

## **IC 12-20-25**

### **Chapter 25. Township Assistance in Distressed Townships**

#### **IC 12-20-25-0.3**

##### **Township poor relief control board; change of name; transfer of rules, powers, duties, assets, and liabilities; treatment of references to; members**

Sec. 0.3. (a) The township assistance control board is a continuation of the township poor relief control board (renamed by P.L.73-2005).

(b) The rules adopted by the township poor relief control board shall be treated, after June 30, 2005, as rules of the township assistance control board.

(c) On July 1, 2005, all powers, duties, assets, and liabilities of the township poor relief control board are transferred to the township assistance control board.

(d) After June 30, 2005, a reference to the township poor relief control board shall be treated as a reference to the township assistance control board.

(e) A member of the township poor relief control board appointed under section 29 of this chapter (before its amendment by P.L.73-2005) shall continue to serve as a member of the township assistance control board established by section 29 of this chapter, as amended by P.L.73-2005, until the end of the term for which the member was appointed.

*As added by P.L.220-2011, SEC.271.*

#### **IC 12-20-25-0.4**

##### **Transfer of money from county income tax poor relief control fund, distressed township supplemental poor relief fund**

Sec. 0.4. (a) Notwithstanding the amendment of section 40 of this chapter by P.L.73-2005, funds that are in the county income tax poor relief control fund on June 30, 2005, are transferred to the county income tax township assistance control fund established by section 40 of this chapter, as amended by P.L.73-2005.

(b) Notwithstanding the amendment of section 51 of this chapter by P.L.73-2005, funds that are in the distressed township supplemental poor relief fund on June 30, 2005, are transferred to the distressed township supplemental township assistance fund established by section 51 of this chapter as amended by P.L.73-2005.

*As added by P.L.220-2011, SEC.272.*

#### **IC 12-20-25-1**

##### **Application of chapter**

Sec. 1. This chapter applies to each county having at least one (1) distressed township.

*As added by P.L.2-1992, SEC.14.*

#### **IC 12-20-25-2**

##### **"Control board" defined**

Sec. 2. As used in this chapter, "control board" refers to the township assistance control board.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.113.*

### **IC 12-20-25-3**

#### **"Creditor" defined**

Sec. 3. As used in this chapter, "creditor" means a person that has a claim against the township resulting from providing assistance to an indigent individual as authorized by the township trustee under this article.

*As added by P.L.2-1992, SEC.14.*

### **IC 12-20-25-4**

#### **"Distressed township" defined**

Sec. 4. As used in this chapter, "distressed township" means:

(1) a township that:

(A) has a valid township assistance claim that the county auditor cannot pay within thirty (30) days after the claim is approved for payment under IC 12-2-1-31 (before its repeal) or IC 12-20-20;

(B) has township assistance expenditures during a year that exceed the year's township assistance revenues, excluding any advances from the state and revenues from short term loans from the county or a financial institution or advances from the county from the proceeds of bonds, made or issued under:

(i) this article; or

(ii) IC 12-2-1, IC 12-2-4.5, or IC 12-2-5 (before the repeal of those statutes);

(C) has imposed and dedicated to township assistance at least ninety percent (90%) of the maximum permissible ad valorem property tax levy permitted for all of the township's money under IC 6-1.1-18.5; and

(D) has outstanding indebtedness that exceeds one and eight-tenths percent (1.8%) of the township's adjusted value of taxable property in the district as determined under IC 36-1-15; or

(2) a township that:

(A) has been a controlled township during any part of the preceding five (5) years;

(B) has a valid township assistance claim that the county auditor cannot pay within thirty (30) days after the claim is approved for payment under IC 12-2-1-31 (before its repeal) or IC 12-20-20; and

(C) uses advances from the county from proceeds of bonds issued under IC 12-2-1 (before its repeal) or this article.

*As added by P.L.2-1992, SEC.14. Amended by P.L.6-1997, SEC.147; P.L.73-2005, SEC.114.*

### **IC 12-20-25-5**

#### **"Indebtedness" defined**

Sec. 5. As used in this chapter, "indebtedness" includes unpaid township assistance claims, outstanding bonds, and advancements from the county to the township for any purpose, if the advancement is not repayable in the year the advancement is made.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.115.*

### **IC 12-20-25-6**

#### **Notification of township board of distressed status**

Sec. 6. The township trustee shall immediately notify the township board and the county fiscal body when a township becomes a distressed township.

*As added by P.L.2-1992, SEC.14.*

### **IC 12-20-25-7**

#### **Action upon notice of township distress; certification to governor**

Sec. 7. (a) Upon receipt of notice from the trustee that the township has become a distressed township, the county fiscal body shall do the following:

- (1) Determine whether the township is a distressed township.
- (2) If the township is determined to be a distressed township, certify to the governor that the township is a distressed township.

(b) If:

- (1) the trustee fails to notify the county fiscal body when the township becomes a distressed township; or
- (2) the county fiscal body fails to certify to the governor that the township is a distressed township;

any taxpayer of the township may notify the department, which shall make the determination required by subsection (a)(1) and, if appropriate, make the certification to the governor required by subsection (a)(2).

*As added by P.L.2-1992, SEC.14. Amended by P.L.90-2002, SEC.356.*

### **IC 12-20-25-8**

#### **Management committee; membership**

Sec. 8. Upon receipt of a certification under section 7 of this chapter, the governor shall appoint a four (4) member management committee to assume the township trustee's duties as administrator of township assistance. The committee must consist of one (1) representative from each of the following:

- (1) The budget agency. This member serves as chairperson.
- (2) The state board of accounts.
- (3) The department.
- (4) The division of family resources.

