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**Chapter 199. AN ACT RELATIVE TO THE MEMBERSHIP OF THE SOUTH-EASTERN REGIONAL PLANNING AND ECONOMIC DEVELOPMENT DISTRICT.**

*Be it enacted, etc., as follows:*

Section 12 of chapter 40B of the General Laws, as appearing in the 1990 Official Edition, is hereby amended by striking out, in line 9, the word "shall", the first time it appears, and inserting in place thereof the words:- need not.

Approved September 12, 1991.

**Chapter 200. AN ACT ESTABLISHING A RECEIVERSHIP FOR THE CITY OF CHELSEA.**

*Be it enacted, etc., as follows:*

**SECTION 1.** The general court hereby finds that:

(1) The city of Chelsea has a projected structural deficit for fiscal year nineteen hundred and ninety-two of nine million five hundred thousand dollars, which is twenty-one percent of its total expenditures.

(2) Without significant changes said city will have a structural deficit in fiscal year nineteen hundred and ninety-three greater than that of fiscal year nineteen hundred and ninety-two.

(3) As a result of such structural deficits, said city is unable to obtain an approved balanced budget and is in fiscal crisis.

(4) Without an approved balanced budget, said city is unable to make annual contracts to provide essential services, including the hiring of teachers to work in its schools.

(5) Said city will be unable to provide other essential services, including fire and police protection.

(6) Said fiscal crisis poses an imminent danger to the safety of the citizens of said city and their property.

(7) Said city will be unable to collect property taxes for the second half of fiscal year nineteen hundred and ninety-two.

(8) Said city will be unable to obtain reasonable access to credit markets.

(9) The Chelsea finance control board established in nineteen hundred and eighty-six to secure the financial stability of said city has been unable to establish financial stability.

(10) Said city has received emergency assistance from the commonwealth of one million four hundred seventeen thousand dollars and nine hundred sixty

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thousand dollars in fiscal years nineteen hundred and ninety and nineteen hundred and ninety-one, respectively.

(11) More than forty-four percent of the revenue of said city for the last five fiscal years has been in the form of financial aid from the commonwealth.

(12) Said city failed to meet its payroll on June seventh, nineteen hundred and ninety-one, and does not have an approved budget to meet its payroll for September, nineteen hundred and ninety-one.

(13) The secretary of administration and finance has issued a statement of findings verifying the facts set forth in this section and has recommended the establishment of a receivership for the city.

(14) In order to institute a comprehensive long-term solution to the city's financial problems, it is necessary to dissolve the Chelsea finance control board, and establish a receivership for the city, giving to a receiver the powers necessary to carry out the provisions of this act.

(15) The governor has recommended to the general court pursuant to Section 8 of Article LXXXIX of the Articles of Amendment to the Constitution that legislation be enacted to resolve the financial emergency in said city and to restore fiscal stability to said city.

**SECTION 2.** As used in this act, the following words shall, unless the context requires otherwise, have the following meanings:-

"Board of aldermen", the board of aldermen for the city of Chelsea established under its charter.

"Charter", the charter of the city of Chelsea as provided in chapter six hundred and eighty of the acts of nineteen hundred and eleven.

"Chelsea finance control board", the board established pursuant to chapter one hundred and forty-seven of the acts of nineteen hundred and eighty-six.

"City", the city of Chelsea.

"Constitution", the Constitution of the Commonwealth of Massachusetts.

"Receivership", the form of governance headed by a receiver as established by this act.

"School committee", the school committee of the city of Chelsea established under its charter.

"Secretary", the secretary of the executive office for administration and finance.

"Structural deficit", a negative balance in revenues as compared with expenditures which cannot be controlled by reducing expenditure without changing the structure of government.

**SECTION 3.** Notwithstanding the provisions of any general or special law, any provision of the charter or any city ordinance to the contrary, a receivership is hereby established in the city of Chelsea.

(1) Said receivership shall continue until June thirtieth, nineteen hundred and ninety-four; provided, however, that thereafter the secretary may extend the

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receivership for additional one year terms; and provided, further, that in no case shall the receivership continue after December thirty-first, nineteen hundred and ninety-six. At least one month before any decision to extend said receivership, the secretary shall hold a public hearing in the city for the purpose of determining whether the continuation of said receivership is necessary to accomplish the purposes of this act. The secretary shall hold the hearing at a time and place which offers the residents of the city convenient access to the hearing.

