
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1

Session of
1975

Report of the Committee of Conference

To the Members of the Senate and House of Representatives:

We, the undersigned, Committee of Conference on the part of the Senate and House of Representatives for the purpose of considering Senate Bill No. 1, entitled:

"An act providing for the regulation of land and water use for flood control purposes, imposing duties and conferring powers on the Department of Environmental Resources, the Environmental Quality Board, the Department of Community Affairs, municipalities and counties, providing for enforcement and penalties, and making appropriations."

respectfully submit the following bill as our report:

FRANKLIN L. KURY

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(Committee on the part of the Senate.)

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(Committee on the part of the House of Representatives.)

AN ACT

Providing for the regulation of land and water use for flood control purposes, imposing duties and conferring powers on the Department of Environmental Resources, the Environmental Quality Board, the Department of Community Affairs, municipalities and counties, providing for enforcement and penalties, and making appropriations.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

ARTICLE I

PRELIMINARY PROVISIONS

Section 101. Short Title.--This act shall be known and may be cited as the "Pennsylvania Flood Disaster Prevention Act."

Section 102. Statement of Legislative Findings.--The General Assembly finds that:

(1) Flooding of large areas of the land within the Commonwealth causes unnecessary loss of life, ravages and destroys private and public property, damages means of livelihood and economic resources, and disrupts commerce, communication, and governmental services; flooding causes unsanitary and unwholesome living and environmental conditions by preventing the normal absorption of sewage materials into the soils and by permitting the infusion of contaminants into available water supplies; and public and private property in the Commonwealth is damaged by debris solid waste, sewage and other materials carried by floodwater; all of which is detrimental to the health, safety and welfare of the occupants of floodways and to the people of the Commonwealth.

(2) Extensive expenditures of public funds have been allocated to costly flood control projects, repair and maintenance of public facilities and property, and relief and rescue efforts, to reduce disastrous effects of recurrent

1 flooding.

2 (3) The exclusive use of flood control measures, such as
3 engineering projects, has failed to adequately reduce the
4 economic losses and human suffering caused by recurrent
5 flooding.

6 (4) Development in flood areas has the effect of reducing
7 the carrying, storage and retention capacity of soils and the
8 floodways, which, unless regulated, increases flood heights and
9 velocities on normally dry land areas adjacent to and upstream
10 and downstream from such development and increases the scope and
11 extent of destruction from the powerful flood flows;
12 obstructions in the waters of the Commonwealth have the further
13 effect of causing continual diversion of the natural regime of
14 the waters, thereby harming fish and aquatic life and causing
15 erosion and other damage to adjacent land areas in the floodway.

16 (5) Although flood-proofing and proper maintenance of
17 existing and proposed sanitary facilities to other structures,
18 and the protection of the contents of such structures, can
19 minimize the public outlay of funds for rescue and relief and
20 alleviate the destruction caused by flood and improper use of
21 the waters of the Commonwealth, a comprehensive program of flood
22 area management, including the reasonable regulation and
23 prohibition of new construction, is fundamental to the public
24 health, safety, and welfare and the protection of the people of
25 the Commonwealth, their resources and the environment.

26 Section 103. Statement of Policy and Purposes.--The policy
27 and purpose of this act is to:

28 (1) Encourage planning and development in flood prone areas
29 which is consistent with sound water and land use practices.

30 (2) Authorize a comprehensive program of flood area

1 management designed to preserve and restore the efficiency and
2 carrying capacity of the floodways of the Commonwealth; to
3 conserve the unique natural functions and related human uses of
4 flood areas, including natural run-off characteristics and
5 ground water replenishment functions of land surfaces; preserve
6 and maintain the ground water level, and preserve and maintain
7 areas of undisturbed drainage; preserve and maintain the natural
8 regime, current, and cross-section of the waters of the
9 Commonwealth; to assist communities in qualifying for Federal
10 flood insurance benefits; and to protect property and people in
11 the flood areas from damage of floodwaters and from materials
12 carried by such floodwaters, by regulating existing and proposed
13 construction and by requiring the maintenance of private and
14 public open space where necessary to insure the protection of
15 the public health, safety and welfare in the event of flood.

16 (3) Protect unknowing and unsuspecting real property owners
17 from the dangers of flooding; regulate obstructions in flood
18 areas and flood area zones that aggravate flood damage to other
19 properties, and thereby protect property values; and control and
20 eliminate urban and rural blight which results from the ravages
21 of flood.

22 (4) Encourage local administration and management of flood
23 areas consistent with State and Federal supervision, with the
24 enumerated legislative findings, policy and purposes of this
25 act, and with the objective of managing flood area lands and
26 subsurface and surface waters as interrelated and precious
27 resources in accordance with sound and long-range land and water
28 use planning and the people's constitutional right to the
29 preservation of natural, economic, scenic, aesthetic,
30 recreational and historic values of the environment, taking full

1 and explicit account of nonmonetary and intangible values as
2 well as monetary and tangible values.

3 Section 104. Definitions.--As used in this act:

4 "Bid proposal" means a formal offer to enter into a contract
5 for work, labor, or supplying materials at a specified price,
6 but shall not include requests for budget estimates which are
7 not binding on any party.

8 "Board" means the Environmental Quality Board established
9 by the act of December 3, 1970 (P.L.834, No.275).

10 "Construct" means erect, construct, reconstruct, locate,
11 relocate, extend, remove, excavate, structurally alter, build,
12 place or deposit.

13 "Department" means the Department of Environmental
14 Resources of the Commonwealth of Pennsylvania.

15 "Flood" or "flooding" means a general or temporary condition
16 of partial or complete inundation of normally dry land areas
17 from the naturally or artificially induced flow or overflow of
18 waters of the Commonwealth including collapse or subsidence of
19 land along the shore of a lake or other body of water as a
20 result of erosion or undermining caused by waves or currents of
21 water exceeding anticipated cyclical levels.

22 "Flood area" or "flood plain" means the 100 year floodway and
23 that maximum area of land that, on the average, is likely to be
24 flooded once every 100 years, shown on flood plain maps approved
25 or promulgated by the United States Department of Housing and
26 Urban Development.

27 "Flood area permit" means a permit issued by a municipality
28 or the department which authorizes the construction,
29 modification, removal, abandonment or destruction of an
30 obstruction in a regulated flood area.

1 "Flood area zone" means a district or portion of the
2 regulated flood area.

3 "Flood-proofing" means structural or other changes or
4 adjustments to properties or obstructions for the reduction or
5 elimination of flood damages to such properties and structures,
6 to water and sanitary facilities, or to the contents of any
7 structure. Such techniques may, without limitation, include the
8 use of identified materials in construction or repair, flood-
9 warning systems, construction of shallow basins for the
10 detention of storm water runoff, anchorage of the obstruction,
11 and elevation.