*As added by P.L.2-1992, SEC.14. Amended by P.L.90-2002, SEC.357; P.L.73-2005, SEC.116; P.L.145-2006, SEC.120.*

**IC 12-20-25-9****Service at will of governor**

Sec. 9. The management committee serves at the pleasure of the governor.

*As added by P.L.2-1992, SEC.14.*

**IC 12-20-25-10****Township trustee's duties to advise and assist**

Sec. 10. The township trustee shall serve as an advisor to the management committee and assist the management committee in carrying out the committee's duties under this chapter.

*As added by P.L.2-1992, SEC.14.*

**IC 12-20-25-11****Committee administration of township trustee's office**

Sec. 11. The management committee shall administer the township trustee's office until the committee has completed a financial and management evaluation of the trustee's office and reported the committee's findings to the control board under section 32 of this chapter.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.117.*

**IC 12-20-25-12****Township assistance control board**

Sec. 12. At the time the governor appoints the members of the management committee, the governor shall also appoint a control board for the distressed township under section 29 of this chapter.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.118.*

**IC 12-20-25-13****Distressed township as controlled township; payment of township assistance claims and committee operating costs from supplemental township assistance fund**

Sec. 13. (a) When the management committee is appointed, the distressed township is a controlled township until the requirements of section 41 of this chapter are met.

(b) During the period that the management committee is in control of the township trustee's office, the payment of township assistance claims and the operating costs of the management committee that:

- (1) are incurred during the period the management committee is in control of the township trustee's office; and
- (2) exceed the revenue derived from the distressed township's township assistance property tax levy;

shall be made from support to the county from the distressed township supplemental township assistance fund established under section 51 of this chapter.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.119.*

### **IC 12-20-25-14**

#### **Authority of township trustee**

Sec. 14. A township trustee has no authority concerning township assistance in a controlled township. However, after the management committee has completed the evaluation of the trustee's office and reported the committee's findings to the control board as required by section 32 of this chapter, the township trustee shall resume the trustee's duties concerning township assistance, subject to the supervision and control of the control board.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.120.*

### **IC 12-20-25-15**

#### **Duties of committee; rules**

Sec. 15. (a) The management committee appointed under section 8 of this chapter shall do the following:

- (1) Conduct or have conducted a financial and compliance audit of the internal operations of the trustee's office.
- (2) Conduct or have conducted, to the extent practicable, a financial and compliance audit of each township assistance recipient who received assistance from the township trustee over the five (5) years immediately preceding the assumption of control of the trustee's office.
- (3) Conduct or have conducted an economy and efficiency audit of the internal operations of the trustee's office, which must determine the following:
  - (A) If the trustee's office is managing and utilizing the resources of the office, including personnel, property, and office space, economically and efficiently.
  - (B) If there are any inefficiencies or uneconomical practices and if so the causes.
  - (C) If the trustee's office has complied with statutes and rules concerning matters of economy and efficiency.
- (4) Establish standards for the following:
  - (A) Eligibility for township assistance.
  - (B) Payments for township assistance claims.
  - (C) Contracts and payments on contracts for township assistance goods or services.
  - (D) Leases or rental agreements and payments on leases or rental agreements for facilities that relate to the provision of township assistance.
  - (E) Capital expenditures relating to township assistance.
- (5) Implement a mandatory employment or workfare program under IC 12-20-10 or IC 12-20-11 or require that a township assistance recipient participate in a training program under IC 12-20-12.

(b) Notwithstanding IC 36-9, the management committee is not required to solicit bids before entering into a contract to have an audit conducted under this section.

(c) If the control board has adopted rules concerning the standards

listed in subsection (a)(4), the management committee's rules must be consistent with the control board's rules.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.121.*

#### **IC 12-20-25-16**

##### **Litigation powers and duties**

Sec. 16. The management committee may be sued in the committee's own name. The management committee has the power to sue in the committee's own name and to defend an appeal from a determination made under section 28 of this chapter.

*As added by P.L.2-1992, SEC.14.*

#### **IC 12-20-25-17**

##### **Committee powers regarding employees**

Sec. 17. (a) The management committee may do the following:

- (1) Employ, promote, and remove employees of the trustee's office who perform township assistance duties as needed and, with the approval of the governor, fix their compensation.
- (2) Retain certified public accountants and other necessary professionals from whom the committee may obtain audits, reports, and other assistance necessary to perform the committee's duties.

(b) The management committee may only dismiss a township employee for just cause or with the approval of the township trustee. Just cause includes removal for personnel reductions made in accordance with IC 12-20-4.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.122.*

#### **IC 12-20-25-18**

##### **Adoption of rules**

Sec. 18. (a) The management committee and the control board shall adopt rules as required by sections 15 and 30 of this chapter. The management committee and the control board may each adopt rules to administer the township assistance program in a controlled township. IC 4-22-2 does not apply to the rules. Rules adopted under this section must be:

- (1) written;
- (2) signed by the governor; and
- (3) published in the Indiana Register not more than sixty (60) days after the rules are signed by the governor.

(b) Notwithstanding any other provision of this article, an individual may not receive township assistance from a controlled township until the applicant for assistance qualifies under eligibility standards established under rules adopted under subsection (a).