(2) Said receiver shall be the chief executive officer of the city and shall be responsible for the overall operation and administration of the city.

(3) Said receiver shall be a person especially suited by education, training, and experience to perform the duties of the receiver and shall not be either an elected or appointed official of the city.

(4) Said receiver shall be appointed by the governor for an initial term of one year.

(5) Said receiver shall report to the secretary, who shall have authority to reappoint the receiver for additional one-year terms; provided, however, that in no case shall the receivership continue after December thirty-first, nineteen hundred and ninety-six. The secretary may also terminate the receiver for cause at any time. If the secretary does not reappoint the receiver, the governor shall appoint a new receiver who shall carry out and be subject to the provisions of this act.

(6) Upon the appointment of the receiver, the powers and authority of the receiver shall supersede the powers and authority of the Chelsea finance control board, which shall thereupon cease to exist. Upon the effective date of this act, the mayor of said city shall cease to hold the office of mayor and shall not thereafter exercise official acts or perform official duties. The office of mayor shall remain vacant during the receivership established by this act. During the period of said receivership all city elections shall take place as provided in the city charter with the exception of the office of the mayor. All elected officials shall serve in an advisory capacity to said receiver.

(7) The secretary shall determine the salary of the receiver and shall approve other costs of the office of the receiver, which shall be paid by the commonwealth from an account established within the executive office for administration and finance.

(8) The receiver shall be immune from civil liability arising from the exercise of his duties.

**SECTION 4.** The receiver shall be responsible for formulating and implementing a city recovery plan with the following objectives:

(1) to secure the fiscal stability of the city, including the establishment of a balanced annual budget, a five year operating and capital outlay plan, and the implementation of prudent financial management techniques, including generally accepted accounting principles;

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(2) to establish a stable balance of revenue sources, including fees, taxes, special assessments and local aid;

(3) to enhance and promote opportunities for economic development, including particularly the expansion of the property tax base;

(4) to reduce costs, including the restructuring of services, if necessary; and

(5) to maintain and strengthen local services.

**SECTION 5.** Notwithstanding the provisions of any general or special law, the charter or any city ordinance to the contrary, all powers vested in the mayor prior to the effective date of this act shall be vested in said receiver upon his appointment. The board of aldermen shall be vested only with the power to advise said receiver concerning matters previously within its jurisdiction under the charter of said city. Said receiver shall have supervision and control of all financial affairs of said city, and no appropriations shall be made, no debt incurred, except with the approval or upon the recommendation or requisition of said receiver, which approval, recommendation, or requisition shall be in writing and signed by said receiver. Said receiver may delegate or otherwise assign these powers with the approval of the secretary. The powers of said receiver shall include, but not be limited to, the following:

(1) to formulate and establish for each fiscal year during his term, the annual budget of the city and the school committee, including the establishment of appropriations and spending authority for such fiscal year for all departments, boards, committees, agencies or other units of the city and the school committee; provided, however, that, notwithstanding the provisions of section thirty-four of chapter seventy-one of the General Laws, this paragraph shall be fully applicable to the school department and all school spending purposes;

(2) to implement and maintain uniform budget guidelines and procedures for all departments;

(3) to authorize, direct and otherwise make provision for the issuance of bonds, notes or certificates of indebtedness for any purpose enumerated in chapter forty-four of the General Laws or for operating purposes for a term of not more than ten years. Bonds, notes or certificates of indebtedness issued under authority of this act shall be general obligation bonds backed by the full faith and credit of the city; provided, however, that the receiver may pledge future distributions of state aid for the purpose of retiring such bonds, notes or certificates of indebtedness. If any state aid is so pledged, the receiver shall execute on behalf of the city a trust agreement with a corporate trustee, which may be any bank or trust company having the powers of a trust company within the commonwealth, and any state aid so pledged shall be paid by the state treasurer directly to the trustee to be held in trust and applied to the payment of principal and interest on such bonds, notes or certificates of indebtedness; any earnings derived from the investment of such pledged aid shall be applied as needed to the payment of that principal and interest