12 "Governmental unit" means any county, municipality, political
13 subdivision, or the Commonwealth, and any department, authority,
14 agency or board thereof or any agent of the foregoing.

15 "Hearing board" means the Environmental Hearing Board of the
16 Department of Environmental Resources.

17 "Municipality" means a city, town, township, municipal
18 authority or borough, or any county or other governmental unit
19 when acting as agent thereof, or any combination thereof acting
20 jointly.

21 "Obstruction" means (i) any structure, fill, or object
22 constructed or placed in a flood area, including in, along,
23 across or projecting into any waters of the Commonwealth; (ii)
24 anything in a flood area which acting alone or in combination
25 with existing or future uses could adversely affect existing
26 drainage courses or facilities; (iii) any matter or activity in,
27 along, across or projecting into any flood area, whether
28 floating or stationary, which might impede, retard or change the
29 course or regime of any stream, or alter the runoff
30 characteristics of the surface of the land, or change, increase,

1 or diminish the current or cross-section of any waters of the
2 Commonwealth either by itself or by catching or collecting
3 debris carried by such waters; and (iv) any structure or object
4 in a flood area which is constructed where the natural flow of
5 the water could carry the same downstream. For the purposes of
6 this definition, "matter or activity" includes, but is not
7 limited to, excavations, sand and gravel dredging and activities
8 related thereto, piles, channel relocations, conduits, culverts,
9 landfills, fills, pipelines, transmission lines, deposits, storm
10 drains and deposits of solid waste. The planting, cultivation
11 and harvesting of field and orchard crops or the grazing of
12 livestock, including the maintenance of necessary appurtenant
13 agricultural fencing, shall not be considered an "obstruction"
14 under this definition and shall not be subject to regulation
15 under this act.

16 "Official plan" means any flood area management plan
17 submitted by a municipality and approved by the department.

18 "One-hundred year flood" means the highest level of flooding
19 that, on the average, is likely to occur every 100 years, that
20 is, that has a 1% chance of occurring each year.

21 "One-hundred year floodway" means the channel or bed of a
22 river, lake, or other body of water and the adjacent land areas
23 required to carry and discharge 100 year flood.

24 "Owner" means any person who has dominion over, control of,
25 or title to an obstruction or the land on which an obstruction
26 is constructed or is to be constructed.

27 "Person" means an individual, partnership, public or private
28 association or corporation, firm, trust, estate, municipality,
29 governmental unit, public utility or any other legal entity
30 whatsoever which is recognized by law as the subject of rights

1 and duties. Whenever used in any section prescribing or imposing
2 a penalty, the term "person" shall include the members of a
3 partnership, the officers, members, servants and agents of an
4 association, the shareholders, officers, agents and servants of
5 a corporation, and the officers of a municipality or county, but
6 shall exclude any department, board, bureau or agency of the
7 Commonwealth.

8 "Public utility" shall mean a public utility as defined in
9 the act of May 28, 1937 (P.L.1053, No.286), known as the "Public
10 Utility Law."

11 "Public utility service" means (i) producing, generating,
12 transmitting, distributing or furnishing natural or artificial
13 gas, electricity, or steam for the production of light, heat, or
14 power to or for the public; (ii) diverting, developing, pumping,
15 impounding, distributing, or furnishing water to or for the
16 public; (iii) transporting passengers or property by railroads;
17 (iv) operation of a canal, turnpike, tunnel, bridge, wharf, or
18 similar structure for the public; (v) transporting or conveying
19 natural or artificial gas, crude oil, gasoline, or petroleum
20 products, materials for refrigeration, or other fluid substance,
21 by pipeline or conduit; (vi) conveying or transmitting messages
22 or communications by telephone or telegraph for the public; and
23 (vii) sewage collection, treatment, or disposal for the public.

24 "Regulated flood area" means that portion of the flood area
25 which has been designated as subject to regulation pursuant to
26 this act either by regulation of the Environmental Quality Board
27 or by approval of an official plan by the department.

28 "Waters of the Commonwealth" means any and all rivers,
29 streams, creeks, impoundments, lakes, dammed water and all other
30 bodies of water or parts of water thereof, whether natural or

1 artificial, wholly or partly within or forming part of the
2 boundary of this Commonwealth: Provided, That for the purpose of
3 this act, "waters of the Commonwealth" shall exclude storm
4 sewers, farm ponds and other privately owned ponds of less than
5 five acres in area.

6 "Watershed" means the entire region or area drained by a
7 river or other body of water, whether natural or artificial.

8 ARTICLE II

9 FLOOD AREA MANAGEMENT AND REGULATION

10 Section 201. Environmental Quality Board; Regulations;
11 Standards and Procedures.--The Environmental Quality Board shall
12 have the power and its duty shall be to adopt regulations to
13 insure comprehensive flood area management in the Commonwealth
14 and to establish minimum standards for delineation and
15 management of flood areas by the municipalities and the
16 department. The Environmental Quality Board shall:

17 (1) As soon as practicable, establish by rule or regulation:

18 (i) Criteria and procedures for delineation of regulated
19 flood area zones in the Commonwealth; considering, among other
20 factors, the size or flood-carrying capacities of the floodway
21 and adjacent land areas, the relative risk and frequency of
22 flooding of any land area, and the existence of State and
23 Federal flood control projects which have been constructed in
24 each municipality or watershed;

25 (ii) Minimum standards for the design, construction, and
26 maintenance of obstructions within each flood area zone;
27 designation of those obstructions which may be allowed as of
28 right, prohibited, or conditionally allowed; minimum standards
29 for development and construction within each flood area zone;
30 minimum standards for the operation and maintenance of dams,

1 levees, fills and similar obstructions; and designation of those
2 flood area zones, or parts thereof, in which the construction of
3 obstructions or any categories of obstructions shall be
4 prohibited;

5 (iii) Minimum required flood-proofing techniques for
6 proposed and existing obstructions within the flood area zone;

7 (iv) The scheduled dates for submission to the department of
8 an official plan for flood area management by each municipality,
9 considering: (A) the availability of flood area maps approved or
10 promulgated by the United States Department of Housing and Urban
11 Development, (B) the extent of historical and recent flood
12 damage to lives and property within each municipality, (C) the
13 rate and type of development taking place in each municipality,
14 (D) the flood areas of the Commonwealth having the greatest
15 flood damage potential, and (E) other relevant considerations;

16 (v) Procedures and standards for the administration of flood
17 area permits by municipalities and by the department.

18 (2) Adopt such other rules and regulations as are necessary
19 to implement the purposes and provisions of this act.

20 Section 202. Municipalities; Official Plan; Regulation.--(a)
21 The governing body of every municipality shall administer flood
22 area management in the Commonwealth in conformity with the
23 regulations of the board and the provisions of this act and
24 subject to the approval of the department.

