

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 743

Session of 1977

INTRODUCED BY KURY, MURRAY, MELLOW, HOLL, WOOD AND MOORE, APRIL 19, 1977

SENATOR MELLOW, ENVIRONMENTAL RESOURCES, RE-REPORTED AS AMENDED, FEBRUARY 22, 1978

AN ACT

1 Providing for the regulation of land and water use for flood
2 control purposes, imposing duties and conferring powers on
3 the Department of Community Affairs, the Department of
4 Environmental Resources, and municipalities, providing for
5 penalties and enforcement and making appropriations.

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

12 CHAPTER 1

13 PRELIMINARY PROVISIONS

14 Section 101. Short title.

15 This act shall be known and may be cited as the "Flood Plain  
16 Management Act."

17 Section 102. Statement of legislative findings.

18 (a) Flooding of large areas of land within the Commonwealth  
19 causes unnecessary loss of life, destroys private and public  
20 property, damages means of livelihood and economic resources;  
21 disrupts commerce, communication, utility and governmental  
22 services; causes pollution and unsanitary conditions; carries  
23 solid waste, sewage and other materials injurious to health and  
24 property; all of which is detrimental to the health, safety and  
25 welfare of the people of the Commonwealth.

26 (b) Extensive expenditures of public funds have been  
27 allocated to costly flood control projects, repair and  
28 maintenance of public facilities and property, and relief and  
29 rescue efforts, to reduce the disastrous effects of recurrent  
30 flooding.

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

5 (d) A comprehensive and coordinated program of flood plain  
6 management, based upon the National Flood Insurance Program, is  
7 fundamental to the health, safety, welfare and protection of the  
8 people of the Commonwealth.

9 Section 103. Statement of policy and purposes.

10 The policy and purpose of this act is to:

11 (1) Encourage planning and development in flood plains  
12 which are consistent with sound land use practices.

13 (2) Protect people and property in flood plains from the  
14 dangers and damage of floodwaters and from materials carried  
15 by such floodwaters.

16 (3) Prevent and eliminate urban and rural blight which  
17 results from the damages of flooding.

18 (4) Authorize a comprehensive and coordinated program of  
19 flood plain management, based upon the National Flood  
20 Insurance Program, designed to preserve and restore the  
21 efficiency and carrying capacity of the streams and flood  
22 plains of the Commonwealth.

23 (5) Assist municipalities in qualifying for the National  
24 Flood Insurance Program.

25 (6) Provide for and encourage local administration and  
26 management of flood plains.

27 (7) Minimize the expenditure of public and private funds  
28 for flood control projects and for relief, rescue and  
29 recovery efforts.

30 Section 104. Definitions.

1 The following words and phrases when used in this act shall  
2 have, unless the context clearly indicates otherwise, the  
3 meanings given to them in this section:

4 "Department." The Department of Community Affairs of the  
5 Commonwealth of Pennsylvania.

6 "FILL." SAND, GRAVEL, EARTH OR OTHER MATERIAL PLACED OR  
7 DEPOSITED SO AS TO FORM AN EMBANKMENT OR RAISE THE ELEVATION OF  
8 THE LAND SURFACE. ←

9 "Flood." A general but temporary condition of partial or  
10 complete inundation of normally dry land areas from the overflow  
11 of streams, rivers or other waters of the Commonwealth.

12 "Flood plain management regulations." Zoning ordinances,  
13 subdivision regulations, building codes, health regulations,  
14 special purpose ordinances and other applications of police  
15 power. The term describes such State or local regulations, in  
16 any combination thereof, which provide standards for the purpose  
17 of flood damage, prevention and reduction.

18 "Floodproofing." Structural or other changes or adjustments  
19 to properties or obstructions for the reduction or elimination  
20 of flood damages to such properties and obstructions or to the  
21 contents of any structure.

22 "Municipality." A city, borough, town or township or any  
23 similar general purpose unit of government, or county or other  
24 governmental unit when acting as an agent thereof, or any  
25 combination thereof acting jointly.