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and for trustee's fees and related expenses, with any excess to be paid to the city. Bonds, notes or certificates of indebtedness authorized under authority of this act shall be executed on behalf of the city by the receiver and, except as provided for in this act, shall be subject to the provisions of chapter forty-four of the General Laws; provided, however, that bonds, notes or certificates of indebtedness issued for operating purposes shall not be subject to the debt limitations of section ten of chapter forty-four of the General Laws. Upon a determination by the receiver that it is in the best interest of the city, the maturities of bonds, notes or certificates of indebtedness authorized under authority of this act may be established so as to allow the city to pay, as nearly as practicable, level debt service on said bonds, notes or certificates of indebtedness, and the interest on such bonds, notes or certificates of indebtedness may be provided for a fixed, variable or adjustable rate basis;

(4) notwithstanding the provisions of any general or special law to the contrary, said city, acting by and through said receiver, is hereby authorized to borrow at one time or from time to time from the commonwealth for the purpose of maintaining and operating the city, in such amounts and upon such terms as the secretary approves;

(5) to formulate and execute capital budgets;

(6) to amortize operational deficits in an amount and for such term as the secretary approves on an annual basis;

(7) to develop and maintain a uniform system for all financial planning and operations in all departments, offices, boards, commissions, committees, agencies or other units of the city's government, including the school department;

(8) to review and approve or disapprove all proposed contracts for goods or services; and

(9) to initiate federal bankruptcy proceedings, upon written notice to and with the approval of the secretary. The authority to initiate federal bankruptcy proceedings shall rest exclusively with said receiver with the approval of the secretary.

**SECTION 6.** Notwithstanding the provisions of any general or special law to the contrary, said receiver shall have authority to establish, increase, or decrease any fee, rate, or charge, for any service, license, permit or other municipal activity, otherwise within the authority of the city.

**SECTION 7.** Notwithstanding the provisions of the charter or any city ordinance to the contrary, the receiver shall be the appointing authority and have supervision and control over all city employees and all personnel matters; the receiver shall hold all existing powers to hire and fire and set the terms and conditions of employment held by other employees or officers of the city, whether or not elected; the receiver shall have the authority to exercise all powers otherwise available to a municipality regarding contractual obligations during a fiscal emergency; and no city employee or officer shall hire, fire, transfer or alter the compensation or

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benefits of any employee except with the written approval of the receiver. The receiver may delegate or otherwise assign these powers with the approval of the secretary.

**SECTION 8.** Notwithstanding any general or special law, any provision of the charter, or any other ordinance to the contrary, said receiver or his designee shall have the following additional powers regarding personnel and employment matters:

(1) The power to alter the compensation of elected officials of said city to reflect the fiscal emergency and changes in the responsibilities of said officials as provided by this act.

(2) The power to employ, retain, and supervise such managerial, professional and clerical staff as are necessary to carry out his responsibilities, with the approval of the secretary. Said receiver, with the approval of the secretary, shall have authority to set the compensation, terms, and conditions of employment of such staff. All personnel hired under the authority of this paragraph, except such employees as the receiver formally designates independent contractors, shall be deemed employees of the commonwealth; provided, however, that the provisions of chapters thirty-one and one hundred and fifty-one E of the General Laws shall not apply to such employees.

(3) The power to reorganize, consolidate or abolish departments, commissions, boards, offices or functions of said city, in whole or in part, and to establish such new departments, commissions, boards, offices or functions as he deems necessary, and to transfer the duties, powers, functions and appropriations of one department, commission, board or other unit to another.

(4) The power to appoint in consultation with said secretary persons to fill vacancies on any board, committee, department, or office acting in an advisory capacity to said receiver.

**SECTION 9.** Notwithstanding the provisions of any general or special law, the charter or any city ordinance to the contrary, in order to achieve the objectives of section four, particularly clause (3) of said section four, said receiver shall have the following powers:

(1) To order the laying out, locating anew or discontinuing of streets and ways within the city.

(2) To regulate the construction of buildings.

(3) To implement such changes to the city's zoning ordinance as are necessary; provided, however, that the zoning ordinance continues to promote public safety, health, and welfare; and provided further, that no zoning change shall affect or interfere with the integrity of existing residential districts. No such proposed zoning changes shall apply to structures or uses lawfully existing or lawfully begun prior to the effective date of the zoning change.

