
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 743

Session of
1977

INTRODUCED BY KURY, MURRAY, MELLOW, HOLL, WOOD AND MOORE,
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AS RE-REPORTED FROM COMMITTEE ON CONSERVATION, HOUSE OF
REPRESENTATIVES, AS AMENDED, SEPTEMBER 19, 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.

6 TABLE OF CONTENTS

7 Chapter 1. Preliminary Provisions

8 Section 101. Short title.

9 Section 102. Statement of legislative findings.

10 Section 103. Statement of policy and purposes.

11 Section 104. Definitions.

12 Chapter 2. Municipal Participation in National Flood Insurance
13 Program

14 Section 201. Required participation in National Flood
15 Insurance Program.

16 Section 202. Adoption of flood plain management regulations.

17 Section 203. Relationship of flood plain management

18 regulations to the Pennsylvania Municipalities

1 Planning Code and other applicable enabling
2 legislation.

3 Section 204. Requirements of the National Flood Insurance
4 Program deemed minimum standards.

5 Section 205. Department review and approval of municipal
6 flood plain management regulations.

7 Section 206. Municipalities required to comply with
8 department regulations.

9 ~~Section 207. Regulations to prohibit subdivision of flood~~ <—
10 ~~plain area.~~

11 ~~Section 208. Regulations to prohibit construction in flood~~
12 ~~hazard area where alternatives exist.~~

13 ~~Section 209. Regulations to prohibit utilization of fill in~~
14 ~~flood plains.~~

15 Section ~~210~~ 207. Regulations to prohibit development <—
16 which is dangerous to human life.

17 Chapter 3. Regulation of Particular Obstructions

18 Section 301. Obstructions posing special hazards in flood
19 plains.

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

22 Chapter 4. Powers and Duties

23 Section 401. Powers and duties of the Department of
24 Community Affairs and the Department of
25 Environmental Resources.

26 Section 402. Additional powers and duties of the Department
27 of Community Affairs, Department of Environ-
28 mental Resources and municipalities.

29 Section 403. Inspections.

30 Section 404. Grants and reimbursement to municipalities and

1 counties.

2 Chapter 5. Penalties; Civil Remedies; Appeals

3 Section 501. Penalties.

4 Section 502. Civil remedies.

5 Section 503. Appeals.

6 Chapter 6. Miscellaneous; Appropriations

7 Section 601. Preservation of existing rights and remedies.

8 Section 602. Appropriations.

9 Section 603. Repealer and savings clause.

10 Section 604. Effective date.

11 The General Assembly of the Commonwealth of Pennsylvania

12 hereby enacts as follows:

13 CHAPTER 1

14 PRELIMINARY PROVISIONS

15 Section 101. Short title.

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

18 Section 102. Statement of legislative findings.

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

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

1 flooding.

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

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

10 Section 103. Statement of policy and purposes.

11 The policy and purpose of this act is to:

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

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

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

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

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

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

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

1 Section 104. Definitions.

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

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

7 "Fill." Sand, gravel, earth or other material placed or
8 deposited so as to form an embankment or raise the elevation of
9 the land surface.

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

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

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

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

27 "New mobile home park or mobile home subdivision." A parcel
28 (or contiguous parcels) of land divided into two or more mobile
29 home lots for rent or sale for which the construction of
30 facilities for servicing the lot on which the mobile home is to

1 be affixed (including at a minimum, the installation of
2 utilities, either final site grading or the pouring of concrete
3 pads, and the construction of streets) is completed on or after
4 the effective date of flood plain management regulations adopted
5 by a community.

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

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

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

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

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

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

- 1 (2) water diversion, pumping, impoundment or
- 2 distribution;
- 3 (3) railroad transportation of passengers or property;
- 4 (4) operation of a canal, turnpike, tunnel, bridge,
- 5 wharf or similar structure;
- 6 (5) transportation of natural or artificial gas, crude
- 7 oil, gasoline or petroleum products, materials for
- 8 refrigeration or other fluid substances by pipeline or
- 9 conduit;
- 10 (6) telephone or telegraph communications; and
- 11 (7) sewage collection, treatment or disposal.