26 "NEW MOBILE HOME PARK OR MOBILE HOME SUBDIVISION." A PARCEL  
27 (OR CONTIGUOUS PARCELS) OF LAND DIVIDED INTO TWO OR MORE MOBILE  
28 HOME LOTS FOR RENT OR SALE FOR WHICH THE CONSTRUCTION OF  
29 FACILITIES FOR SERVICING THE LOT ON WHICH THE MOBILE HOME IS TO  
30 BE AFFIXED (INCLUDING AT A MINIMUM, THE INSTALLATION OF ←

1 UTILITIES, EITHER FINAL SITE GRADING OR THE POURING OF CONCRETE  
2 PADS, AND THE CONSTRUCTION OF STREETS) IS COMPLETED ON OR AFTER  
3 THE EFFECTIVE DATE OF FLOOD PLAIN MANAGEMENT REGULATIONS ADOPTED  
4 BY A COMMUNITY.

5 "Obstruction." Any structure or assembly of materials  
6 INCLUDING FILL above or below the surface of land or water, and ←  
7 an activity which might impede, retard or change flood flows.  
8 The planting, cultivation and harvesting of field and orchard  
9 crops or the grazing of livestock, including the maintenance of  
10 necessary appurtenant agricultural fencing, shall not be  
11 considered an "obstruction" under this definition and shall not  
12 be subject to regulation under this act.

13 "One hundred-year flood." The highest level of flooding  
14 that, on the average, is likely to occur every 100 years, that  
15 is, that has a 1% chance of occurring each year.

16 "One hundred-year flood plain" or "flood plain." The 100-  
17 year floodway and that maximum area of land that is likely to be  
18 flooded by a 100-year flood shown on flood plain maps approved  
19 or promulgated by the United States Department of Housing and  
20 Urban Development.

21 "Person." An individual, partnership, public or private  
22 association or corporation, firm, trust, estate, municipality,  
23 governmental unit, public utility or any other legal entity  
24 whatsoever which is recognized by law as the subject of rights  
25 and duties.

26 "Public utility service." The rendering of the following  
27 services for the public:

28 (1) gas, electricity or steam production, generation,  
29 transmission or distribution;

30 (2) water diversion, pumping, impoundment or

1 distribution;

2 (3) railroad transportation of passengers or property;

3 (4) operation of a canal, turnpike, tunnel, bridge,  
4 wharf or similar structure;

5 (5) transportation of natural or artificial gas, crude  
6 oil, gasoline or petroleum products, materials for  
7 refrigeration or other fluid substances by pipeline or  
8 conduit;

9 (6) telephone or telegraph communications; and

10 (7) sewage collection, treatment or disposal.

11 "SPECIAL HAZARD OBSTRUCTION." THIS SHALL INCLUDE BUT NOT BE ←  
12 LIMITED TO HOSPITALS, NURSING HOMES, JAILS, FACILITIES FOR THE  
13 PRODUCTION OR STORAGE OF HAZARDOUS MATERIALS AND FACILITIES  
14 NECESSARY FOR EMERGENCY RESPONSE.

15 "SUBSTANTIAL IMPROVEMENT." ANY REPAIR, RECONSTRUCTION OR  
16 IMPROVEMENT OF A STRUCTURE, THE COST OF WHICH EQUALS OR EXCEEDS  
17 50% OF THE MARKET VALUE OF THE STRUCTURE EITHER:

18 (1) BEFORE THE IMPROVEMENT OR REPAIR IS STARTED; OR

19 (2) IF THE STRUCTURE HAS BEEN DAMAGED, AND IS BEING  
20 RESTORED, BEFORE THE DAMAGE OCCURRED.