25 (b) Each municipality shall have the power and its duty
26 shall be to:

27 (1) Submit to the department on or before the date
28 established by the board and pursuant to the provisions of this
29 act, an official plan for flood area management within the
30 territorial jurisdiction of the municipality and such revisions

1 as shall periodically be required by the department. The
2 official plan shall include, without limitation: (i) information
3 identifying and documenting the location and boundaries of all
4 flood area and flood area zones within the municipality and a
5 list of sources, certified by the municipality, used to
6 delineate the location and boundaries of all flood area and
7 flood area zones within the municipality; (ii) proposed program
8 implementation plans including, without limitation, a proposed
9 budget, indicating personnel needs and qualifications; a
10 proposed method of implementing board regulations pertaining to
11 floodway use; procedures and standards for the evaluation of
12 permits; categories of obstructions which the municipality
13 proposes to regulate; existing municipal rules and regulations
14 or ordinances regulating flood area land use; proposed
15 regulations or ordinances; and proposed implementation of other
16 flood area management policies; (iii) procedures for reviewing,
17 revising, and updating its official and implementation plans;
18 and (iv) certification that the proposed plan has been reviewed
19 by the appropriate county or regional planning agencies, and the
20 comments of such agencies regarding the consistency of the
21 proposed plan with plans for the region; (v) certification that
22 the proposed plan is consistent with other relevant
23 environmental and land use plans adopted by the municipality,
24 the county in which the municipality is located and the
25 Commonwealth; (vi) a statement of existing State and Federal
26 flood control projects which have been constructed in the
27 municipality; and (vii) consideration of the impact of the plan
28 on the economy of the area affected by the plan, including but
29 not limited to the impact of the plan upon the revenue base of
30 the municipalities covered by the plan.

1 (2) Adopt the official plan, or resolution carried by the
2 affirmative votes of not less than a majority of all the members
3 of the governing body. The resolution shall refer expressly to
4 the maps, charts, textual matter, and other matters intended to
5 form the whole or part of the official plan, and the action
6 shall be recorded on the adopted plan or part.

7 (3) Amend the official plan as necessary to incorporate
8 change conditions, including new flood control projects, and
9 after approval of its official plan, administer the management
10 of the flood areas and issue flood area permits within its
11 territorial jurisdiction in accordance with the terms and
12 conditions and subject to the restrictions set forth in its
13 official plan.

14 (4) Submit to the department at such intervals as
15 established by the board, a report of all appeals taken to the
16 municipality pursuant to the provisions of section 405(a) and
17 the disposition of such appeals.

18 (5) The powers conferred by this act upon municipalities and
19 counties to regulate flood area land uses and obstructions shall
20 be in addition to any powers conferred by the act of July 31,
21 1968 (P.L.805, No.247), as amended, known as the "Pennsylvania
22 Municipalities Planning Code."

23 (6) Notwithstanding the provisions of paragraph (5), a
24 municipality may establish a flood area zone without zoning the
25 whole municipality as required under section 605 of the
26 "Pennsylvania Municipalities Planning Code."

27 (c) Whenever a municipality shall fail to administer the
28 provisions of this act or of an official plan approved pursuant
29 to this section, or shall fail to comply with the standards,
30 rules and regulations adopted by the board relating to the

1 administration and implementation of official plans, the
2 department may partially or totally modify, suspend, or revoke
3 approval of the official plan for such municipality, and may
4 either (i) require that the county in which such municipality is
5 located act as agent of the municipality for the purpose of
6 administering and implementing a flood area management program
7 in that municipality, or, as a last resort, (ii) assume
8 administration of the flood area management program for such
9 municipality. Whenever the county or the department assumes the
10 administration of the flood area management program for a
11 municipality pursuant to this subsection, the county or
12 department shall charge the municipality for the cost thereof.

13 (c.1) Before any official plan or map is adopted, whether by
14 a municipality, county or the department, a public hearing shall
15 be held pursuant to notice of not less than two weeks nor more
16 than one month which notice shall contain at least a brief
17 summary of the principal provisions and a reference to the place
18 within the municipality involved where copies may be examined or
19 bought at cost. Any taxpayer aggrieved by the adoption of a map
20 or plan may submit a curative amendment to the adopting
21 municipality, county or the department or appeal to the board as
22 provided in section 405. For the purposes of this subsection, an
23 aggrieved taxpayer shall include any party adversely affected by
24 the failure of the municipality, county, or department to comply
25 with the requirements of section 202(b)(1) above.

26 (d) Whenever, pursuant to subsection (c), a county is
27 required to act as agent of the municipality for the purpose of
28 administering and implementing a flood area management program,
29 the official plan and flood area ordinances adopted by the
30 county shall apply to all obstructions and the use of any lands

1 within the flood area notwithstanding any zoning ordinance
2 adopted by the municipality; provided that any zoning ordinance
3 adopted by the municipality shall remain effective to the extent
4 such ordinance is more restrictive than the official plan and
5 flood area ordinances adopted by the county.

6 (e) After the adoption of an official plan by a municipality
7 whose land is subject to an official plan and flood area
8 ordinances adopted by the county pursuant to subsection (c), and
9 upon a finding by the department that such plan complies with
10 the requirements of this act and the standards adopted by the
11 board and that the municipality is able to assume administration
12 of the program, the flood area regulations and ordinances
13 adopted by the municipality shall act as a repeal pro tanto of
14 the flood area regulations and ordinances adopted by the county
15 within the municipality, and the municipality shall thereafter
16 administer the management of flood areas within its territorial
17 jurisdiction in accordance with the terms and conditions and
18 subject to the restrictions set forth in its official plan.

19 (f) (1) Any municipality may by agreement, designate the
20 county or regional planning agency, as its agent for the
21 development of the flood area management plan and may, by
22 ordinance, adopt by reference the flood area management plan and
23 ordinances developed by the county or regional planning agency.

24 (2) Any municipality may, by ordinance and by agreement with
25 the county, designate the county as the official administrative
26 agency for the implementation of the official plan and issuance
27 of flood area permits within the municipality. Such designation
28 shall be for a period of not less than three years. Whenever the
29 county assumes administration of the flood area management
30 program for a municipality pursuant to this subsection, the

1 county shall charge the municipality for the cost thereof unless
2 the county and municipality otherwise agree to a different
3 apportionment of costs.

4 (g) Any two or more municipalities may, by agreement and
5 ordinance, cooperate in the joint development or joint
6 implementation of flood area management plans.

7 Section 203. Department of Environmental Resources;
8 Coordination and Supervision.--The power to coordinate and
9 supervise the management of flood areas in the Commonwealth
10 shall be vested in the department, including the power and duty
11 to:

12 (1) Insure that flood area management and regulations in
13 adjoining municipalities are compatible throughout the watershed
14 and consistent with the policies of this act.