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.123.*

#### **IC 12-20-25-19**

**Registration for work at department of workforce development prerequisite to assistance**

Sec. 19. (a) Notwithstanding any other provision of this article, an unemployed individual may not receive township assistance in a controlled township until the individual has registered for work at an office of the department of workforce development and has provided proof that the individual is registered. This subsection does not apply to an individual who:

- (1) is not physically able to perform work;
- (2) is less than eighteen (18) years of age or at least sixty-five (65) years of age; or
- (3) is needed to care for another individual because of the other individual's age or physical condition.

(b) An unemployed individual who has registered under subsection (a) may not receive township assistance in a controlled township on a continuing basis unless the individual reports to the employment office and provides proof that the individual has reported with the frequency and in the manner prescribed by either the management committee or the control board.

(c) Subject to subsection (a), if the management committee or the control board finds that an individual has failed to:

- (1) apply for available, suitable work when directed by the commissioner of workforce development, the commissioner's deputy, or an authorized representative of the state;
- (2) accept, at any time after the individual is notified of a separation, suitable work when found for and offered to the individual by the commissioner of workforce development, the commissioner's deputy, or an authorized representative of the state; or
- (3) return to the individual's customary self-employment when directed by the commissioner of workforce development or the commissioner's deputy;

the individual may not receive township assistance for six (6) months after the date of the management committee's or control board's finding.

*As added by P.L.2-1992, SEC.14. Amended by P.L.21-1995, SEC.16; P.L.73-2005, SEC.124.*

**IC 12-20-25-20**

**Case numbers**

Sec. 20. (a) The management committee shall assign a case number to each applicant who is qualified under section 18 of this chapter for township assistance from the township.

(b) To the extent allowed by law, an individual's case number must be the individual's Social Security number.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.125.*

**IC 12-20-25-21**

**Denial of claims; grounds**

Sec. 21. Notwithstanding IC 12-20-20, a claim may not be approved if the township assistance is provided during the period that the township is a controlled township and:

- (1) the township assistance claim is not presented for payment not more than sixty (60) days after the date the township assistance was provided;
- (2) the township assistance recipient cannot be identified;
- (3) the township assistance provided cannot be substantiated in detail; or
- (4) the date the township assistance was provided cannot be established.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.126.*

### **IC 12-20-25-22**

#### **Payment of unpaid claims of creditors**

Sec. 22. (a) Sections 22 through 28 of this chapter create an exclusive administrative remedy for the payment of unpaid claims of creditors for the following goods and services that were provided under the authority of IC 12-2-1 (before its repeal) or this article before the township became a controlled township:

- (1) Food, including prepared food and special dietary food.
- (2) Clothing.
- (3) Shelter.
- (4) Water, gas, and electric services for lighting, heating, and cooking.
- (5) Household supplies, including first aid and medical supplies for injury and illness.
- (6) Medical and surgical attendance.
- (7) Nursing care prescribed by a physician.
- (8) School lunches.
- (9) Transportation to allow a township assistance recipient to seek or accept employment.
- (10) Feed for livestock.
- (11) Funeral and cemetery expenses.
- (12) Any other goods or services provided under this article.

(b) A creditor that has a claim described in subsection (a) against the township trustee must file a statement of claims with the management committee not more than ninety (90) days after notice is given under section 24 or 25 of this chapter.

(c) The statement of claims must itemize each claim the creditor has against the township. The state board of accounts shall prescribe the form of the statement of claims. The state board of accounts shall establish standards for the submission of supporting documentation for claims.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.127.*

### **IC 12-20-25-23**

#### **Statement of claim; filing limitations**

Sec. 23. The claim of a creditor is void if the creditor fails to file a statement of claims with the management committee not more than ninety (90) days after notice is given under section 24 or 25 of this chapter.

*As added by P.L.2-1992, SEC.14.*

#### **IC 12-20-25-24**

##### **Information regarding creditors' claims; notice to creditors**

Sec. 24. (a) The county auditor shall provide the management committee with the following:

- (1) The name, address, and voucher number of each creditor whose claims have not been paid.
- (2) An itemization of each creditor's claims against the distressed township.

(b) The management committee shall send a notice by first class mail to the creditors identified by the county auditor. The notice must do the following:

- (1) Inform the creditor that the creditor must file a statement of claims with the management committee not more than ninety (90) days after the mailing of the notice or the claim is void.
- (2) Include a statement of claims form.
- (3) Identify the required supporting documentation that must be filed along with the statement of claims.

*As added by P.L.2-1992, SEC.14.*

#### **IC 12-20-25-25**

##### **Notice by publication**

Sec. 25. In addition to the notice required in section 24 of this chapter, the management committee shall publish a notice to all persons claiming to be creditors in two (2) newspapers of general circulation in the county. If there is only one (1) newspaper of general circulation in the county, publication in that newspaper is sufficient notice to the persons claiming to be creditors.

*As added by P.L.2-1992, SEC.14.*

#### **IC 12-20-25-26**

##### **Review and evaluation of claims**

Sec. 26. (a) Upon receipt of a statement of claims from a creditor, the management committee shall review and evaluate the validity and reasonableness of each claim. The management committee is not required to conduct a hearing under IC 4-21.5-3.

(b) The management committee's evaluation of each claim shall be made without determining whether the claim is a valid township debt under Article 13, Section 1 of the Constitution of the State of Indiana.

*As added by P.L.2-1992, SEC.14.*

#### **IC 12-20-25-27**

##### **Payment of claims; invalid and unreasonable claims**

Sec. 27. (a) Except as provided in section 52(3) of this chapter, if

the management committee finds a claim to be valid and reasonable in whole or in part, the amount of the claim found to be valid and reasonable shall be paid from the distressed township's township assistance account as provided in section 40 of this chapter. If the management committee finds that a claim is invalid in whole or in part, the amount of the claim found to be invalid is void. The management committee shall mail a notice of the committee's determination to the creditor not more than ten (10) days after the determination is made. The notice must include a statement of the reasons for the determination.