21 FOR THE PURPOSES OF THIS DEFINITION "SUBSTANTIAL IMPROVEMENT" IS  
22 CONSIDERED TO OCCUR WHEN THE FIRST ALTERATION OF ANY WALL,  
23 CEILING, FLOOR OR OTHER STRUCTURE PART OF THE BUILDING  
24 COMMENCES, WHETHER OR NOT THAT ALTERATION AFFECTS THE EXTERNAL  
25 DIMENSIONS OF THE STRUCTURE. THE TERM DOES NOT, HOWEVER, INCLUDE  
26 EITHER:

27 (I) ANY PROJECT FOR IMPROVEMENT OF A STRUCTURE TO  
28 COMPLY WITH EXISTING STATE OR LOCAL HEALTH, SANITARY OR  
29 SAFETY CODE SPECIFICATIONS WHICH ARE SOLELY NECESSARY TO  
30 ASSURE SAFE LIVING CONDITIONS; OR

1 (II) ANY ALTERATION OF A STRUCTURE LISTED ON THE  
2 NATIONAL REGISTER OF HISTORIC PLACES OR A STATE INVENTORY  
3 OF HISTORIC PLACES.

4 "Watershed." The entire region or area drained by a river or  
5 other body of water, whether natural or artificial.

6 CHAPTER 2

7 MUNICIPAL PARTICIPATION IN NATIONAL FLOOD INSURANCE PROGRAM

8 Section 201. Required participation in National Flood Insurance  
9 Program.

10 (a) Each municipality which has been notified by the United  
11 States Department of Housing and Urban Development that it has  
12 been identified as having an area or areas which are subject to  
13 flooding shall participate in the National Flood Insurance  
14 Program.

15 (b) If a municipality WITH AN AREA OR AREAS SUBJECT TO  
16 FLOODING is not participating in the National Flood Insurance  
17 Program at the time this act becomes effective, such  
18 municipality shall apply for eligibility and fully comply with  
19 the requirements for participation within six months of the  
20 effective date of this act, or six months from the date of  
21 notification by the United States Department of Housing and  
22 Urban Development that it has been identified as having an area  
23 or areas subject to flooding, whichever is first.

24 (c) If a municipality, for whatever reason, is suspended  
25 from the National Flood Insurance Program, once having gained  
26 eligibility, such municipality shall regain eligibility within  
27 90 days of the date of receipt of its notice of suspension.

28 Section 202. Adoption of flood plain management regulations.

29 Each municipality WHICH HAS BEEN IDENTIFIED BY THE UNITED  
30 STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AS HAVING AN



1 AREA OR AREAS SUBJECT TO FLOODING, shall adopt such flood plain  
2 management regulations, and amendments thereto, as are necessary  
3 to comply with the requirements of the National Flood Insurance  
4 Program within six months after a flood plain map is approved or  
5 promulgated for the municipality by the United States Department  
6 of Housing and Urban Development.

7 Section 203. Relationship of flood plain management regulations  
8 to the Pennsylvania Municipalities Planning Code  
9 and other applicable enabling legislation.

10 The adoption and administration by municipalities of flood  
11 plain management regulations, or amendments thereto, which are  
12 necessary to comply with the requirements of the National Flood  
13 Insurance Program shall be governed by the provisions of the act  
14 of July 31, 1968 (P.L.805, No.247), known as the "Pennsylvania  
15 Municipalities Planning Code," or other applicable enabling  
16 legislation; provided, that a municipality may adopt flood plain  
17 management regulations for the flood plain without adopting  
18 ordinances, codes or regulations for any other area of the  
19 municipality, notwithstanding any provision of the  
20 Municipalities Planning Code or other applicable enabling  
21 legislation.

22 Section 204. Requirements of the National Flood Insurance  
23 Program deemed minimum standards.

24 The flood plain management regulations adopted by a  
25 municipality in order to comply with the requirements of the  
26 National Flood Insurance Program shall be deemed minimum  
27 standards for the management of the flood plains, and no  
28 provision of this act shall be construed as in any way limiting  
29 the power of any municipality to adopt more restrictive  
30 ordinances, codes or regulations for the management of flood

1 plains.

2 Section 205. Department review and approval of municipal flood  
3 plain management regulations.

4 (a) The department shall, in consultation with the  
5 Department of Environmental Resources, review and approve all  
6 municipal flood plain management regulations, and amendments  
7 thereto, for the purpose of assuring that such regulations  
8 comply with the requirements of the National Flood Insurance  
9 Program and that such regulations are coordinated and uniformly  
10 enforced throughout each watershed.