15 (2) Review and approve all official plans and periodic
16 revisions thereof pursuant to the procedures and standards
17 adopted by the board regulations and consistent with the
18 purposes of this act. Such approval to any municipality shall
19 take into consideration the existence of State and Federal flood
20 control projects which have been constructed therein.

21 (3) Require that counties act as the agents of
22 municipalities where the department determines that such
23 municipalities have failed or refused to perform as required
24 under this act or have failed to comply with the rules,
25 regulations and standards adopted pursuant hereto.

26 (4) Temporarily or permanently issue flood area permits in
27 any municipality which does not have an approved official plan
28 or where the department has retained regulatory jurisdiction in
29 any municipality over any category of obstruction or over any
30 flood area zone.

1 (5) Exclusively issue all flood area permits required by
2 this act for any flood control project constructed, owned or
3 maintained by a governmental unit, and for any obstruction owned
4 or maintained by a person engaged in the rendering of a public
5 utility service, and issue flood area permits for such
6 categories of obstructions or in such flood area zones as are
7 determined by the board to be also subjects of exclusive
8 regulation by the department.

9 (6) Acquire in the name of the Commonwealth, by purchase,
10 gift, or lease such lands or other property as are determined by
11 the board to be necessary to and consistent with implementation
12 of the purposes of this act or to be necessary to effect any
13 duty or responsibility of the department under any Act of
14 Assembly: Provided, however, That no amount shall be expended
15 for the purchase or lease of such land or property except from
16 funds specifically appropriated for such purchase or lease by
17 the General Assembly.

18 Section 204. Limitations on Land Acquisition and Permit
19 Issuance.--(a) It shall be the responsibility of any
20 governmental unit or any person rendering a public utility
21 service, prior to the acquisition of any land in a flood area
22 for the purposes of constructing an obstruction, to assure that
23 the proposed use of such land is consistent with the flood area
24 plans and rules and regulations adopted pursuant to this act.
25 Notwithstanding such determination by the Governmental unit or
26 person, no permit shall be issued for use of such land under
27 this act unless the application therefore is consistent with all
28 plans and rules and regulations in effect at the time of
29 application.

30 (b) No governmental unit shall issue any permit necessary

1 for the construction of any obstruction within a regulated flood
2 area unless the applicant has first obtained the flood area
3 permit required by this act.

4 Section 205. Flood Area Permit.--(a) Permit requirements are
5 as follows:

6 (1) On or after the effective date of regulations adopted by
7 the board pursuant to this act no person shall construct,
8 request bid proposals for construction, modify, remove, abandon
9 or destroy an obstruction in a flood area unless such person has
10 first applied for and obtained a permit from the department or a
11 municipality which has flood area plan approved pursuant to
12 section 202. No permit shall be required pursuant to this
13 section for the renovation, maintenance or repair of structures
14 within the flood area in existence as of the effective date of
15 this act unless such renovation, maintenance or repair (i) would
16 have a significant effect upon the flow of flood waters, or (ii)
17 would constitute substantial improvement to the structure as
18 defined in regulations promulgated by the United States
19 Department of Housing and Urban Development, Federal Insurance
20 Administration.

21 (2) The board shall establish the effective dates of
22 regulations relating to permit requirements in accordance with
23 the availability of maps designating the flood area within each
24 municipality which are deemed acceptable to the department of
25 either an interim or permanent basis. The department shall
26 publish notice of the approval of such maps and the
27 effectiveness of the permit requirement within each municipality
28 in the Pennsylvania Bulletin. In no event shall a permit be
29 required until the department publishes notice of the approval
30 of an acceptable map designating the applicable flood area and

1 the effectiveness of the permit requirement within the
2 applicable municipality.

3 (3) No owner shall request bid proposals for construction,
4 suffer or allow the construction on his or her land of an
5 obstruction within a regulated flood area unless a flood area
6 permit for such obstruction has been obtained by the owner or
7 his authorized agent.

8 (b) Conditions and terms are as follows:

9 (1) The board shall, by regulation, establish procedures,
10 standards, requirements, and general terms and conditions for
11 the application and approval of flood area permits, including
12 provisions for the payment of reasonable, non-refundable filing
13 fees, and time limitations for approval or denial of flood area
14 permits, but nothing in this section shall prohibit the
15 department or a municipality from imposing such additional or
16 special conditions upon a flood area permit as it deems
17 necessary to carry out the purposes of this act.

18 (2) The board may, by regulation, require the posting of a
19 sufficient performance bond or other security as a condition
20 upon the issuance of any category or categories of flood area
21 permits issued by a municipality or the department. Such bonds
22 shall be in favor of the issuing agency and shall be made with
23 such good and sufficient securities or collateral, as defined by
24 the board and found acceptable by the issuing agency, as are
25 necessary to insure compliance with the provisions of this act.
26 Such bonds or securities shall be cancelled or returned to the
27 permittee pursuant to the rules and regulations promulgated by
28 the board.

29 (3) No person shall construct, maintain or operate an
30 obstruction authorized pursuant to a flood area permit except in

1 accordance with the terms and conditions applicable thereto.

2 (c) Applications and notice shall be as follows:

3 (1) Each flood area permit application shall be a matter of
4 public record and shall be available for inspection at the
5 offices of the issuing agency. The issuing agency may, at its
6 discretion, hold a public hearing on any application for the
7 purposes of gathering information relevant to consideration of
8 the application and provide public notice therefor.

9 (2) In order to assure effective notice to prospective
10 purchasers of any real property, the board may, by regulations
11 require that all, or a specified category of flood area permits
12 shall be effective only upon the filing of such permit, by the
13 permittee, in the office of the recorder of deeds for the county
14 in which the subject property or obstruction, or portion
15 thereof, is located.

16 (d) A municipality or the department may modify, suspend or
17 revoke a permit, or refuse to renew or may withhold the issuance
18 of a permit where the permittee or applicant is engaging or has
19 engaged in any unlawful conduct as defined in this act.

20 (e) The board may, by rule or regulation, designate certain
21 classes or categories of obstructions for which flood area
22 permit requirements may be waived subject to such conditions as
23 the board shall prescribe.

24 Section 206. Public Utility Permits.--Prior to the denial,
25 revocation, suspension or modification of any permit to a public
26 utility for an obstruction utilized in the provision of a public
27 utility service, the department shall consult with the Public
28 Utilities Commission with respect to the effects of the proposed
29 action upon the supply of said service and alternatives
30 available for the provision of such service.