(b) If the management committee finds that a claim is not reasonable, the management committee shall mail a notice of the finding to the creditor and shall attempt to negotiate a reasonable settlement with the creditor for the amount of the claim. If the management committee attempts to negotiate with the creditor and determines that it is not possible to reach a reasonable settlement of the claim not more than sixty (60) days after the notice was mailed, the management committee shall determine the amount of the claim that is reasonable. The management committee shall mail a notice of the committee's determination to the creditor not more than ten (10) days after the determination is made. The notice must include a statement of the reasons for the determination.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.128.*

#### **IC 12-20-25-28**

##### **Determination of validity and reasonableness of claim; finality; appeal**

Sec. 28. (a) A determination of the management committee concerning the validity and reasonableness of a claim is a final administrative determination.

(b) A creditor aggrieved by a final determination of the management committee may appeal the determination by filing a petition with the circuit or superior court of the county in which the creditor resides or in the county in which the distressed township is located. The petition must be filed not more than thirty (30) days following the date of the management committee's determination. The court shall try the cause de novo. Except as provided in section 52(3) of this chapter, a final court judgment that orders a payment to be made to a creditor under this subsection may be collected upon and paid from the distressed township's township assistance account as provided in section 40 of this chapter. An action brought under this section is governed by IC 34-13-5, except that a change of venue is governed by the Indiana Rules of Trial Procedure rather than IC 34-13-5-4.

(c) A claim under this article that is pending in court at the time the township becomes a distressed township is stayed and the claimant must file the claim with the management committee as provided in this chapter. A claimant who has a final court judgment on a claim under this article before the township becomes a

distressed township may proceed to collect on that judgment as provided by law.

(d) An action under this section is subject to the defense that the claim may violate Article 13, Section 1 of the Constitution of the State of Indiana.

*As added by P.L.2-1992, SEC.14. Amended by P.L.1-1998, SEC.104; P.L.73-2005, SEC.129.*

#### **IC 12-20-25-29**

##### **Township assistance control board; membership; salaries**

Sec. 29. (a) A township assistance control board is established for each distressed township. The governor shall appoint the following members to the control board:

- (1) The budget director or the director's designee, who shall serve as the chairman of the board.
- (2) One (1) representative of the state board of accounts.
- (3) One (1) representative of the department.
- (4) One (1) representative of the division of family resources.
- (5) One (1) elected public official of the county.
- (6) One (1) township trustee.
- (7) One (1) individual who:
  - (A) resides in the county or is employed in the county by an employer paying taxes in the county; and
  - (B) is or agrees to become familiar with township assistance.
- (8) The township trustee of the distressed township, who shall serve as a nonvoting ex officio member of the control board.

(b) The members of the control board serve at the pleasure of the governor.

(c) Each member of the board who is not a state employee or an elected official is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Such a member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

*As added by P.L.2-1992, SEC.14. Amended by P.L.90-2002, SEC.358; P.L.73-2005, SEC.130; P.L.145-2006, SEC.121.*

#### **IC 12-20-25-30**

##### **Powers and duties of control board**

Sec. 30. (a) The control board shall supervise the township trustee in the administration of township assistance. The control board may appoint one (1) of the board's members to monitor the trustee's compliance with this chapter and to report discrepancies to the control board. The control board may require the board's approval of an expenditure of more than five hundred dollars (\$500).

(b) Notwithstanding IC 36-6-6-11, the control board shall review and may reduce or increase the township's budget and proposed tax levy to be advertised by the county auditor. If the control board finds that there will be insufficient revenues available under this chapter

for the township to pay valid township assistance claims, the control board may consent to proposed borrowing for township assistance under IC 12-20-24.

(c) The control board may approve the number, pay, and duties of employees who are employed for the distribution and administration of the distressed township's township assistance program.

(d) The control board may require the township trustee to submit reports on the amounts of township assistance by categories, including the types of goods or services furnished and the vendors who supplied the goods or services.

(e) The control board:

(1) shall operate the employment program implemented by the management committee under section 15(a)(5) of this chapter; and

(2) may require that a township assistance recipient participate in a training program under IC 12-20-12-1.

(f) The control board shall establish income eligibility standards for township assistance, subject to the requirements of section 18 of this chapter.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.131; P.L.169-2006, SEC.41.*

### **IC 12-20-25-31**

#### **Distribution rules; requirements**

Sec. 31. (a) The control board may adopt rules concerning the distribution of township assistance designed to reduce the cost and improve the delivery of township assistance. IC 4-22-2 does not apply to the rules. The rules may include provisions governing the following:

(1) The minimum quality of goods and services required to be provided by township assistance vendors.

(2) The rate of reimbursement to be provided to vendors of goods and services under the township assistance program.

(3) The types of assistance that are to be provided to township assistance recipients.

(4) Competitive bidding requirements for purchases of goods and services for township assistance recipients, other than food, other perishable products, and goods or services needed on an emergency basis.

(5) The time within which providers of township assistance are to present claims for payment, which may not exceed sixty (60) days from the date the township assistance was provided.

(6) The purchase of goods and services to meet the emergency needs of township assistance applicants without competitive bids.

(b) If rules described in subsection (a)(4) are adopted, the rules must require that:

(1) purchases may be made only after bids have been solicited; and

(2) the contract for furnishing goods or services must be

awarded to the lowest and best responsible and responsive bidder or to more than one (1) bidder if the selection of more than one (1) bidder is appropriate to provide the necessary goods or services.