11 (b) The department, in consultation with the Department of  
12 Environmental Resources, shall adopt, and periodically review  
13 and amend, regulations including but not limited to:

14 (1) Criteria and standards for the coordination and  
15 uniform enforcement of municipal flood plain management  
16 regulations under the National Flood Insurance Program.

17 (2) Procedures, requirements and standards for  
18 submission, review and approval of municipal flood plain  
19 management regulations pursuant to this section.

20 (c) Prior to adoption of department regulations pursuant to  
21 this section, the department shall hold at least one public  
22 hearing, after public notice, in each major river basin of the  
23 Commonwealth. Prior to any amendment of department regulations,  
24 the department shall hold at least one public hearing after  
25 public notice.

26 Section 206. Municipalities required to comply with department  
27 regulations.

28 Each municipality participating in the National Flood  
29 Insurance Program shall comply with any regulations adopted by  
30 the department pursuant to this chapter within six months of the

1 effective date of such regulations. A municipality shall be  
2 deemed to have complied with department regulations if it has  
3 received department approval as provided for in this chapter.

4 SECTION 207. REGULATIONS TO PROHIBIT SUBDIVISION OF FLOOD  
5 PLAIN AREA. ←

6 THE REGULATIONS PROMULGATED BY THE DEPARTMENT SHALL PROHIBIT  
7 THE SUBDIVISION OR PROPERTY LOCATED WITHIN A DESIGNATED FLOOD  
8 HAZARD AREA WHERE THE PROPOSED SUBDIVISION WOULD CREATE LOTS  
9 WHICH ARE LOCATED WHOLLY WITHIN THE FLOOD HAZARD AREA OR WHICH  
10 WOULD CREATE LOTS WHICH DO NOT CONTAIN SUFFICIENT NONFLOOD AREA  
11 TO PERMIT THE IMPROVEMENT THEREOF.

12 SECTION 208. REGULATIONS TO PROHIBIT CONSTRUCTION IN FLOOD  
13 HAZARD AREA WHERE ALTERNATIVES EXIST.

14 THE REGULATIONS PROMULGATED BY THE DEPARTMENT SHALL PROHIBIT  
15 THE BUILDING OF STRUCTURES IN A DESIGNATED FLOOD HAZARD AREA  
16 WHERE THE STRUCTURE SOUGHT TO BE BUILT CAN FEASIBLY BE LOCATED  
17 ON THE SAME PARCEL OF LAND IN AN AREA SAFE FROM FLOODING.

18 SECTION 209. REGULATIONS TO PROHIBIT UTILIZATION OF FILL IN  
19 FLOOD PLAINS.

20 THE REGULATIONS PROMULGATED BY THE DEPARTMENT SHALL REQUIRE  
21 THAT IN ALL INSTANCES WHERE IT IS NECESSARY TO ELEVATE A  
22 PROPOSED STRUCTURE IN ORDER TO MEET THE MINIMUM ELEVATION  
23 REQUIREMENTS OF THE NATIONAL FLOOD INSURANCE PROGRAM THE  
24 REQUIRED ELEVATION SHALL BE ACCOMPLISHED THROUGH THE USE OF  
25 PILINGS OR COLUMNS RATHER THAN FILL IN ORDER TO MAINTAIN THE  
26 STORAGE CAPACITY OF THE FLOOD PLAIN AND TO MINIMIZE THE  
27 OBSTRUCTION OF FLOOD FLOWS INCIDENT TO THE USE OF FILL AND  
28 THEREBY REDUCE THE RISK OF FLOOD DAMAGE.

29 SECTION 210. REGULATIONS TO PROHIBIT DEVELOPMENT WHICH IS  
30 DANGEROUS TO HUMAN LIFE.

1 THE REGULATIONS PROMULGATED BY THE DEPARTMENT SHALL PROHIBIT  
2 THE CONSTRUCTION OR SUBSTANTIAL IMPROVEMENT OF STRUCTURES IN AN  
3 AREA WHICH HAS BEEN IDENTIFIED AS A FLOOD HAZARD AREA ON A FLOOD  
4 INSURANCE RATE MAP PROMULGATED BY THE DEPARTMENT OF HOUSING AND  
5 URBAN DEVELOPMENT WHICH MAY ENDANGER HUMAN LIFE.