1 ARTICLE III

2 POWERS AND DUTIES

3 Section 301. Additional Powers and Duties of the Department
4 and Municipalities.--In addition to the powers and duties
5 established in other sections of this act, the department and
6 every municipality whose official plan has been approved shall
7 have the power and their duty shall be to:

8 (1) Investigate complaints, institute and conduct survey
9 programs to identify and define flood areas, make observations
10 of conditions which may or do affect the flood carrying capacity
11 of flood areas, and assess the degree of control or abatement of
12 flood area obstruction required.

13 (2) Institute legal proceedings in a court of competent
14 jurisdiction for the prevention or abatement of flood area
15 obstructions, or for enforcement of any order of the department
16 from which there has been no timely appeal, or which has been
17 sustained on appeal, or for recovery of penalties or damages in
18 accordance with this act.

19 (3) Institute prosecutions under this act.

20 (4) Conduct and supervise educational programs with respect
21 to flood hazards and flood area management, including
22 preparation and distribution of related information.

23 (5) Charge and collect reasonable fees for applications
24 filed and for permits issued as established by regulation or
25 ordinance.

26 (6) Do any and all other acts not inconsistent with any
27 provision of this act which it may deem necessary or proper for
28 the effective enforcement of this act and the rules or
29 regulations which have been promulgated hereunder.

30 Section 302. Further Powers of the Department.--The

1 department shall have the power and its duty shall be to:

2 (1) Require joint or regional flood area planning,
3 management, regulation and enforcement programs by county and
4 municipal governments.

5 (2) Cooperate with appropriate agencies of the United States
6 or of other states or any interstate agencies with respect to
7 the planning, management and control of flood areas damage and
8 where appropriate formulate interstate flood area plans, or
9 agreements.

10 (3) Serve as the agency of the Commonwealth for the receipt
11 of moneys from the Federal Government or other public or private
12 agencies, or persons and expend such moneys for studies and
13 research with respect to planning, management, and control of
14 flood areas.

15 (4) Conduct or cause to be conducted, and supervise, studies
16 and research for the purpose of determining the causes, effects,
17 and hazards of floods and flood area obstructions, and methods
18 for the control, elimination and reduction of flood damages
19 through proper regulation, placement, and design of flood area
20 development.

21 Section 303. Powers and Duties of the Department of
22 Community Affairs.--The Department of Community Affairs shall
23 have the power and its duty shall be to:

24 (1) Review, in cooperation with the Department of
25 Environmental Resources, all official plans and revisions
26 thereto, and review and approve all municipal applications for
27 the Federal Flood Insurance Program.

28 (2) Provide, in cooperation with the Department of
29 Environmental Resources, advisory consultative services to
30 appropriate county and municipal agencies and, where

1 appropriate, enter into contracts or agreements with such
2 agencies for the provision of technical, training, inspection or
3 enforcement services.

4 (3) Draft, publish and approve, for use by counties and
5 municipalities, model flood area management codes and ordinances
6 which comply with the requirements of the Federal Flood
7 Insurance Program and the regulations established by the
8 Environmental Quality Board pursuant to this act.

9 (4) Develop and recommend the minimum job qualifications of
10 personnel employed by regional, county, and municipal flood area
11 management agencies, and develop and conduct training courses
12 for such personnel.

13 (5) In conjunction with the Department of Environmental
14 Resources, develop and conduct, in cooperation with county,
15 regional and municipal agencies or with local communities,
16 demonstration programs relating to the planning, management and
17 control of flood areas.

18 Section 304. Coordination of Administration.--(a) In the
19 administration of this act, the Department of Community Affairs
20 and Department of Environmental Resources shall coordinate the
21 performance of their respective powers and duties in order to
22 avoid unnecessary duplication of efforts and to assure orderly
23 and efficient implementation of a flood area management program
24 throughout this Commonwealth.

25 (b) (1) In order to further the coordinated and effective
26 administration of this act, there shall be established a Flood
27 Area Management Advisory Committee, the membership of which
28 shall be appointed by the Secretary of Environmental Resources
29 and shall include one representative of the Department of
30 Environmental Resources, Department of Community Affairs,

1 Department of Agriculture, Office of State Planning and
2 Development, Public Utilities Commission, Pennsylvania State
3 Association of Township Supervisors, Pennsylvania State
4 Association of Township Commissioners, Pennsylvania State
5 Association of Boroughs, Pennsylvania League of Cities,
6 Pennsylvania State Association of County Commissioners,
7 Pennsylvania Municipal Authorities Association, General
8 Contractors Association of Pennsylvania, Pennsylvania Builders
9 Association, Pennsylvania Vacationland Developers Association,
10 Pennsylvania Chamber of Commerce, Pennsylvania Society of
11 Architects, American Institute of Planners, Pennsylvania Society
12 of Professional Engineers, American Society of Landscape
13 Architects, Pennsylvania Council of Farm Organizations, American
14 Federation of Labor-Congress of Industrial Organizations,
15 Pennsylvania Manufactured Housing Association, Pennsylvania
16 Environmental Council, Pennsylvania League of Women Voters,
17 Pennsylvania Federation of Sportsmens Clubs, Pennsylvania
18 Association of Conservation District Directors, Middle Atlantic
19 Conference of Watershed Associations, Sierra Club, five
20 representatives who shall be private citizens holding no elected
21 offices and such additional organizations or individuals as the
22 secretary, in consultation with the committee, may find are
23 necessary and proper to carry out the purposes of the committee.

24 (2) Said committee shall be responsible for the regular
25 exchange of information and plans regarding flood area
26 management, the recommendation and review of proposed and
27 existing standards, regulations, model legislation, and manuals
28 relating to flood area management, and the recommendation of
29 coordinated actions by appropriate agencies in the
30 implementation of this act.

1 (3) The members of the committee shall not receive any
2 compensation for their services but shall be reimbursed for
3 their actual and necessary expenses incurred in the performance
4 of their duties.

5 Section 305. Inspections.--(a) An agent or employee of the
6 department, or of a municipality whose official plan has been
7 approved shall have the power and duty to, upon presentation of
8 proper credentials, (1) enter any land for the purpose of
9 surveying land and properties in flood areas; (2) enter any land
10 in a flood area for the purpose of ascertaining the location and
11 condition of structures or obstructions in flood areas; (3)
12 enter land or while under construction any building or structure
13 located in a flood area for the purpose of ascertaining the
14 compliance or noncompliance with the flood proofing rules or
15 regulations adopted by the board hereunder, or under an official
16 plan adopted and approved pursuant to this act.

17 (b) Whenever an agent or employee of the department or of a
18 municipality charged with the enforcement of the provisions of
19 this act has been refused access to property for the purposes of
20 conducting a survey or inspection as authorized by this section
21 or reasonably requires access to such property without prior
22 notice to the owner, such agent or employee may apply for an
23 inspection warrant to any Commonwealth official authorized by
24 law to issue a search or inspection warrant to enable him or her
25 to have access and inspect such property. It shall be sufficient
26 probable cause to issue an inspection warrant that the
27 inspection is necessary to properly enforce the provisions of
28 this act.