(c) If practicable and prudent, township assistance purchases should be made from local vendors.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.132.*

### **IC 12-20-25-32**

#### **Report; financial plan recommendation**

Sec. 32. (a) As soon as the management committee has completed the financial, compliance, economy, and efficiency audits required by section 15 of this chapter, the management committee shall make a report to the control board. The report must include the following:

- (1) The findings of the financial, compliance, economy, and efficiency audits.
- (2) An itemization of each creditor's claims against the distressed township that were found to be valid and reasonable.
- (3) An itemization of each claim that was found to be invalid.
- (4) An itemization of each claim that was found to be unreasonable and on which no settlement was negotiated.
- (5) A proposed operating budget for the township trustee's office.
- (6) An estimate of future operating and debt service costs for township assistance.
- (7) The amount of outstanding township assistance bonds issued and loans incurred by the county and advancements made by the county.
- (8) The maximum permissible township assistance levy of the township under IC 6-1.1-18.5.

(b) The county fiscal body may recommend a financial plan to the management committee that ensures that future revenue increases, if necessary, come from sources other than ad valorem property taxes imposed on property within the distressed township and will accomplish the purposes set forth in section 33(a)(2) of this chapter. The financial plan may include any of the options set forth in section 34 of this chapter. The management committee shall include any submitted plan in the committee's report to the control board.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.133.*

### **IC 12-20-25-33**

#### **Operating budget; financial plan; adoption**

Sec. 33. (a) Upon receipt of the report required in section 32 of this chapter, the control board shall adopt the following:

- (1) An operating budget for the trustee's office.
- (2) A financial plan that will ensure that future revenue will do the following:
  - (A) Cover operating expenses and pay township assistance

claims that are incurred during the time that the township is a controlled township not more than thirty (30) days after the claims are presented for payment.

(B) Satisfy the outstanding valid and reasonable claims of creditors that are approved under section 27 or 28 of this chapter within three (3) years.

(C) Retire outstanding bonded indebtedness, the proceeds of which were advanced to the distressed township, and repay outstanding loans or advances made for township assistance in the distressed township within three (3) years.

(b) If the county fiscal body submits a financial plan under section 32(b) of this chapter, the control board shall adopt the fiscal body's plan if the control board finds that the plan will accomplish the purposes set forth in subsection (a)(2).

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.134.*

#### **IC 12-20-25-34**

##### **Financial plan; contents**

Sec. 34. The financial plan adopted under section 33 of this chapter may include the following:

(1) The adoption in the current year of:

(A) the county adjusted gross income tax at a rate allowed by IC 6-3.5-1.1; or

(B) the county option income tax at a rate not to exceed one percent (1%);

to be distributed as provided in this chapter. The adoption of either county income tax under this chapter is in addition to the county adjusted gross income tax or the county option income tax that may already be in effect in the county.

(2) The payment of township assistance with county money.

(3) The elimination or reduction of township assistance services not required under this article.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.135.*

#### **IC 12-20-25-35**

##### **Control board report to county fiscal body; adoption or rejection of financial plan; inclusion of income tax**

Sec. 35. (a) The control board shall report the following to the county fiscal body:

(1) The audit findings of the management committee.

(2) The financial plan adopted under section 33 of this chapter.

(b) Not more than thirty (30) days after notice, the county fiscal body shall adopt one (1) of the following:

(1) An ordinance adopting the financial plan adopted by the control board.

(2) An ordinance rejecting the financial plan adopted by the control board.

(c) Notwithstanding IC 6-3.5-6, if:

(1) the financial plan adopted under section 33 of this chapter includes the county option income tax; and

(2) the fiscal body adopts an ordinance adopting the financial plan under subsection (b);

the county option income tax is imposed at the rate adopted in the financial plan. Subject to the requirements of this chapter, the county fiscal body, rather than the county income tax council, has the authority granted to a county income tax council by IC 6-3.5-6 as long as the county option income tax imposed under this chapter remains in effect.

*As added by P.L.2-1992, SEC.14.*

### **IC 12-20-25-36**

#### **Department action; transfer of funds to township assistance account**

Sec. 36. (a) Notwithstanding IC 6-1.1-17, if the county fiscal body:

(1) adopts an ordinance under section 35(b)(2) of this chapter;

or

(2) fails to adopt an ordinance under section 35(b) of this chapter;

the department shall reduce the county's general fund budget and increase the distressed township's township assistance account budget in an amount sufficient to satisfy the requirements of section 33(a)(2) of this chapter. The department shall notify the county auditor and county treasurer of the county general fund reduction and the county treasurer shall transfer from the county general fund to the distressed township's township assistance account the amount specified by the department.

(b) Notwithstanding IC 6-1.1-18.5, if a county is required to transfer money to a distressed township's township assistance account under subsection (a), the county may not appeal for an excessive levy under IC 6-1.1-18.5 to replace money that is transferred from the county general fund.

*As added by P.L.2-1992, SEC.14. Amended by P.L.90-2002, SEC.359; P.L.73-2005, SEC.136.*

### **IC 12-20-25-37**

#### **Adoption of proposal including income tax; notice to department of revenue; collection of tax**

Sec. 37. (a) If the county fiscal body adopts an ordinance adopting the control board's financial plan as provided in section 35 of this chapter and the plan includes a proposal to adopt the county adjusted gross income tax or the county option income tax, the control board shall notify the department of state revenue of this fact.