6 CHAPTER 3

7 REGULATION OF PARTICULAR OBSTRUCTIONS

8 Section 301. Obstructions posing special hazards in flood  
9 plains.

10 (a) The department shall by regulation publish a list of  
11 obstructions which it determines present a special hazard to the  
12 health and safety of the public or occupants or may result in  
13 significant pollution, increased flood levels or flows or debris  
14 endangering life and property, if such obstructions are located  
15 in all or a designated portion of the flood plain. These  
16 obstructions include, but are not limited to: hospitals, nursing  
17 homes, jails, NEW MOBILE HOME PARKS, SUBDIVISION OR SUBSTANTIAL <—  
18 ADDITIONS TO MOBILE HOME PARKS OR SUBDIVISIONS, facilities for  
19 the production or storage of TOXIC, BUOYANT, FLAMMABLE OR <—  
20 OTHERWISE hazardous materials and facilities necessary for  
21 emergency response.

22 (b) Construction of any structure or commencement of any  
23 activity listed as a special hazard by department regulations in  
24 a flood plain or such portion of the flood plain designated by  
25 the regulations shall be prohibited except in accordance with a  
26 special exception issued pursuant to this section.

27 (c) A municipality administering flood plain management  
28 regulations may issue a special exception if the applicant  
29 demonstrates and the municipality determines that the structure  
30 or activity will be located, constructed and maintained in a

1 manner which:

2 (1) will fully protect the health and safety of the  
3 public or occupants;

4 (2) will prevent any significant possibility of  
5 pollution, increased flood levels or flows, or debris  
6 endangering life and property; and

7 (3) will comply with the requirements of the National  
8 Flood Insurance Program.

9 Approval of any special exception shall be conditioned upon  
10 compliance with all feasible floodproofing and other  
11 requirements necessary to minimize damage, and the hindrance of  
12 flood flows and to minimize potential danger to life and  
13 property.

14 (d) Written notice of municipal approval of a special  
15 exception shall be filed with the department. The special  
16 exception shall become effective 30 days following the receipt  
17 of notice by the department unless the special exception is  
18 disapproved by the department. If the department disapproves a  
19 special exception, it shall notify the municipality and  
20 applicant of the reasons for disapproval.

21 Section 302. Exclusive State jurisdiction over certain  
22 obstructions in flood plains.

23 (a) Except as otherwise provided in this section, the  
24 Department of Environmental Resources shall have exclusive  
25 jurisdiction under this act to regulate:

26 (1) any obstruction otherwise regulated under the Water  
27 Obstructions Act;

28 (2) any flood control project constructed, owned or  
29 maintained by a governmental unit;

30 (3) any highway or other obstruction, constructed, owned

1 or maintained by the Commonwealth OR A POLITICAL SUBDIVISION <—  
2 THEREOF; and

3 (4) any obstruction owned or maintained by a person  
4 engaged in the rendering of a public utility service.

5 (b) No person shall construct, modify, remove, abandon or  
6 destroy any structure or engage in any activity specified in  
7 subsection (a) in the 100-year flood plain unless such person  
8 has first applied for and obtained a permit from the Department  
9 of Environmental Resources. The department may impose such  
10 permit terms and conditions as it deems necessary to carry out  
11 the purposes of this act. THE PERMIT SHALL BECOME EFFECTIVE 60 <—  
12 DAYS FOLLOWING THE RECEIPT OF THE APPLICATION BY THE DEPARTMENT  
13 UNLESS THE APPLICATION IS DISAPPROVED BY THE DEPARTMENT. IF THE  
14 DEPARTMENT DISAPPROVES THE APPLICATION IT SHALL NOTIFY THE  
15 APPLICANT OF THE REASONS FOR DISAPPROVAL.

16 (c) The Environmental Quality Board shall adopt such  
17 regulations and standards as are necessary to carry out this  
18 section in accordance with the purposes of this act, including  
19 provisions for the payment of reasonable nonrefundable filing  
20 fees.