29 Section 306. Public Information.--All plans, maps, records,
30 reports, engineering data, permit applications, correspondence

1 and other public documents and information relating to flood
2 area management obtained or prepared by the department or any
3 municipality shall be available to the public.

4 Section 307. Flood Area Disaster Relief Fund.--All civil
5 penalties collected under this act shall be paid into the
6 Treasury of the Commonwealth in a special fund known as the
7 "Flood Area Disaster Relief Fund," hereby established, which
8 shall be administered by the department. An amount equal to each
9 civil penalty collected under this act shall be forwarded from
10 the Flood Area Disaster Relief Fund to the municipality or
11 municipalities in which the violation occurred to be used by
12 said municipality or municipalities in achieving the purposes of
13 this act.

14 Section 308. Legislative Oversight.--For purposes of (i)
15 providing information that will aid the General Assembly in its
16 oversight responsibilities, (ii) enabling the General Assembly
17 to determine whether the program and services mandated by this
18 act are effectively meeting the goals of this legislation, (iii)
19 assisting the General Assembly in measuring the costs and
20 benefits of this program and the effects and/or side-effects of
21 mandated program services, and (iv) providing information that
22 will permit State and local program administrators to be held
23 accountable for the administration of the programs mandated by
24 this act, beginning one year from the effective date of this
25 act, the Senate Committee on Environmental Resources and the
26 House Committees on Local Government and Conservation, either
27 jointly or separately, shall begin a review into the manner in
28 which this act has been administered at the State and local
29 level.

30 Section 309. Economic Study.--(a) Within two months from the

1 passage of this act, the Department of Community Affairs shall
2 commission a study or studies by independent institutes,
3 agencies, or consultants, of the economic impact of this act.
4 Reports of such studies shall be completed and presented to the
5 Governor and General Assembly no later than one year from the
6 effective date of this act.

7 (b) Such study or studies shall include:

8 (1) an assessment of the technical feasibility and economic
9 reasonableness of requirements imposed by regulations adopted
10 hereunder by the department, municipalities and counties;

11 (2) an analysis of the probable impact of flood plain
12 regulations adopted hereunder upon employment, property values,
13 and community benefits;

14 (3) an analysis of flood damages and indirect economic
15 losses which may be avoided by flood plain regulations adopted
16 hereunder; and

17 (4) an assessment of the availability of suitable sites for
18 development outside areas subject to flooding.

19 (c) Such study or studies shall be financed from and to the
20 extent of funds appropriated by the General Assembly for such
21 purposes.

22 ARTICLE IV

23 ENFORCEMENT

24 Section 401. Unlawful Conduct.--It shall be unlawful for any
25 person to:

26 (1) Violate or assist in the violation of any of the
27 provisions of this act or of any rules and regulations adopted
28 hereunder, or any regulations or ordinances incorporated herein.

29 (2) Fail to comply with any order of the department or of a
30 municipality issued hereunder from which no appeal has been

1 taken, which has been sustained on appeal, or which has been
2 appealed for which no supersedeas has been granted for the
3 period in which violation occurs.

4 (3) Conduct an activity authorized by flood area permit
5 contrary to the terms of the permit or the rules and regulations
6 of the department.

7 (4) Attempt to obtain a permit by misrepresentation or
8 failure to disclose all relevant facts. Nothing in this act
9 shall be construed to affect the application of any provision of
10 the Crimes Code relating to perjury, false swearing or unsworn
11 falsification to authorities.

12 (5) Intentionally obstruct, impair, or pervert the
13 administration of this act by the department or any municipality
14 by force, violence, physical interference or obstacle, breach of
15 official duty, or any other unlawful act. Nothing in this act
16 shall be construed to affect the application of section 5101 of
17 the Crimes Code to obstructing administration of law or other
18 governmental function.

19 Section 402. Civil Remedies.--(a) Any activity or condition
20 declared by this act to be unlawful conduct shall be restrained
21 or prevented in the manner provided by law or equity for
22 abatement of public nuisances, and the expense thereof shall be
23 recoverable from the violator in such manner as may now or
24 hereafter be provided by law.

25 (b) In addition, suits to restrain or prevent any unlawful
26 conduct as defined in this act or to compel action to
27 discontinue any unlawful conduct may be instituted in equity or
28 at law in the name of the Commonwealth upon relation of the
29 Attorney General, or upon relation of any district attorney of
30 any county, upon relation of the solicitor of any municipality

1 affected, or upon relation of any person, after 30 days notice
2 has first been served upon the Attorney General of the intention
3 of the district attorney, solicitor, or person to so proceed.
4 Such proceedings may be prosecuted in the Commonwealth Court, or
5 in the court of common pleas of the county where the activity
6 has taken place, the condition exists, or the public affected,
7 and to that end jurisdiction is hereby conferred in law and
8 equity upon such courts: Provided, That except in cases of
9 emergency where, in the opinion of the court, the exigencies of
10 the cases require immediate abatement of said unlawful conduct,
11 the court may, in its decree, fix a reasonable time during which
12 the person responsible for the unlawful conduct may make
13 provision for the same. The expense of such proceedings shall be
14 recoverable from the violator in such manner as may now or
15 hereafter be provided by law.

16 Section 403. Enforcement Orders.--(a) The department or any
17 municipality whose official plan has been approved may issue
18 such orders as are necessary to aid in the enforcement of the
19 provisions of this act. Such orders shall include, but shall not
20 be limited to orders modifying, suspending or revoking permits
21 and official plans, and orders requiring persons to cease any
22 activity which is in violation of any provision of this act.
23 Such an order may be issued if the department or municipality
24 finds that the permittee, or any person or governmental unit is
25 in violation of any provision of this act, or of any rule,
26 regulation or order of the Environmental Quality Board or of any
27 other regulation or ordinance adopted pursuant to an approved
28 official plan. The department or municipality may, in its order,
29 require compliance with such terms and conditions as are
30 necessary to effect the purposes of this act.

1 (b) An order issued under this section shall take effect
2 upon notice, unless the order specifies otherwise.

3 (c) Any person violating or failing to comply with any order
4 of the department, of a municipality, or of the board from which
5 no appeal has been taken or which has been sustained on appeal,
6 or which has been appealed but where no supersedeas has been
7 granted for the period in which the order has been violated
8 shall be deemed to be in contempt of such order. Upon petition
9 and certification of such order by the department, municipality
10 or the hearing board, the Commonwealth Court or the court of
11 common pleas of the county where the unlawful conduct occurred
12 or is occurring, shall, if it finds, after hearing or otherwise,
13 that the respondent is not in compliance with the order, adjudge
14 the respondent in contempt of the order and shall assess civil
15 penalties of an amount not less than \$100 nor greater than
16 \$10,000 per violation plus \$500 for each continuing day of
17 violation. Where the respondent has not as of the date of
18 hearing before the court complied with the order of the
19 department, municipality or board, the court shall specifically
20 order the respondent to immediately and fully comply with such
21 order, and may issue any further order as may be appropriate.