(b) Notwithstanding IC 6-3.5-1.1 and IC 6-3.5-6, after receiving notice from the control board, the department of state revenue shall collect the tax beginning on the earlier of July 1 or January 1 immediately following the notice from the control board. Except as provided in this chapter, a county adjusted gross income tax or

county option income tax imposed under this chapter shall be administered in the same manner that other county adjusted gross income taxes or county option income taxes are administered under IC 6-3.5-1.1 or IC 6-3.5-6, whichever applies.

*As added by P.L.2-1992, SEC.14.*

#### **IC 12-20-25-38**

##### **Advance of state general fund money; repayment**

Sec. 38. (a) If the county fiscal body adopts an ordinance adopting the control board's financial plan as provided in section 35 of this chapter and the plan includes a proposal to adopt the county adjusted gross income tax or the county option income tax, the control board may request an advance of state general fund money in the year the county fiscal body adopts the plan and in any subsequent year in anticipation of the county adjusted gross income tax or the county option income tax revenue. However, the state, acting through the state board of finance, may not advance an amount that is greater than the amount of county adjusted gross income tax or county option income tax revenue expected to be collected within the year in which the advancement is made. The department of state revenue shall estimate and certify to the state board of finance the amount of county adjusted gross income tax or county option income tax revenue expected to be collected.

(b) If the county fiscal body adopts an ordinance adopting the control board's financial plan as provided in section 35 of this chapter and the plan includes a proposal to adopt the county adjusted gross income tax or the county option income tax, a state advance from the state general fund must be repaid before any money is distributed to the county. The treasurer of state shall withhold sufficient money from the county's county adjusted gross income tax or county option income tax account to repay the state the amount of state advances provided to the county from the state general fund. The treasurer of state shall disburse any balance in the county's account to the county, to be used as provided in section 40 of this chapter.

(c) This section does not impose liability on the state for the township assistance debts of the county.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.137.*

#### **IC 12-20-25-39**

##### **Deposit of tax proceeds; disbursement**

Sec. 39. The proceeds of the county adjusted gross income tax or the county option income tax imposed under this chapter shall be deposited by the treasurer of state on behalf of the county into a separate county adjusted gross income tax or county option income tax account, whichever applies. The money in the account shall be disbursed as provided in section 38(b) of this chapter.

*As added by P.L.2-1992, SEC.14.*

### **IC 12-20-25-40**

#### **County income tax township assistance control fund; disbursement priorities**

Sec. 40. The county treasurer shall deposit the disbursements from the treasurer of state in a county fund to be known as the county income tax township assistance control fund. Notwithstanding IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-1.1-18.5, the county treasurer shall disburse the money in the fund in the following priority:

(1) To ensure the payment within thirty (30) days of all valid township assistance claims in the distressed township that are not covered by subdivision (3).

(2) At the end of each calendar year, to redeem any outstanding bonds issued or repay loans incurred by the county for poor relief or township assistance purposes under IC 12-2-4.5 (before its repeal), IC 12-2-5 (before its repeal), IC 12-20-23 (before its repeal), or IC 12-20-24 to the extent the proceeds of the bonds or loans were advanced to the distressed township.

(3) To pay claims approved under section 27 or 28 of this chapter (or IC 12-2-14-22 or IC 12-2-14-23 before their repeal).

(4) As provided in IC 6-3.5-6 if the county option income tax is imposed under this chapter. If the county adjusted gross income tax is imposed under this chapter, to provide property tax replacement credits for each civil taxing unit and school corporation in the county as provided in IC 6-3.5-1.1. No part of the county adjusted gross income tax revenue is considered a certified share of a governmental unit as provided in IC 6-3.5-1.1-15. In addition, the county adjusted gross income tax revenue (except for the county adjusted gross income tax revenues that are to be treated as property tax replacements under this subdivision) is in addition to and not a part of the revenue of the township for purposes of determining the township's maximum permissible property tax levy under IC 6-1.1-18.5.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.138; P.L.169-2006, SEC.42.*

### **IC 12-20-25-41**

#### **"Advance" defined; "support" defined; termination of controlled status**

Sec. 41. (a) As used in subsection (c), "advance" refers to money provided to a distressed township from the state general fund under section 38 of this chapter.

(b) As used in subsection (c), "support" refers to money provided from the distressed township supplemental township assistance fund established by section 51 of this chapter to pay township assistance claims and the operating costs of the management committee during the period the management committee is in control of the township trustee's office.

(c) The controlled status of a township under this chapter terminates at the end of a year if at that time the county, with respect

to each controlled township:

(1) has repaid:

(A) all state advances provided to the county under this chapter; and

(B) state support provided to the county under this chapter if the department has reduced the county's general fund budget under section 36 of this chapter;

(2) has paid all valid township assistance claims in the distressed township, including the claims approved under section 27 or 28 of this chapter;

(3) will have sufficient money to pay, not more than thirty (30) days after a claim is submitted for payment, all valid township assistance claims in the distressed township that are expected to be submitted in the following year as determined by the control board, excluding any advances from the state, revenues from short term loans from the county or a financial institution under IC 12-2-4.5 (before its repeal) or IC 12-20-24, and proceeds from bonds issued under IC 12-2-1 (before its repeal), IC 12-2-5 (before its repeal), or this article; and

(4) has no bonds outstanding that were issued to pay for township assistance in the distressed township.