21 (d) The Department of Environmental Resources may, in  
22 accordance with regulations adopted by the Environmental Quality  
23 Board, delegate its authority under this act and the Storm Water  
24 Management Act to regulate and permit obstructions having only  
25 local significance, other than those prescribed in subsection  
26 (a)(2), (3) and (4), to a municipality administering flood plain  
27 management regulations.

28 (e) The Department of Environmental Resources shall regulate  
29 those obstructions subject to exclusive State jurisdiction in a  
30 manner consistent to the maximum extent possible with the

1 standards and criteria established in municipal flood plain  
2 management regulations.

3 (f) The Department of Environmental Resources may modify,  
4 suspend or revoke any permit issued under this act if it finds  
5 that the permittee has violated the permit terms and conditions  
6 or the provisions of this act and regulations adopted hereunder,  
7 or that any change has occurred in the physical condition of the  
8 site which will materially affect safe construction and  
9 maintenance of the structure or activity.

10 CHAPTER 4

11 POWERS AND DUTIES

12 Section 401. Powers and duties of the Department of Community  
13 Affairs and the Department of Environmental  
14 Resources.

15 (a) The Department of Community Affairs shall have the power  
16 and its duty shall be to:

17 (1) Coordinate the administration of municipal flood  
18 plain management regulations in the Commonwealth.

19 (2) Require the submission of municipal flood plain  
20 management regulations and municipal records and reports, as  
21 necessary to carry out the purposes of this act.

22 (3) Provide technical assistance for the purpose of  
23 assisting municipalities in complying with the provisions of  
24 this act.

25 (4) Draft, publish and approve, for use by  
26 municipalities, model flood plain ordinances, codes and  
27 regulations which comply with the requirements of the  
28 National Flood Insurance Program and the regulations adopted  
29 pursuant to this act.

30 (b) The Department of Community Affairs and the Department

1 of Environmental Resources shall exercise the joint powers and  
2 their duties shall be to:

3 (1) Cooperate with appropriate agencies of the United  
4 States or of other states or any interstate agencies with  
5 respect to the planning and management of flood plains.

6 (2) Serve as the agencies of the Commonwealth for the  
7 receipt of moneys from the Federal Government or other public  
8 or private agencies or persons and expend such moneys as  
9 appropriated by the General Assembly for studies and research  
10 with respect to the planning and management of flood plains.

11 Section 402. Additional powers and duties of the Department of  
12 Community Affairs, Department of Environmental  
13 Resources and municipalities.

14 In conjunction with their responsibilities otherwise provided  
15 under this act, the Department of Community Affairs, the  
16 Department of Environmental Resources and every municipality  
17 administering flood plain management regulations shall have the  
18 additional power and its duty shall be to:

19 (1) Investigate complaints and conduct surveys of flood  
20 plains and obstructions.

21 (2) Institute prosecutions and civil proceedings to  
22 enforce the provisions of this act.

23 (3) Conduct educational programs with respect to flood  
24 plain management.

25 (4) Establish reasonable fees for permit processing for  
26 the program that the agency or municipality administers.

27 (5) Do any other acts not inconsistent with this act  
28 which are necessary or proper for its effective  
29 implementation.

30 Section 403. Inspections.



1 (a) An agent or employee of the Department of Community  
2 Affairs, the Department of Environmental Resources, or of a  
3 municipality administering flood plain management regulations  
4 shall have the power and duty to, upon presentation of proper  
5 credentials:

6 (1) Enter any land for the purpose of surveying flood  
7 plains.

8 (2) Enter any land in a flood plain for the purpose of  
9 ascertaining the location and condition of obstructions.

10 (3) Enter land or, while under construction, any  
11 structure located in a flood plain for the purpose of  
12 ascertaining the compliance or noncompliance with the flood  
13 plain management regulations adopted pursuant to this act.