12 "Special hazard obstruction." This shall include but not be
13 limited to hospitals, nursing homes, jails, ~~facilities for the~~ ←
14 ~~production or storage of hazardous materials~~ and facilities
15 necessary for emergency response.

16 "Substantial improvement." Any repair, reconstruction or
17 improvement of a structure, the cost of which equals or exceeds
18 50% of the market value of the structure either:

- 19 (1) before the improvement or repair is started; or
- 20 (2) if the structure has been damaged, and is being
- 21 restored, before the damage occurred.

22 For the purposes of this definition "substantial improvement" is
23 considered to occur when the first alteration of any wall,
24 ceiling, floor or other structure part of the building
25 commences, whether or not that alteration affects the external
26 dimensions of the structure. The term does not, however, include
27 either:

- 28 (i) any project for improvement of a structure to
- 29 comply with existing State or local health, sanitary or
- 30 safety code specifications which are solely necessary to

1 assure safe living conditions; or
2 (ii) any alteration of a structure listed on the
3 National Register of Historic Places or a State inventory
4 of historic places.

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

7 CHAPTER 2

8 MUNICIPAL PARTICIPATION IN NATIONAL FLOOD INSURANCE PROGRAM

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

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

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

25 (c) If a municipality, for whatever reason, is suspended
26 from the National Flood Insurance Program, once having gained
27 eligibility, such municipality shall regain eligibility within
28 90 days of the date of receipt of its notice of suspension.

29 Section 202. Adoption of flood plain management regulations.

30 Each municipality which has been identified by the United

1 States Department of Housing and Urban Development as having an
2 area or areas subject to flooding, shall adopt such flood plain
3 management regulations, and amendments thereto, as are necessary
4 to comply with the requirements of the National Flood Insurance
5 Program within six months after a flood plain map is approved or
6 promulgated for the municipality by the United States Department
7 of Housing and Urban Development.

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

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

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

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

1 ordinances, codes or regulations for the management of flood
2 plains.

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

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

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

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

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

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

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

29 Each municipality participating in the National Flood
30 Insurance Program shall comply with any regulations adopted by

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

5 THE DEPARTMENT SHALL NOT ADOPT REGULATIONS MORE STRICT THAN THE <—
6 REGULATIONS OF THE NATIONAL FLOOD INSURANCE PROGRAM AND SHALL
7 NOT REQUIRE THE REGULATIONS OF THE MUNICIPALITIES TO BE MORE
8 STRICT THAN THE REGULATIONS OF THE NATIONAL FLOOD INSURANCE
9 PROGRAM: PROVIDED, HOWEVER, THAT THESE LIMITATIONS SHALL NOT
10 APPLY TO SECTION 207 OR THE SPECIAL HAZARDS UNDER SECTIONS 301
11 AND 302.

12 ~~Section 207. Regulations to prohibit subdivision of flood <—
13 ——— plain area.~~

14 ~~The regulations promulgated by the department shall prohibit
15 the subdivision of property located within a designated flood
16 hazard area where the proposed subdivision would create lots
17 which are located wholly within the flood hazard area or which
18 would create lots which do not contain sufficient nonflood area
19 to permit the improvement thereof.~~

20 ~~Section 208. Regulations to prohibit construction in flood
21 — hazard area where alternatives exist.~~

22 ~~The regulations promulgated by the department shall prohibit
23 the building of structures in a designated flood hazard area
24 where the structure sought to be built can feasibly be located
25 on the same parcel of land in an area safe from flooding.~~

26 ~~Section 209. Regulations to prohibit utilization of fill in
27 — flood plains.~~

28 ~~The regulations promulgated by the department shall require
29 that in all instances where it is necessary to elevate a
30 proposed structure in order to meet the minimum elevation~~

~~1 requirements of the National Flood Insurance Program the
2 required elevation shall be accomplished through the use of
3 pilings or columns rather than fill in order to maintain the
4 storage capacity of the flood plain and to minimize the
5 obstruction of flood flows incident to the use of fill and
6 thereby reduce the risk of flood damage: Provided, That fill may
7 be used to elevate the expansion of existing industrial plants.~~

8 Section 210 207. Regulations to prohibit development which is <—
9 HAS BEEN DETERMINED AS dangerous to human life. <—

10 The regulations promulgated by the department shall prohibit
11 the construction or substantial improvement of structures in an
12 area which has been ~~identified~~ DETERMINED BY THE ENVIRONMENTAL <—
13 QUALITY BOARD as a flood hazard area on a flood insurance rate
14 map promulgated by the Department of Housing and Urban
15 Development which may endanger human life.