(d) Notwithstanding IC 6-3.5-1.1 and IC 6-3.5-6, if the control board finds that:

(1) the requirements of subsection (c)(1), (c)(2), and (c)(4) are satisfied; and

(2) the requirements of subsection (c)(3) cannot be satisfied because the township's maximum permissible ad valorem property tax levy provides insufficient revenue to ensure the payment of all valid township assistance claims in the distressed township that will be incurred during the year following the termination of the controlled status of the township;

the county fiscal body may dedicate to the provision of township assistance, from the county adjusted gross income tax or the county option income tax imposed as a result of adopting a financial plan under section 35 of this chapter, an amount necessary to satisfy the requirements of subsection (c)(3).

(e) If the control board finds that the income tax dedicated under subsection (d) will satisfy the requirements of subsection (c)(3), the controlled status of the township under this chapter terminates at the end of the year in which the control board makes the board's finding. *As added by P.L.2-1992, SEC.14. Amended by P.L.90-2002, SEC.360; P.L.73-2005, SEC.139.*

#### **IC 12-20-25-42**

**Township certified as distressed before January 1, 1988; termination of controlled status; review and approval of civil and township assistance budgets; outstanding debt**

Sec. 42. (a) This section applies to a township that was certified a distressed township before January 1, 1988.

(b) The controlled status of the distressed township is terminated

on July 1, 1989, if the department finds that the following conditions exist:

(1) All valid township assistance claims in the distressed township, including the claims approved under IC 12-2-14-22 (before its repeal), IC 12-2-14-23 (before its repeal), or section 27 or 28 of this chapter, have been paid, except for the following:

(A) Claims under litigation before the date of the board's finding.

(B) Obligations owed to other political subdivisions.

(2) The township has no bonds outstanding that were issued to pay for township assistance in the distressed township.

(c) Notwithstanding section 4(2) of this chapter, if a township that has had the township's distressed status terminated under subsection (b) uses advances from the county from proceeds of bonds issued under IC 12-2-1 (before its repeal) or this article to pay township assistance claims more than one (1) time in the five (5) years following the termination of the township's distressed status, the township must have the township's civil and township assistance budgets reviewed and approved by the county fiscal body in each year that a tax is levied against the property in the township to repay the advances. The decision of the county fiscal body may be appealed to the department.

(d) Notwithstanding IC 12-2-5-6 (before its repeal), IC 12-2-5-8 (before its repeal), IC 12-20-23-15 (before its repeal), and IC 12-20-23-19 (before its repeal), the aggregate principal amount of any outstanding debt that is incurred to pay township assistance claims during the five (5) years following the termination of the township's distressed status under subsection (b) and that is in excess of one-tenth percent (0.1%) of the adjusted valued of taxable property in the township as determined under IC 36-1-15 is the direct general obligation of the county.

*As added by P.L.2-1992, SEC.14. Amended by P.L.6-1997, SEC.148; P.L.90-2002, SEC.361; P.L.73-2005, SEC.140; P.L.169-2006, SEC.43.*

### **IC 12-20-25-43**

#### **Maximum ad valorem property tax insufficient to pay all township assistance claims; dedication of other revenue**

Sec. 43. Notwithstanding IC 6-3.5-1.1 and IC 6-3.5-6, if:

(1) there has been a controlled township in a county;

(2) the township that has been controlled has levied the township's maximum permissible ad valorem property tax levy for township assistance;

(3) the maximum permissible ad valorem property tax levy is insufficient to ensure the payment within thirty (30) days of all valid township assistance claims in the township; and

(4) the county adjusted gross income tax or county option income tax is in effect in the county as a result of adopting a financial plan under this chapter;

the county fiscal body shall dedicate from the county adjusted gross income tax or county option income tax imposed under this chapter an amount of revenue determined by the department to be necessary to ensure the payment within thirty (30) days of all township assistance claims in the township that has been controlled. The county fiscal body shall distribute any income tax revenues dedicated under this section before the fiscal body makes any other distributions in accordance with this chapter. Notwithstanding section 45 of this chapter, the county fiscal body may not reduce the county option income tax rate below the rate necessary to satisfy the requirements of this section.

*As added by P.L.2-1992, SEC.14. Amended by P.L.90-2002, SEC.362; P.L.73-2005, SEC.141.*

#### **IC 12-20-25-44**

##### **Distribution of county adjusted gross income tax or county option income tax; rescission of tax; termination of tax**

Sec. 44. (a) This section applies after the termination of the controlled status of all townships located in a county as provided in section 41 of this chapter.

(b) If the county adjusted gross income tax or county option income tax is imposed under this chapter, the tax shall be distributed as provided in section 46 of this chapter. If the county fiscal body has not dedicated county adjusted gross income tax or county option income tax revenue for township assistance under section 41 of this chapter, the county fiscal body may rescind the tax as provided in IC 6-3.5-1.1 or IC 6-3.5-6, whichever applies. If the county fiscal body has dedicated county adjusted gross income tax or county option income tax revenue for township assistance under section 41 of this chapter, the county fiscal body may rescind the tax but not until after the end of the year following the termination of the controlled status of the township.

(c) If:

(1) the county adjusted gross income tax (IC 6-3.5-1.1) or the county option income tax (IC 6-3.5-6) was in effect before the county adjusted gross income tax or the county option income tax is imposed under this chapter; and

(2) the county fiscal body did not dedicate county adjusted gross income tax or county option income tax revenue for township assistance under section 41 of this chapter;

the county adjusted gross income tax or county option income tax imposed under this chapter terminates as of the date the controlled status of all townships located in the county terminates.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.142.*

#### **IC 12-20-25-45**

##### **Adjustments to county option income tax; local homestead credit**

Sec. 45. (a) Notwithstanding IC 6-3.5-6, after the termination of the controlled status of all townships located in a county as provided

in section 41 of this chapter and if the county option income tax is imposed under this chapter, the county fiscal body may adopt an ordinance to:

- (1) grant a credit for homesteads that are eligible for a standard deduction under IC 6-1.1-12-37 in the county; or
- (2) reduce the county option income tax rate for resident county taxpayers to a rate not less than the greater of:
  - (A) the minimum rate necessary to satisfy the requirements of section 43 of this chapter; or
  - (B) the minimum rate necessary to satisfy the requirements of sections 43 and 46(2) of this chapter if an ordinance is adopted under subdivision (1).