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

27 Section 404. Grants and reimbursements to municipalities and  
28 counties.

29 (a) The Department of Community Affairs is authorized to  
30 administer grants to municipalities and counties to assist or

1 reimburse them for costs in preparing official plans and actual  
2 administrative costs and revisions to official plans for flood  
3 plain management required by this act, and for carrying out  
4 related studies, surveys, investigations, research and analyses.  
5 Grants and reimbursements shall be made from and to the extent  
6 of funds appropriated by the General Assembly for such purposes,  
7 and shall be made in accordance to rules and regulations adopted  
8 by the Department of Community Affairs and in accordance with  
9 the following:

10 (1) The grant shall be equal to:

11 (i) 50% of the allowable costs for preparation of  
12 official plans or revisions thereto incurred by any  
13 municipality or county which prior to the effective date  
14 of this act adopted a flood area management program which  
15 complies with Title 24, section 1910.3(c) or 1910.3(d) of  
16 the regulations of the Department of Housing and Urban  
17 Development, Federal Insurance Administration; or

18 (ii) 50% of the allowable costs for preparation of  
19 official plans or revisions thereto incurred by any  
20 municipality or county not covered by subclause (i); and

21 (iii) 50% of the allowable costs for administration  
22 of official plans incurred by any municipality or county.  
23 Allowable costs for administration of official plans  
24 shall not include those costs which are offset by  
25 reasonable permit fees imposed by the municipality or  
26 county.

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

30 Provided, That the grants authorized by this section shall be

1 limited such that the total of all State and Federal grants  
2 does not exceed 50% of the allowable costs incurred by the  
3 municipality or county.

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

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

19 CHAPTER 5

20 ENFORCEMENT: APPEALS

21 Section 501. Enforcement of Chapter 2.

22 (a) If the department finds that a municipality has failed  
23 to comply with any requirement of Chapter 2, or any department  
24 regulations adopted pursuant thereto, the department shall  
25 provide a written notice of violation to the municipality.

26 (b) If within 60 days of receipt of the notice of violation,  
27 the municipality has failed to comply with the requirement or  
28 regulation, the department may issue an order to the  
29 municipality and its officers requiring compliance with such  
30 requirement or regulation. Any order issued under this

1 subsection shall take effect upon receipt of notice, unless the  
2 order specifies otherwise. Any appeal of an order issued under  
3 this subsection shall be in accordance with section 503.

4 (c) Any municipality or person failing to comply with an  
5 order issued pursuant to this section from which no appeal has  
6 been taken, which has been sustained on appeal, or for which no  
7 supersedeas has been granted, shall be deemed in contempt of  
8 such order. Upon petition and certification of the order by the  
9 department, the Commonwealth Court or the court of common pleas  
10 of the county in which the municipality is located shall, if it  
11 finds that the municipality and its officers are not in  
12 compliance with the order, adjudge the same in contempt and  
13 shall assess civil penalties of an amount not less than \$100 nor  
14 greater than \$10,000 per violation plus \$500 for each continuing  
15 day of violation.

16 (d) Where the municipality or its offices have not as of the  
17 date of hearing before the court complied with the department's  
18 order, the court shall specifically order full compliance with  
19 the department's order by a date set by the court and may issue  
20 any further order as may be appropriate.

21 (e) Upon petition by the department, if the court finds  
22 after hearing that the municipality or its officers have failed  
23 to comply with any order issued pursuant to subsection (d) by  
24 the date set by the court, the court may, as a last resort,  
25 issue an order empowering the department to adopt and administer  
26 flood plain management regulations for the municipality.

27 (f) Whenever pursuant to subsection (e) the department  
28 adopts and administers flood plain management regulations for a  
29 municipality, such regulations shall apply notwithstanding any  
30 municipal flood plain management regulation; provided, that any

1 zoning or other ordinance adopted by a municipality shall remain  
2 effective to the extent such ordinance is more restrictive than  
3 the flood plain management regulation adopted by the department.

4 (g) Upon a determination by the department that the  
5 municipality has adopted and is able to administer flood plain  
6 management regulations which comply with the requirements of  
7 Chapter 2 and any department regulations adopted pursuant  
8 thereto, the department or the municipality may petition the  
9 court requesting that the court terminate its order empowering  
10 the department to adopt and administer flood plain management  
11 regulations for the municipality.

