THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1982 Session of 2003

INTRODUCED BY McILHINNEY, ARMSTRONG, CAPPELLI, CRAHALLA,
CREIGHTON, DeLUCA, DENLINGER, FREEMAN, GRUCELA, HARPER,
HENNESSEY, HERSHEY, HORSEY, KILLION, McGEEHAN, R. MILLER,
NAILOR, O'NEILL, PAYNE, PETRI, RUBLEY, SCAVELLO, SCHRODER,
STEIL, WASHINGTON AND YOUNGBLOOD, SEPTEMBER 16, 2003

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, SEPTEMBER 16, 2003

AN ACT

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 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 through eighth
 6     classes, individually or jointly, to plan their development
 7     and to govern the same by zoning, subdivision and land
 8     development ordinances, planned residential development and
 9     other ordinances, by official maps, by the reservation of
10     certain land for future public purpose and by the acquisition
11     of such land; to promote the conservation of energy through
12     the use of planning practices and to promote the effective
13     utilization of renewable energy sources; providing for the
14     establishment of planning commissions, planning departments,
15     planning committees and zoning hearing boards, authorizing
16     them to charge fees, make inspections and hold public
17     hearings; providing for mediation; providing for transferable
18     development rights; providing for appropriations, appeals to
19     courts and penalties for violations; and repealing acts and
20     parts of acts," further providing for fees charged by the
21     municipality.

22     The General Assembly of the Commonwealth of Pennsylvania

23  hereby enacts as follows:

24     Section 1.  Section 503(1) of the act of July 31, 1968

25  (P.L.805, No.247), known as the Pennsylvania Municipalities

26  Planning Code, reenacted and amended December 21, 1988
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1 (P.L.1329, No.170) and amended June 22, 2000 (P.L.495, No.68),

2 is amended to read:

3   Section 503. Contents of Subdivision and Land Development

4 Ordinance.--The subdivision and land development ordinance may

5 include, but need not be limited to:

6   (1) Provisions for the submittal and processing of

7   plats, including the charging of review fees, and

8   specifications for such plats, including certification as to

9   the accuracy of plats and provisions for preliminary and

10   final approval and for processing of final approval by stages

11   or sections of development. Such plats and surveys shall be

12   prepared in accordance with the act of May 23, 1945 (P.L.913,

13   No.367), known as the "Engineer, Land Surveyor and Geologist

14   Registration Law," except that this requirement shall not

15   preclude the preparation of a plat in accordance with the act

16   of January 24, 1966 (1965 P.L.1527, No.535), known as the

17   "Landscape Architects' Registration Law," when it is

18   appropriate to prepare the plat using professional services

19   as set forth in the definition of the "practice of landscape

20   architecture" under section 2 of that act. Review fees may

21   include reasonable and necessary charges by the

22   municipality's solicitor, professional consultants or

23   engineer for review and report thereon to the municipality.

24   Such review fees shall be based upon a schedule established

25   by ordinance or resolution. Such review fees shall be

26   reasonable and in accordance with the ordinary and customary

27   charges by the municipal solicitor, engineer or consultant

28   for similar service in the community, but in no event shall

29   the fees exceed the rate or cost charged by the solicitor,

30   engineer or consultant to the municipalities when fees are

1   not reimbursed or otherwise imposed on applicants.

2   (i) In the event the applicant disputes the amount

3   of any such review fees, the applicant shall, within 14

4   days of the applicant's receipt of the bill, notify the

5   municipality that such fees are disputed, in which case

6   the municipality shall not delay or disapprove a

7   subdivision or land development application due to the

8   applicant's request over disputed fees.

9   (ii) In the event that the municipality and the

10   applicant cannot agree on the amount of review fees which

11   are reasonable and necessary, then the applicant and the

12   municipality shall follow the procedure for dispute

13   resolution set forth in section 510(g), provided that the

14   professionals resolving such dispute shall be of the same

15   profession or discipline as the consultants whose fees

16   are being disputed.

17   * * *

18   Section 2. Section 510(g) of the act is amended to read:

19   Section 510. Release from Improvement Bond.--* * *

20   (g) The municipality may prescribe that the applicant shall

21   reimburse the municipality for the reasonable and necessary

22   expense incurred for the inspection of improvements. Such

23   reimbursement shall be based upon a schedule established by

24   ordinance or resolution. Such expense shall be reasonable and in

25   accordance with the ordinary and customary fees charged by the

26   municipal solicitor, engineer or consultant for work performed

27   for similar services in the community, but in no event shall the

28   fees exceed the rate or cost charged by the solicitor, engineer

29   or consultant to the municipalities when fees are not reimbursed

30   or otherwise imposed on applicants.

1   (1) In the event the applicant disputes the amount of

2   any such expense in connection with the inspection of

3   improvements, the applicant shall, within ten working days of

4   the date of billing, notify the municipality that such

5   expenses are disputed as unreasonable or unnecessary, in

6   which case the municipality shall not delay or disapprove a

7   subdivision or land development application or any approval

8   or permit related to development due to the applicant's

9   request over disputed engineer expenses.

10   (2) If, within 20 days from the date of billing, the

11   municipality and the applicant cannot agree on the amount of

12   expenses which are reasonable and necessary, then the

13   applicant and municipality shall jointly, by mutual

14   agreement, appoint another professional engineer or attorney,

15   as the case may be, licensed as such in the Commonwealth of

16   Pennsylvania to review the said expenses and make a

17   determination as to the amount thereof which is reasonable

18   and necessary.

19   (3) The professional engineer or attorney so appointed

20   shall hear such evidence and review such documentation as the

21   professional engineer or attorney in his or her sole opinion

22   deems necessary and render a decision within 50 days of the

23   billing date. The applicant shall be required to pay the

24   entire amount determined in the decision immediately.

25   (4) In the event that the municipality and applicant

26   cannot agree upon the professional engineer or attorney to be

27   appointed within 20 days of the billing date, then, upon

28   application of either party, the President Judge of the Court

29   of Common Pleas of the judicial district in which the

30   municipality is located (or if at the time there be no

1   President Judge, then the senior active judge then sitting)

2   shall appoint such engineer <u>or attorney</u>, who, in that case,

3   shall be neither the municipal engineer nor any professional

4   engineer <u>or attorney</u> who has been retained by, or performed

5   services for, the municipality or the applicant within the

6   preceding five years.

7   (5) The fee of the appointed professional engineer <u>or</u>

8   <u>attorney</u> for determining the reasonable and necessary

9   expenses shall be paid by the applicant if the amount of

10   payment required in the decision is equal to or greater than

11   the original bill. If the amount of payment required in the

12   decision is less than the original bill by $1,000 or more,

13   the municipality shall pay the fee of the professional

14   engineer <u>or attorney</u>, but otherwise the municipality and the

15   applicant shall each pay one-half of the fee of the appointed

16   professional engineer <u>or attorney</u>.

17   Section 3. This act shall take effect in 60 days.