Economic Development, and I hereby authorize and direct the Secretary or his designee to carry out any emergency powers and issue any Orders otherwise reserved for the Governor pursuant to the aforesaid Section 604.

Given under my hand and the Seal of the Governor, at the City of Harrisburg, this twenty-fourth day of October in the year of our Lord two thousand eleven, and of the Commonwealth the two hundred and thirty-fifth.



Governor

**CONCISE STATEMENT OF FACTS SUPPORTING THE DETERMINATION
OF FISCAL EMERGENCY IN THE CITY OF HARRISBURG
REQUIRED BY 53 P. S. § 11701.602(b)(1)**

On October 1, 2010, Linda D. Thompson, Mayor of the City of Harrisburg, filed a Request for Determination of Municipal Financial Distress pursuant to the provisions of Sections 202 and 203 of the Municipalities Financial Recovery Act, 53 P. S. § 11701.101 *et seq.* ("Act 47"). By and through the aforesaid Request, Mayor Thompson requested that the Secretary of Community and Economic Development determine that the City of Harrisburg is a financially distressed municipality pursuant to the provisions of Section 201 of Act 47.

Subsequent to its receipt of the City of Harrisburg's Request for Determination of Municipal Financial Distress, the Department of Community and Economic Development fulfilled its obligations pursuant to the provisions of Section 203 of Act 47 to investigate the financial affairs of the City prior to rendering a determination of financial distress. On December 15, 2010, following public hearings on the City's Request for Determination of Municipal Financial Distress, and upon consideration of the Certified Record of such proceedings and review and consideration of the Proposed Findings of Fact and Conclusions of Law submitted by the City and other interested parties, Austin Burke, the former Secretary of Community and Economic Development, ordered that the City of Harrisburg had met the criteria set forth in Sections 201(3) and 201(9) of Act 47 and, therefore, a determination of municipal financial distress was issued.

On January 12, 2011, Secretary Burke appointed the Novak Consulting Group as Recovery Plan Coordinator for the City of Harrisburg pursuant to the provisions of Section 221 of Act 47. The Recovery Plan Coordinator filed Harrisburg's Act 47 Recovery Plan with the municipal clerk in accordance with Section 242 of Act 47 on June 13, 2011, containing a comprehensive plan designed to overcome the City of Harrisburg's financial distress. The Recovery Plan Coordinator filed Harrisburg's Final Act 47 Recovery Plan with the municipal clerk in accordance with Section 244 of Act 47 on July 8, 2011, containing a revised comprehensive plan designed to overcome the City's financial distress. On July 19, 2011, a majority of the Harrisburg City Council rejected the Recovery Plan Coordinator's Final Act 47 Recovery Plan.

Following the City Council's failure to adopt the Recovery Coordinator's Final Act 47 Plan, Mayor Thompson developed an alternate Final Recovery Plan pursuant to the provisions of Section 246 of Act 47 and filed such Plan with the municipal clerk on August 22, 2011. On August 31, 2011, a majority of the Harrisburg City Council rejected Mayor Thompson's Final Recovery Plan. On September 13, 2011, a majority of the Harrisburg City Council declined to reconsider its rejection of Mayor Thompson's Final Recovery Plan, leaving the City with no plan to alleviate its fiscal distress.

The City of Harrisburg is insolvent. Notwithstanding this fact, the City has repeatedly failed to enact or implement a fiscal plan to adequately address or prevent insolvency after repeated opportunities to do so. The City has repeatedly failed to pay guaranteed bond debt associated with the Harrisburg Materials, Energy, Recycling and Recovery Facilities (the "Incinerator") for which it is liable in the principal amount of \$242 Million, and for which the approximate amount of \$83 Million, representing past due payments and additional sums for 2011 debt service, is required in order to bring the City's guaranteed bond debt obligations current. The Incinerator debt is the subject of six (6) lawsuits currently pending in the Dauphin County Court of Common Pleas against the City of Harrisburg, each case seeking a money judgment and mandamus against the City pursuant to the provisions of the Debt Act which would require the City Treasurer to apply all tax monies received by the City first to the repayment of the Incinerator bonds.

The City of Harrisburg carried a budget deficit in 2010 of \$5.35 Million and is projected to have a budget deficit of approximately \$3 Million in 2011. The City's budget deficits in 2010 and 2011 were incurred despite the fact that the City paid no guaranteed bond obligations associated with the Incinerator in either year. The City has not budgeted for any bond debt service payments associated with the Incinerator debt in its 2011 budget.

An award of the relief requested in the pending lawsuits will render the City of Harrisburg incapable of providing for vital and necessary services by eliminating the City's receipt of tax revenues that would preclude the City's payment and/or provision of essential government services, including but not limited to, basic and fundamental municipal services such as police and fire services; ambulance and rescue services; water supply and distribution; wastewater services; refuse collection and disposal; snow removal; payroll and pension obligations; and fulfillment of payment of debt obligations or any other financial obligations. This threat to the City of Harrisburg's ability to provide vital and necessary services jeopardizes the health, safety and welfare of the citizens of Harrisburg, as well as citizens of the Commonwealth who work in or visit the City. Moreover, the City's ongoing fiscal distress threatens the fiscal stability of neighboring communities.

As a result of the totality of the fiscal circumstances existing in the City of Harrisburg, including but not limited to the City's insolvency, the City's inability to ensure the continued provision of vital and necessary services as such term is defined by Section 601 of the Act of July 10, 1987, P. L. 246, (as amended), 53 P. S. § 11701.601 ("Act 47 as amended"), and the City's continued failure to adopt a fiscal recovery plan prepared for the City and designed to alleviate its fiscal distress, a determination of the existence of a fiscal emergency is warranted.

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