16 CHAPTER 3

17 REGULATION OF PARTICULAR OBSTRUCTIONS

18 Section 301. Obstructions posing special hazards in flood
19 plains.

20 (a) The department shall by regulation publish a list of
21 obstructions which it determines present a special hazard to the
22 health and safety of the public or occupants or may result in
23 significant pollution, increased flood levels or flows or debris
24 endangering life and property, if such obstructions are located
25 in all or a designated portion of the flood plain. These
26 obstructions ~~include, but are not~~ ARE limited to: hospitals, <—
27 nursing homes, jails, new mobile home parks, subdivision or
28 substantial additions to mobile home parks or subdivisions.
29 ~~facilities for the production or storage of toxic, buoyant,~~ <—
30 ~~flammable or otherwise hazardous materials and facilities~~

1 ~~necessary for emergency response.~~

2 (b) Construction of any structure or commencement of any
3 activity listed as a special hazard by department regulations in
4 a flood plain or such portion of the flood plain designated by
5 the regulations shall be prohibited except in accordance with a
6 special exception issued pursuant to this section.

7 (c) A municipality administering flood plain management
8 regulations may issue a special exception if the applicant
9 demonstrates and the municipality determines that the structure
10 or activity will be located, constructed and maintained in a
11 manner which:

12 (1) will fully protect the health and safety of the
13 public or occupants;

14 (2) will prevent any significant possibility of
15 pollution, increased flood levels or flows, or debris
16 endangering life and property; and

17 (3) will comply with the requirements of the National
18 Flood Insurance Program.

19 Approval of any special exception shall be conditioned upon
20 compliance with all feasible floodproofing and other
21 requirements necessary to minimize damage, and the hindrance of
22 flood flows and to minimize potential danger to life and
23 property.

24 (d) Written notice of municipal approval of a special
25 exception shall be filed with the department. The special
26 exception shall become effective 30 days following the receipt
27 of notice by the department unless the special exception is
28 disapproved by the department. If the department disapproves a
29 special exception, it shall notify the municipality and
30 applicant of the reasons for disapproval.

1 Section 302. Exclusive State jurisdiction over certain
2 obstructions in flood plains.

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

6 (1) any obstruction otherwise regulated under the Water
7 Obstructions Act;

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

10 (3) any highway or other obstruction, constructed, owned
11 or maintained by the Commonwealth or a political subdivision
12 thereof; and

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

15 (b) No person shall construct, modify, remove, abandon or
16 destroy any structure or engage in any activity specified in
17 subsection (a) in the 100-year flood plain unless such person
18 has first applied for and obtained a permit from the Department
19 of Environmental Resources. The department may impose such
20 permit terms and conditions as it deems necessary to carry out
21 the purposes of this act. The permit shall become effective 60
22 days following the receipt of the application by the department
23 unless the application is disapproved by the department. If the
24 department disapproves the application it shall notify the
25 applicant of the reasons for disapproval.

26 (c) The Environmental Quality Board shall adopt such
27 regulations and standards as are necessary to carry out this
28 section in accordance with the purposes of this act, including
29 provisions for the payment of reasonable nonrefundable filing
30 fees.

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

8 (e) The Department of Environmental Resources shall regulate
9 those obstructions subject to exclusive State jurisdiction in a
10 manner consistent to the maximum extent possible with the
11 standards and criteria established in municipal flood plain
12 management regulations.

13 (f) The Department of Environmental Resources may modify,
14 suspend or revoke any permit issued under this act if it finds
15 that the permittee has violated the permit terms and conditions
16 or the provisions of this act and regulations adopted hereunder,
17 or that any change has occurred in the physical condition of the
18 site which will materially affect safe construction and
19 maintenance of the structure or activity.