22 (d) In order to insure effective notice to the prospective
23 purchaser of any real estate subject to such order, the
24 department or a municipality shall record any order of the
25 department, of the municipality, or of the hearing board, with
26 the prothonotary of the county in which the subject property is
27 located. It shall be the duty of the prothonotary to enter such
28 order in his or her docket in the same manner as the entry of a
29 judgment: Provided, however, That no fee shall be charged for
30 filing said order.

1 (e) The right of the department or of a municipality to
2 issue an order under this section is in addition to any penalty
3 which may be imposed or any action taken pursuant to this act.
4 The failure to comply with any such order is hereby declared to
5 be unlawful conduct and a nuisance.

6 Section 404. Civil Penalties.--(a) In addition to proceeding
7 under any other remedy available at law or in equity for (i) a
8 violation of a provision of this act, or of a rule and
9 regulation of the Environmental Quality Board, or of any
10 ordinance or code of any municipality issued hereunder; or (ii)
11 for a violation of any order of the department or of a
12 municipality; or (iii) for engaging in any unlawful conduct
13 under the provision of this act, the hearing board, in an action
14 instituted before it by the department, by any county or
15 municipality, or by any aggrieved person, may assess a civil
16 penalty upon any person for such violation. Such a penalty may
17 be assessed whether or not the violation was willful. The civil
18 penalty so assessed shall not exceed \$10,000, plus \$500 for each
19 day of continued violation. In determining the amount of the
20 civil penalty, the board shall consider the willfulness of the
21 violation, damage or injury to the environment and flood areas
22 of the Commonwealth, cost of restoration, the cost to the
23 Commonwealth of enforcing the provisions of the act against such
24 person, and other relevant factors. The assessment of the civil
25 penalty shall be made after hearing, unless hearing is
26 specifically waived by the respondent. It shall be payable to
27 the Flood Area Disaster Relief Fund and shall be collectible in
28 any manner provided at law for the collection of debts.

29 (b) If any person liable to pay any such penalty neglects or
30 refuses to pay the same after demand, the amount, together with

1 interest and any costs that may accrue, shall be a lien in favor
2 of the Commonwealth upon the property, both real and personal,
3 of such person but only after the amount of the lien has been
4 entered and docketing of record by the prothonotary of the
5 county where the property is situated. The board may, at any
6 time, transmit to the prothonotaries of the respective counties
7 certified copies of all such liens, and it shall be the duty of
8 each prothonotary to enter and docket the same of record in his
9 office, and to index the same as judgments are indexed, without
10 requiring the payment of costs as a condition precedent to the
11 entry thereof.

12 (c) Any officer of any corporation, association,
13 municipality or county, who knowingly, wilfully, recklessly or
14 with gross negligence engages in or authorizes unlawful conduct
15 as defined in section 401 of this act shall be subject to the
16 imposition of civil penalties in accordance with subsection (a).
17 Any civil penalty imposed upon any such officer shall be in
18 addition to and separate from any civil penalty imposed upon the
19 corporation, association, municipality or county. Nothing in
20 this subsection shall be construed to affect the liability or
21 duty of any officer of a corporation, association, municipality
22 or county for the purposes of criminal penalties imposed under
23 this act, or for the purposes of any other rights or remedies
24 now or hereafter existing or herein provided.

25 Section 405. Hearings and Appeals.--(a) Any person aggrieved
26 by an action of a municipality in granting, modifying, denying,
27 suspending, or revoking a flood area permit or in issuing any
28 order shall have the right within 30 days after receipt of
29 notice of such action to request a hearing before such
30 municipality. Revocation of permits shall occur only after

1 notice and opportunity to be heard has been given to the
2 permittee. Hearings under this subsection shall be conducted
3 pursuant to the act of December 2, 1968 (P.L.1133, No.353),
4 known as the "Local Agency Law." The Attorney General shall be
5 notified in writing by the appellant of any appeal challenging
6 the constitutionality of this act or the validity of any rule or
7 regulation.

8 (b) Any person aggrieved by an action of the department in
9 granting, modifying, denying, suspending or revoking a permit;
10 in issuing an order; or in approving, modifying, or revoking an
11 official plan or revisions thereto, shall have the right within
12 30 days or receipt of notice of such action to appeal to the
13 Environmental Hearing Board. Hearings under this subsection and
14 any subsequent appeal shall be in accordance with section
15 1921(a) of the act of April 9, 1929 (P.L.177, No.175), known as
16 "The Administrative Code of 1929," and the act of June 4, 1945
17 (P.L.1388, No.442), known as the "Administrative Agency Law."

18 (c) An appeal to the hearing board of any action of the
19 department shall not act as a supersedeas. A supersedeas may be
20 granted by the hearing board upon a showing by the petitioner:
21 (i) that irreparable harm to the petitioner or other interested
22 parties will result if the supersedeas is denied; (ii) that
23 there is a likelihood of the petitioner's success on the merits;
24 and (iii) that the grant of a supersedeas will not result in
25 irreparable harm to the Commonwealth. The board may grant such a
26 supersedeas subject to such security as it may deem proper.

27 Section 406. Criminal Penalties.--(a) Any person engaging in
28 unlawful conduct as defined in this act is guilty of a summary
29 offense and, upon conviction, shall be sentenced to pay a fine
30 of not less than \$100 nor more than \$1,000 for each separate

1 offense, and, in default of the payment of such fine, to
2 imprisonment for a period of not more than 60 days.

3 (b) Any person who, within two years after a conviction in a
4 summary proceeding as provided in subsection (a) engages in
5 unlawful conduct as defined in this act is guilty of a
6 misdemeanor and, upon conviction, shall be sentenced to pay a
7 fine of not less than \$500 nor more than \$5,000 for each
8 separate offense or to imprisonment for a period of not more
9 than one year, or both.

10 (c) Each day of continued violation of any provisions of
11 this act or any rule or regulation or order of the department
12 issued pursuant to this act shall constitute a separate offense
13 under subsections (a) and (b). Any criminal penalty collected
14 under this act shall be paid to the municipality or
15 municipalities in which the violation occurred to be used by
16 said municipality or municipalities in achieving the purposes of
17 this act.