(4) The procedure for implementing changes in zoning ordinances as provided

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in section five of chapter forty A of the General Laws shall not govern such changes in said city during the time said receivership is in effect.

(ii) Said receiver shall not implement any zoning change until a public hearing has been held at which interested persons shall have an opportunity to be heard. The public hearing shall be held within sixty days after the date on which said receiver originally proposed the zoning change. Notice of the time and place of the public hearing, of the subject matter sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in said city once in each of two successive weeks; provided, however, that the first publication shall be not less than fourteen days before the day of the hearing; and, provided, further, that notice shall also be posted in a conspicuous place in city hall for a period of not less than fourteen days before the day of the hearing.

(iii) Notice of such proposed zoning change shall be sent to any nonresident property owner who files an annual request for such notice with the city clerk no later than January first of each year; provided, however, that said receiver shall establish a reasonable fee to cover the cost of providing said notices.

**SECTION 10.** Notwithstanding any general or special law, the charter, or any city ordinance to the contrary in order to carry out the purposes of this act, the receiver shall have the following additional powers:

(1) To sell, lease, or otherwise transfer real property and other assets of the city with the approval of the secretary.

(2) To purchase, lease, or otherwise acquire property or other assets on behalf of the city with the approval of the secretary.

(3) To promulgate rules and regulations governing the operation and administration of the city during the period of such receivership.

**SECTION 11.** Notwithstanding the provisions of any general or special law, the charter or any city ordinance to the contrary, for the period from his appointment until June thirtieth, nineteen hundred and ninety-four, the receiver shall have the following additional authority:

(1) To seek voter approval of such general override, debt exclusion or capital expenditure exclusion ballot questions as are provided for in section twenty-one C of chapter fifty-nine of the General Laws.

(2) To suspend in consultation with the secretary such rules and regulations of said city necessary to carry out the provisions of this act.

**SECTION 12.** Said receiver shall annually prepare a report summarizing the actions taken by said receiver during the prior fiscal year and stating the progress made toward the objectives established in section four. Upon review and approval of said secretary, said receiver shall submit the report to the general court by filing the same with the clerk of the senate and house of representatives.

**SECTION 13.** Before June thirtieth, nineteen hundred and ninety-four, said

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receiver shall recommend to the general court a form of governance for said city which will ensure long term fiscal stability and the delivery of local services. In the event that no new form of governance for said city is approved prior to the expiration of the receivership the provisions of the charter of said city shall be re-established through new elections for all offices.

**SECTION 14.** No official board, committee or officer of said city, except in the case of an emergency involving the health and safety of the people or their property, shall knowingly expend or cause to be expended in any fiscal year any sum in excess of such official's departmental or other governmental unit's budget. An official who intentionally violates the provisions of this section shall be personally liable to said city for any amount expended in excess of an appropriation to the extent that the city does not recover such amount from the person to whom such amount was paid.

**SECTION 15.** The provisions of this act shall be deemed severable, and if any part of this act shall be adjudged unconstitutional or invalid, such judgment shall not affect the validity of other parts thereof.

**SECTION 16.** This act shall take effect upon its passage.

Approved September 12, 1991.

**Chapter 201. AN ACT FURTHER REGULATING THE OPERATION OF  
MOTOR VEHICLES AT RAILROAD CROSSINGS.**

*Be it enacted, etc., as follows:*

Chapter 90 of the General Laws is hereby amended by striking out section 15, as appearing in the 1990 Official Edition, and inserting in place thereof the following section:-

Section 15. Except as hereinafter otherwise provided, every person operating a motor vehicle, upon approaching a railroad crossing at grade, shall reduce the speed of the vehicle to a reasonable and proper rate before proceeding over the crossing, and shall proceed over the crossing at a rate of speed and with such care as is reasonable and proper under the circumstances. Every person operating a school bus, or any motor vehicle carrying explosive substances or flammable liquids as a cargo, or part of a cargo, upon approaching a railroad crossing at grade, shall bring his vehicle to a full stop not less than fifteen feet and not more than fifty feet from the nearest track of said railroad, and shall not proceed to cross until it is safe to do so. The operator of a school bus, in addition to bringing his vehicle to a full stop, as aforesaid, shall open the service door, ascertain if he may cross safely and thereupon close said door before proceeding. Every person operating any motor vehicle, upon approaching at grade a railroad crossing protected by red