20 CHAPTER 4

21 POWERS AND DUTIES

22 Section 401. Powers and duties of the Department of Community
23 Affairs and the Department of Environmental
24 Resources.

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

27 (1) Coordinate the administration of municipal flood
28 plain management regulations in the Commonwealth.

29 (2) Require the submission of municipal flood plain
30 management regulations and municipal records and reports, as

1 necessary to carry out the purposes of this act.

2 (3) Provide technical assistance for the purpose of
3 assisting municipalities in complying with the provisions of
4 this act.

5 (4) Draft, publish and approve, for use by
6 municipalities, model flood plain ordinances, codes and
7 regulations which comply with the requirements of the
8 National Flood Insurance Program and the regulations adopted
9 pursuant to this act.

10 (b) The Department of Community Affairs and the Department
11 of Environmental Resources shall exercise the joint powers and
12 their duties shall be to:

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

16 (2) Serve as the agencies of the Commonwealth for the
17 receipt of moneys from the Federal Government or other public
18 or private agencies or persons and expend such moneys as
19 appropriated by the General Assembly for studies and research
20 with respect to the planning and management of flood plains.

21 Section 402. Additional powers and duties of the Department of
22 Community Affairs, Department of Environmental
23 Resources and municipalities.

24 In conjunction with their responsibilities otherwise provided
25 under this act, the Department of Community Affairs, the
26 Department of Environmental Resources and every municipality
27 administering flood plain management regulations shall have the
28 additional power and its duty shall be to:

29 (1) Investigate complaints and conduct surveys of flood
30 plains and obstructions.

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

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

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

7 (5) Do any other acts not inconsistent with this act
8 which are necessary or proper for its effective
9 implementation.

10 Section 403. Inspections.

11 (a) An agent or employee of the Department of Community
12 Affairs, the Department of Environmental Resources, or of a
13 municipality administering flood plain management regulations
14 shall have the power and duty to, upon presentation of proper
15 credentials:

16 (1) Enter any land for the purpose of surveying flood
17 plains.

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

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

24 (b) Whenever an agent or employee of the Department of
25 Community Affairs, the Department of Environmental Resources, or
26 municipality charged with the enforcement of the provisions of
27 this act has been refused access to property for the purposes of
28 conducting a survey or inspection as authorized by this section
29 or reasonably requires access to such property without prior
30 notice to the owner, such agent or employee may apply for an

1 inspection warrant to any Commonwealth official authorized by
2 law to issue a search or inspection warrant to enable him or her
3 to have access and inspect such property. It shall be sufficient
4 probable cause to issue an inspection warrant that the
5 inspection is necessary to properly enforce the provisions of
6 this act.

7 Section 404. Grants and reimbursements to municipalities and
8 counties.

9 (a) The Department of Community Affairs is authorized to
10 administer grants to municipalities and counties to assist or
11 reimburse them for costs in preparing official plans and actual
12 administrative enforcement and implementation costs and
13 revisions to official plans for flood plain management required
14 by this act, and for carrying out related studies, surveys,
15 investigations, research and analyses. Grants and reimbursements
16 shall be made from and to the extent of funds appropriated by
17 the General Assembly for such purposes, and shall be made in
18 accordance to rules and regulations adopted by the Department of
19 Community Affairs and in accordance with the following:

20 (1) The grant shall be equal to:

21 (i) 50% of the allowable costs for preparation of
22 official plans ~~or revisions thereto~~ , ADMINISTRATIVE, ←
23 ENFORCEMENT AND IMPLEMENTATION COSTS REQUIRED BY THIS
24 ACT, AND REVISIONS OF OFFICIAL PLANS incurred by any
25 municipality or county which prior to the effective date
26 of this act adopted a flood area management program which
27 complies with Title 24, section 1910.3(c) or 1910.3(d) of
28 the regulations of the Department of Housing and Urban
29 Development, Federal Insurance Administration; or

30 (ii) 50% of the allowable costs for preparation of

1 official plans, administrative, enforcement and
2 implementation costs required by this act, and revisions
3 of official plans incurred by any municipality or county
4 not covered by subclause (i); and

5 (iii) 50% of the allowable costs for administration
6 of official plans incurred by any municipality or county.