12 Section 502. Civil remedies.

13 (a) Any obstruction or conduct in violation of this act or  
14 of any flood plain management regulations is hereby declared a  
15 public nuisance.

16 (b) Suits to restrain, prevent or abate violation of this  
17 act or of any flood plain management regulations may be  
18 instituted in equity or at law by the department, the Department  
19 of Environmental Resources, any affected county or municipality,  
20 or any AGGRIEVED person. Such proceedings may be prosecuted in ←  
21 the Commonwealth Court, or in the court of common pleas of the  
22 county where the obstruction exists, conduct occurs, or the  
23 public affected, and to that end jurisdiction is hereby  
24 conferred in law and equity upon such courts. Except in cases of  
25 emergency where, in the opinion of the court, the circumstances  
26 of the case require immediate abatement of the unlawful  
27 obstruction or conduct, the court may, in its decree, fix a  
28 reasonable time during which the person responsible for the  
29 unlawful obstruction or conduct shall correct or abate the same.  
30 The expense of such proceedings shall be recoverable from the

1 violator in such manner as may now or hereafter be provided by  
2 law.

3 Section 503. Appeals.

4 (a) Any person aggrieved by any action of the Department of  
5 Community Affairs shall have the right within 30 days of receipt  
6 of notice of such action to appeal such action and request a  
7 hearing in accordance with the act of June 4, 1945 (P.L.1388,  
8 No.442), known as the "Administrative Agency Law."

9 (b) Any person aggrieved by an action of the Department of  
10 Environmental Resources in granting, modifying, suspending or  
11 revoking a permit or in issuing an order shall have the right  
12 within 30 days of receipt of notice of such action to appeal  
13 such action to the Environmental Hearing Board, pursuant to  
14 section 1921-A of the act of April 9, 1929 (P.L.177, No.175),  
15 known as "The Administrative Code of 1929," and the  
16 "Administrative Agency Law."

17 (c) An appeal of any action under this act shall not act as  
18 a supersedeas. A supersedeas may be granted by the agency  
19 hearing the appeal upon a showing by the petitioner:

20 (1) that irreparable harm to the petitioner or other  
21 interested parties will result if supersedeas is denied;

22 (2) that there is a likelihood of the petitioner's  
23 success on the merits; and

24 (3) that the grant of a supersedeas will not result in  
25 irreparable harm to the Commonwealth.

26 The agency hearing the appeal may grant such a supersedeas  
27 subject to such security as it may deem proper.

28 CHAPTER 6

29 MISCELLANEOUS; APPROPRIATIONS

30 Section 601. Preservation of existing rights and remedies.

1 (a) No provision of this act shall be construed to permit an  
2 activity or condition otherwise prohibited by law, or to affect  
3 the rights of the Commonwealth, persons, counties or  
4 municipalities to proceed in courts of law or equity to suppress  
5 nuisances or to enforce common law or statutory rights.

6 (b) It is hereby declared to be the purpose of this act to  
7 provide additional and cumulative remedies to abate nuisances.  
8 Section 602. Appropriations.

9 (a) The sum of \$750,000, or as much thereof as may be  
10 necessary, is hereby appropriated for the fiscal period  
11 beginning July 1, 1978, and ending June 30, 1979, to the  
12 Department of Community Affairs for the purposes of  
13 administrative and general expenses in implementing the  
14 provisions of this act.

15 (b) The sum of \$250,000, or as much thereof as may be  
16 necessary, is hereby appropriated for the fiscal period  
17 beginning July 1, 1978, and ending June 30, 1979, to the  
18 Department of Environmental Resources for the purposes of this  
19 act.

20 Section 603. Repealer and savings clause.

21 (a) All acts or parts of acts inconsistent herewith are  
22 hereby repealed to the extent of such inconsistency.

23 (b) The provisions of this act shall not affect any suit or  
24 prosecution pending or to be instituted to enforce any right or  
25 penalty or punish any offense under the authority of any act of  
26 Assembly or part thereof repealed by this act.

27 Section 604. Effective date.

28 This act shall take effect immediately.