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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1252      Session of  
1980

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INTRODUCED BY LEWIS, FEBRUARY 13, 1980

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AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,  
NOVEMBER 18, 1980

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AN ACT

1 Amending the act of July 31, 1968 (P.L.805, No.247), entitled,  
2 as amended, "An act to empower cities of the second class A,  
3 and third class, boroughs, incorporated towns, townships of  
4 the first and second classes including those within a county  
5 of the second class and counties of the second class A  
6 through eighth classes, individually or jointly, to plan  
7 their development and to govern the same by zoning,  
8 subdivision and land development ordinances, planned  
9 residential development and other ordinances, by official  
10 maps, by the reservation of certain land for future public  
11 purpose and by the acquisition of such land; providing for  
12 the establishment of planning commissions, planning  
13 departments, planning committees and zoning hearing boards,  
14 authorizing them to charge fees, make inspections and hold  
15 public hearings; providing for appropriations, appeals to  
16 courts and penalties for violations; and repealing acts and  
17 parts of acts," further providing for financial security for  
18 the completion of certain improvements.

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

21 Section 1. Section 509, act of July 31, 1968 (P.L.805,  
22 No.247), known as the "Pennsylvania Municipalities Planning  
23 Code," amended June 9, 1978 (P.L.460, No.60), is amended to  
24 read:

1       Section 509. Completion of Improvements or Guarantee Thereof  
2 Prerequisite to Final Plat Approval.--No plat shall be finally  
3 approved unless the streets shown on such plat have been  
4 improved to a mud-free or otherwise permanently passable  
5 condition, or improved as may be required by the subdivision and  
6 land development ordinance and any walkways, curbs, gutters,  
7 street lights, fire hydrants, shade trees, water mains, sanitary  
8 sewers, storm drains and other improvements as may be required  
9 by the subdivision and land development ordinance have been  
10 installed in accordance with such ordinance. In lieu of the  
11 completion of any improvements required as a condition for the  
12 final approval of a plat, the subdivision and land development  
13 ordinance shall provide for the deposit with the municipality of  
14 [a corporate bond, or other] financial security [acceptable to  
15 the governing body] in an amount sufficient to cover the costs  
16 of any improvements or common amenities including, but not  
17 limited to, ROADS, storm water detention ~~or~~ AND/OR retention <—  
18 basins AND OTHER RELATED DRAINAGE FACILITIES, recreational <—  
19 facilities, open space improvements, or buffer or screen  
20 plantings which may be required[, which financial security may  
21 include among others, a lending institution letter of credit or  
22 a restrictive or escrow account in a lending institution].  
23 Without limitation as to other types of financial security which  
24 the municipality may approve, ~~surety bonds~~ WHICH APPROVAL SHALL <—  
25 NOT BE UNREASONABLY WITHHELD, Federal or Commonwealth chartered  
26 lending institution IRREVOCABLE letters of credit and <—  
27 restrictive or escrow accounts in such lending institutions  
28 shall be deemed acceptable financial security for the purposes  
29 of this section. Such financial security shall be posted with a  
30 bonding company or Federal or Commonwealth chartered lending

1 institution chosen by the party posting the financial security,  
2 provided said bonding company or lending institution is  
3 authorized to conduct such business within the Commonwealth.  
4 Such bond, or other security shall provide for, and secure to  
5 the public, the completion of any improvements which may be  
6 required within one year of the date fixed in the subdivision  
7 plat for completion of such improvements. The amount of  
8 financial security shall be equal to NOT EXCEED BE EQUAL TO one <—  
9 hundred ten percent of the cost of the required improvements for  
10 which financial security is to be posted. The cost of the  
11 improvements shall be established by submission to the governing  
12 body or the planning agency of bona fide bid or bids from the  
13 contractor or contractors chosen by the party posting the  
14 financial security to complete the improvements or, in the  
15 absence of such bona fide bids, the costs shall be established  
16 by estimate prepared by the municipality's engineer. If the  
17 party posting the financial security requires more than one year  
18 from the date of posting of the financial security to complete  
19 the required improvements, the amount of financial security may  
20 be increased by an additional ten percent for each one-year  
21 period beyond the first anniversary date from posting of  
22 financial security OR TO AN AMOUNT NOT EXCEEDING ONE HUNDRED TEN <—  
23 PERCENT OF THE COST OF COMPLETING THE REQUIRED IMPROVEMENTS AS  
24 REESTABLISHED ON OR ABOUT THE EXPIRATION OF THE PRECEDING ONE-  
25 YEAR PERIOD BY USING THE ABOVE BIDDING PROCEDURE. In the case  
26 where development is projected over a period of years, the  
27 governing body or the planning agency may authorize submission  
28 of final plats by section or stages of development subject to  
29 such requirements or guarantees as to improvements in future  
30 sections or stages of development as it finds essential for the