18 ARTICLE V

19 RIGHTS AND REMEDIES

20 Section 501. Preservation of Existing Rights and Remedies.--
21 The collection of any penalty under the provisions of this act
22 shall not be construed as estopping the Commonwealth or any
23 district attorney or solicitor of a municipality from proceeding
24 in courts of law or equity to abate nuisances under existing law
25 or to restrain, at law or in equity, unlawful conduct as defined
26 herein. It is hereby declared to be the purpose of this act to
27 provide additional and cumulative remedies to abate nuisances
28 and nothing contained in this act shall in any way abridge or
29 alter rights of action or remedies now or hereafter existing or
30 herein provided in equity or under the common law or statutory

1 law, criminal or civil including, without limitation, those
2 rights and remedies established by the act of June 25, 1913
3 (P.L.555, No.355), entitled "An act providing for the regulation
4 of dams, or other structures or obstructions, as defined herein,
5 in, along, across, or projecting into all streams and bodies of
6 water wholly or partly within, or forming part of the boundary
7 of, this Commonwealth; vesting certain powers and duties in the
8 Water Supply Commission of Pennsylvania, for this purpose; and
9 providing penalties for the violation of the provisions hereof,"
10 nor shall any provision in this act or the granting of any
11 permit under this act or any act done by virtue of this act be
12 construed as having any effect upon the rights of the
13 Commonwealth, persons, counties or municipalities to proceed in
14 courts of law or equity to suppress nuisances or to enforce
15 common law or statutory rights nor shall any permit be construed
16 to permit any act otherwise forbidden by any decree, order,
17 sentence or judgment of any court.

18 Section 502. Effect of Department Regulations and Local
19 Ordinances.--(a) The rules, regulations and standards adopted
20 pursuant to this act as they apply to buildings in place and in
21 existence on the effective date of this act shall not be more
22 restrictive than the standards of the Federal Government.

23 (b) This act shall not supersede any flood area regulation
24 or ordinance of any governmental unit currently in effect or
25 adopted prior to the submission of an official plan which is
26 more restrictive than requirements imposed under this act:
27 Provided, That any regulation or ordinance or portion thereof
28 which has been approved by the department shall be incorporated
29 herein and enforceable under the provisions of this act. Any
30 municipality or county which has adopted a flood area ordinance

1 or permit program which complies with the requirements of the
2 United States Department of Housing and Urban Development prior
3 to the effective date of this act may continue to administer
4 such ordinance or permit program until its official plan is
5 approved.

6 (c) Nothing in this act shall be construed as authorizing
7 the department or the Environmental Quality Board to regulate
8 the use of land outside the 100 year flood area as shown on
9 flood plain maps approved or promulgated by the United States
10 Department of Housing and Urban Development.

11 (d) The standards and regulations adopted pursuant to this
12 act shall be deemed minimum standards for the designation and
13 management of flood areas, and shall not be construed as in any
14 way limiting the power of any municipality to adopt more
15 restrictive ordinances for the designation and management of
16 flood areas.

17 (e) If a municipality chooses to designate as flood areas
18 lands which lie outside the 100 year flood area shown on flood
19 plain maps approved or promulgated by the United States
20 Department of Housing and Urban Development and to adopt flood
21 area management regulations and ordinances applicable to such
22 lands, such regulations and ordinances may be enforced pursuant
23 to Article IV of this act.

24 Section 503. Repealer and Savings Clause.--(a) All acts or
25 parts of acts inconsistent herewith are hereby repealed to the
26 extent of such inconsistency.

27 (b) The provisions of this act shall not effect any suit or
28 prosecution pending or to be instituted to enforce any right or
29 penalty or punish any offense under the authority of any Act of
30 Assembly or part thereof repealed by this act.

1 Section 504. Grants and Reimbursements to Municipalities and
2 Counties.--(a) The Department of Community Affairs is authorized
3 to administer grants to municipalities and counties to assist or
4 reimburse them for costs in preparing official plans and actual
5 administrative costs and revisions to official plans for flood
6 plain management required by this act, and for carrying out
7 related studies, surveys, investigations, research and analyses.
8 Grants and reimbursements shall be made from and to the extent
9 of funds appropriated by the General Assembly for such purposes,
10 and shall be made in accordance to rules and regulations adopted
11 by the Department of Community Affairs and in accordance with
12 the following:

13 (1) The grant shall be equal to (i) 90% of the allowable
14 costs for preparation of official plans or revisions thereto
15 incurred by any municipality or county which prior to the
16 effective date of this act adopted a flood area management
17 program which complies with Title 24, section 1910.3(c) or
18 1910.3(d) of the regulations of the Department of Housing and
19 Urban Development, Federal Insurance Administration; or (ii) 50%
20 of the allowable costs for preparation of official plans or
21 revisions thereto incurred by any municipality or county not
22 covered by subsection (i); and (iii) 50% of the allowable costs
23 for administration of official plans incurred by any
24 municipality or county. Allowable costs for administration of
25 official plans shall not include those costs which are offset by
26 reasonable permit fees imposed by the municipality or county.

27 (2) For the purposes of this section, such State grants
28 shall be in addition to grants for similar purposes made to any
29 municipality or county by the Federal Government: Provided, That
30 the grants authorized by this section shall be limited such that

1 the total of all State and Federal grants does not exceed 90% of
2 the allowable costs incurred by the municipality or county.

3 (b) Nothing in this section shall be construed to impair or
4 limit application of this act to any municipality or person, or
5 to relieve any municipality or person of duties imposed under
6 this act.

7 (c) If, in any fiscal year, appropriations are insufficient
8 to cover the costs or grants and reimbursements to all
9 municipalities or counties eligible for such grants and
10 reimbursements in that fiscal year, the Department of Community
11 Affairs shall report such fact to the General Assembly and shall
12 request appropriation of funds necessary to provide the grants
13 authorized in this section. If such a deficiency appropriation
14 is not enacted, any municipality or county which has not
15 received the full amount of the grant for which it is eligible
16 under this section shall be as a first priority reimbursed from
17 appropriations made in the next successive fiscal year.

18 Section 505. Appropriations.--The sum of \$600,000, or as
19 much thereof as may be necessary, is hereby appropriated for the
20 fiscal period beginning July 1, 1974, and ending June 30, 1976,
21 for the purposes of this act, of which sum the amount of
22 \$450,000 is directly appropriated to the Department of
23 Environmental Resources and the sum of \$150,000 is directly
24 appropriated to the Department of Community Affairs. The
25 additional sum of \$200,000 is appropriated to the Department of
26 Community Affairs for the period ending one year from the date
27 of this act for the express purpose of implementing section 309.
28 The amount of \$3,000,000, or as much thereof as may be
29 necessary, is hereby appropriated for the fiscal period
30 beginning July 1, 1974, and ending June 30, 1981, to the

1 Department of Community Affairs for the express purpose of
2 implementing section 504.
3 Section 506. Effective Date.--This act shall take effect
4 immediately.