7 Allowable costs for administration of official plans
8 shall not include those costs which are offset by
9 reasonable permit fees imposed by the municipality or
10 county.

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

14 Provided, That the grants authorized by this section shall be
15 limited such that the total of all State and Federal grants
16 does not exceed 50% of the allowable costs incurred by the
17 municipality or county.

18 (b) Nothing in this section shall be construed to impair or
19 limit application of this act to any municipality or person, or
20 to relieve any municipality or person of duties imposed under
21 this act.

22 (c) If, in any fiscal year, appropriations are insufficient
23 to cover the costs or grants and reimbursements to all
24 municipalities or counties eligible for such grants and
25 reimbursements in that fiscal year, the Department of Community
26 Affairs shall report such fact to the General Assembly and shall
27 request appropriation of funds necessary to provide the grants
28 authorized in this section. If such a deficiency appropriation
29 is not enacted, any municipality or county which has not
30 received the full amount of the grant for which it is eligible

1 under this section shall be as a first priority reimbursed from
2 appropriations made in the next successive fiscal year.

3 CHAPTER 5

4 PENALTIES; CIVIL REMEDIES; APPEALS

5 Section 501. Penalties.

6 (a) If the department finds that a municipality has failed
7 to comply with any requirement of Chapter 2, or any department
8 regulations adopted pursuant thereto, the department shall
9 provide a written notice of violation to the municipality.

10 (b) Within 60 days of receipt of the notice of violation,
11 the municipality shall report to the department the action which
12 it is taking to comply with the requirement or regulation.

13 (c) If within 180 days of receipt of the notice of
14 violation, the municipality has failed to comply with such
15 requirement or regulation, as determined by the department, the
16 Secretary of Community Affairs shall notify the State Treasurer
17 to withhold payment of all funds payable to the municipality
18 from the General Fund or any other fund. Upon notification, the
19 State Treasurer shall hold in escrow all moneys due to such
20 municipality from the Commonwealth until such time as the
21 department notifies the State Treasurer that the municipality
22 has complied with such requirement or regulation.

23 Section 502. Civil remedies.

24 (a) Any obstruction or conduct in violation of this act or
25 of any flood plain management regulations is hereby declared a
26 public nuisance.

27 (b) Suits to restrain, prevent or abate violation of this
28 act or of any flood plain management regulations may be
29 instituted in equity or at law by the department, the Department
30 of Environmental Resources, any affected county or municipality,

1 or any aggrieved person. Such proceedings may be prosecuted in
2 the Commonwealth Court, or in the court of common pleas of the
3 county where the obstruction exists, conduct occurs, or the
4 public affected, and to that end jurisdiction is hereby
5 conferred in law and equity upon such courts. Except in cases of
6 emergency where, in the opinion of the court, the circumstances
7 of the case require immediate abatement of the unlawful
8 obstruction or conduct, the court may, in its decree, fix a
9 reasonable time during which the person responsible for the
10 unlawful obstruction or conduct shall correct or abate the same.
11 The expense of such proceedings shall be recoverable from the
12 violator in such manner as may now or hereafter be provided by
13 law.

14 Section 503. Appeals.

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

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

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

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

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

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

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

9 CHAPTER 6

10 MISCELLANEOUS; APPROPRIATIONS

11 Section 601. Preservation of existing rights and remedies.

12 (a) No provision of this act shall be construed to permit an
13 activity or condition otherwise prohibited by law, or to affect
14 the rights of the Commonwealth, persons, counties or
15 municipalities to proceed in courts of law or equity to suppress
16 nuisances or to enforce common law or statutory rights.

17 (b) It is hereby declared to be the purpose of this act to
18 provide additional and cumulative remedies to abate nuisances.

19 Section 602. Appropriations.

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

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

1 Section 603. Repealer and savings clause.

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

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

8 Section 604. Effective date.

9 This act shall take effect immediately.