(b) A county fiscal body may not grant a credit for homesteads that exceeds the percentage permitted under IC 6-3.5-6-13 for a county option income tax imposed under IC 6-3.5-6.

(c) The increase in the homestead credit percentage must be uniform for all homesteads in a county.

(d) In an ordinance that increases the homestead credit percentage, the county fiscal body may provide for a series of increases or decreases to take place for each of a group of succeeding calendar years.

(e) An ordinance may be adopted under this section after January 1 but before June 1 of a calendar year.

(f) An ordinance adopted under this section takes effect January 1 of the next calendar year.

(g) An ordinance adopted under this section for a county is not applicable for a year if on January 1 of that year the county option income tax is not in effect.

*As added by P.L.2-1992, SEC.14. Amended by P.L.113-2010, SEC.92.*

#### **IC 12-20-25-46**

##### **Income tax revenues; distribution after termination of controlled status**

Sec. 46. After the termination of the controlled status of all townships located in a county as provided in section 41 of this chapter, if the county adjusted gross income tax or the county option income tax is imposed under this chapter, any revenues from the county adjusted gross income tax or the county option income tax imposed under this chapter shall be distributed in the following priority:

- (1) To satisfy the requirements of section 43 of this chapter.
- (2) If the county option income tax imposed under this chapter is in effect, to replace the amount, if any, of property tax revenue lost due to the allowance of a homestead credit within the county under an ordinance adopted under section 45 of this chapter.
- (3) To be used as a certified distribution as provided in IC 6-3.5-1.1 or IC 6-3.5-6, whichever applies.

*As added by P.L.2-1992, SEC.14. Amended by P.L.113-2010,*

SEC.93.

**IC 12-20-25-47**

**Continuation of rules until modified or terminated**

Sec. 47. Rules established by the control board before the termination of a township's controlled status continue to govern the operations of the township trustee's office until the rules are modified or terminated by the township board.

*As added by P.L.2-1992, SEC.14.*

**IC 12-20-25-48**

**Audits or reports as public records**

Sec. 48. An audit or a report:

- (1) required to be made by this chapter; or
- (2) requested to be made by the management committee or the control board;

is a public record.

*As added by P.L.2-1992, SEC.14.*

**IC 12-20-25-49**

**Maximum permissible ad valorem property tax levy mandatory**

Sec. 49. Each distressed township shall take all action necessary to levy the maximum permissible ad valorem property tax levy for township assistance permitted under IC 6-1.1-18.5. If a distressed township fails to take this action, the department shall adjust, in the board's certificate of levies of governmental entities in the county, the township's proposed levy so that the levy is the maximum permissible ad valorem property tax levy.

*As added by P.L.2-1992, SEC.14. Amended by P.L.90-2002, SEC.363; P.L.73-2005, SEC.143.*

**IC 12-20-25-50**

**Office space for management committee and control board**

Sec. 50. The county auditor shall provide the management committee and the control board with office space.

*As added by P.L.2-1992, SEC.14.*

**IC 12-20-25-51**

**Distressed township supplemental township assistance fund; establishment; administration; general purpose**

Sec. 51. The distressed township supplemental township assistance fund is established. The fund shall be administered by the treasurer of state. The fund shall be used to provide state support to distressed townships.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.144.*

**IC 12-20-25-52**

**Nature and uses of distressed township supplemental township assistance fund**

Sec. 52. State support provided from the distressed township supplemental township assistance fund:

- (1) is supplemental to other financing for township assistance;
- (2) may be used to satisfy township assistance claims incurred during the period the management committee is in control of the township trustee's office; and
- (3) subject to the approval of the control board, may be used to pay claims approved under IC 12-2-14-22 (before its repeal), IC 12-2-14-23 (before its repeal), or section 27 or 28 of this chapter.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.145.*

#### **IC 12-20-25-53**

##### **Contents of distressed township supplemental township assistance fund**

Sec. 53. The distressed township supplemental township assistance fund consists of appropriations made to the fund by the general assembly. Interest earned on the money in the fund remains in the fund. The balance remaining in the fund at the end of a state fiscal year remains in the fund and does not revert to the state general fund.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.146.*

#### **IC 12-20-25-54**

##### **Audit disclosing negligence or unlawful conduct; criminal or civil charges**

Sec. 54. If a financial or compliance audit required under section 15 of this chapter discloses negligence or unlawful conduct in the approval of or receipt of township assistance, the management committee shall file a copy of the audit with the prosecuting attorney and with the attorney general. If the attorney general finds that criminal or civil charges should be filed and the prosecuting attorney fails to file the charges, the attorney general shall file the charges.

*As added by P.L.2-1992, SEC.14. Amended by P.L.73-2005, SEC.147.*

#### **IC 12-20-25-55**

##### **Failure to notify of distressed condition; offense**

Sec. 55. A township trustee who knowingly violates section 6 of this chapter commits a Class A misdemeanor.

*As added by P.L.2-1992, SEC.14.*