1 protection of any finally approved section of the development.  
2 As the work of installing the required improvements proceeds,  
3 the party posting the financial security may request the  
4 governing body to release or authorize the release, from time to  
5 time, such portions of the financial security necessary for  
6 payment to the contractor or contractors performing the work.  
7 Any such requests shall be in writing addressed to the governing  
8 body, and the governing body shall have forty-five days from  
9 receipt of such request within which to allow the municipal  
10 engineer to certify, in writing, to the governing body that such  
11 portion of the work upon the improvements has been completed in  
12 accordance with the approved plat. Upon such certification the  
13 governing body shall authorize release by the bonding company or  
14 lending institution of an amount as estimated by the municipal  
15 engineer fairly representing the value of the improvements  
16 completed or, if the governing body fails to act within said  
17 forty-five-day period, the governing body shall be deemed to  
18 have approved the release of funds as requested. The governing  
19 body may, prior to final release at the time of completion and  
20 certification by its engineer, require retention of ten percent  
21 of the estimated cost of the aforesaid improvements. Where the  
22 governing body accepts dedication of all or some of the required  
23 improvements following completion, the governing body may  
24 require the posting of financial security to secure structural  
25 integrity of said improvements AS WELL AS THE FUNCTIONING OF  
26 SAID IMPROVEMENTS IN ACCORDANCE WITH THE DESIGN AND  
27 SPECIFICATIONS AS DEPICTED ON THE FINAL PLAT for a term not to  
28 exceed eighteen months from the date of acceptance of  
29 dedication. Said financial security shall be of the same type as  
30 otherwise required in this section with regard to installation

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1 of such improvements, and the amount of the financial security  
2 shall not exceed fifteen percent of the actual cost of  
3 installation of said improvements. If water mains or sanitary  
4 sewer lines, or both, along with apparatus or facilities related  
5 thereto, are to be installed under the jurisdiction and pursuant  
6 to the rules and regulations of a public utility or municipal  
7 authority separate and distinct from the municipality, financial  
8 security to assure proper completion and maintenance thereof  
9 shall be posted in accordance with the regulations of the  
10 controlling public utility or municipal authority and shall not  
11 be included within the financial security as otherwise required  
12 by this section. If financial security has been provided in lieu  
13 of the completion of improvements required as a condition for  
14 the final approval of a plat as set forth in this section, the  
15 municipality shall not condition the issuance of building,  
16 grading or other permits relating to the erection or placement  
17 of improvements, including buildings, upon the lots or land as  
18 depicted upon the final plat upon actual completion of the  
19 improvements depicted upon the approved final plat. MOREOVER, IF <—  
20 SAID FINANCIAL SECURITY HAS BEEN PROVIDED, OCCUPANCY PERMITS FOR  
21 ANY BUILDING OR BUILDINGS TO BE ERECTED SHALL NOT BE WITHHELD  
22 FOLLOWING: THE IMPROVEMENT OF THE STREETS PROVIDING ACCESS TO  
23 AND FROM EXISTING PUBLIC ROADS TO SUCH BUILDING OR BUILDINGS TO  
24 A MUD-FREE OR OTHERWISE PERMANENTLY PASSABLE CONDITION, AS WELL  
25 AS THE COMPLETION OF ALL OTHER IMPROVEMENTS AS DEPICTED UPON THE  
26 APPROVED PLAT, EITHER UPON THE LOT OR LOTS OR BEYOND THE LOT OR  
27 LOTS IN QUESTION IF SUCH IMPROVEMENTS ARE NECESSARY FOR THE  
28 REASONABLE USE OF OR OCCUPANCY OF THE BUILDING OR BUILDINGS. Any  
29 ordinance or statute inconsistent herewith is hereby expressly  
30 repealed.

1       Section 2.   This act shall take effect in 60 days.