

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 404 Session of 2011

INTRODUCED BY ORIE, EICHELBERGER, SCARNATI, ALLOWAY, BRUBAKER,  
FERLO, FONTANA, MENSCH, ROBBINS, SMUCKER, M. WHITE AND  
WOZNIAK, FEBRUARY 4, 2011

REFERRED TO LOCAL GOVERNMENT, FEBRUARY 4, 2011

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 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," providing for interpretation of subdivision  
21 and land development ordinances; and further providing for  
22 approval of plats, for jurisdiction, for time limitations and  
23 for procedure to obtain preliminary opinion.

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

26 Section 1. The act of July 31, 1968 (P.L.805, No.247), known  
27 as the Pennsylvania Municipalities Planning Code, reenacted and  
28 amended December 21, 1988 (P.L.1329, No.170), is amended by

1 adding a section to read:

2 Section 507.1. Interpretation of Ordinance Provisions.--In  
3 interpreting the language of subdivision and land development  
4 ordinances, the language shall be interpreted, where doubt  
5 exists as to the intended meaning of the language written and  
6 adopted by the governing body, in favor of the property owner  
7 and against any implied extension or application of the  
8 provisions of the ordinance.

9 Section 2. Sections 508(4)(vi), 909.1(b)(3), 914.1 and 916.2  
10 of the act are amended to read:

11 Section 508. Approval of Plats.--All applications for  
12 approval of a plat (other than those governed by Article VII),  
13 whether preliminary or final, shall be acted upon by the  
14 governing body or the planning agency within such time limits as  
15 may be fixed in the subdivision and land development ordinance  
16 but the governing body or the planning agency shall render its  
17 decision and communicate it to the applicant not later than 90  
18 days following the date of the regular meeting of the governing  
19 body or the planning agency (whichever first reviews the  
20 application) next following the date the application is filed or  
21 after a final order of court remanding an application, provided  
22 that should the said next regular meeting occur more than 30  
23 days following the filing of the application or the final order  
24 of the court, the said 90-day period shall be measured from the  
25 30th day following the day the application has been filed.

26 \* \* \*

27 (4) Changes in the ordinance shall affect plats as  
28 follows:

29 \* \* \*

30 (vi) Each section in any residential subdivision or

land development, except for the last section, shall contain a minimum of [25%] 20% of the total number of dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by the governing body in its discretion. Provided the landowner has not defaulted with regard to or violated any of the conditions of the preliminary plat approval, including compliance with landowner's aforesaid schedule of submission of final plats for the various sections, then the aforesaid protections afforded by substantially completing the improvements depicted upon the final plat within five years shall apply and for any section or sections, beyond the initial section, in which the required improvements have not been substantially completed within said five-year period the aforesaid protections shall apply for an additional term or terms of three years from the date of final plat approval for each section.

\* \* \*

Section 909.1. Jurisdiction.--\* \* \*

(b) The governing body or, except as to clauses (3), (4) and (5), the planning agency, if designated, shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

\* \* \*

(3) Applications for conditional use under the express provisions of the zoning ordinance pursuant to section 603(c) (2)[.], which jurisdiction shall include the power to consider requested relief in the nature of a variance, related and subordinate to the use for which conditional use

1     approval is sought.

2             \* \* \*

3     Section 914.1. Time Limitations.--(a) No person shall be  
4 allowed to file any proceeding with the board later than 30 days  
5 after an application for development, preliminary or final, has  
6 been approved by an appropriate municipal officer, agency or  
7 body if such proceeding is designed to secure reversal or to  
8 limit the approval in any manner unless such person alleges and  
9 proves that he had no notice, knowledge, or reason to believe  
10 that such approval had been given. If such person has succeeded  
11 to his interest after such approval, he shall be bound by the  
12 knowledge of his predecessor in interest. The failure of anyone  
13 other than the landowner to appeal from an adverse decision on a  
14 tentative plan pursuant to section 709 [or from an adverse  
15 decision by a zoning officer on a challenge to the validity of  
16 an ordinance or map] shall preclude an appeal from a final  
17 approval except in the case where the final submission  
18 substantially deviates from the plan given tentative approval.  
19 The failure of anyone other than the landowner to appeal from a  
20 preliminary opinion of a zoning officer rendered pursuant to  
21 section 916.2 shall preclude an appeal from [a final approval  
22 except in the case where the final submission substantially  
23 deviates from the approved tentative approval.] the issuance of  
24 a zoning permit or from a preliminary or final subdivision or  
25 land development plan approval on any basis which was the  
26 subject of the zoning officer's preliminary opinion.

27     (b) All appeals from determinations adverse to the  
28 landowners shall be filed by the landowner within 30 days after  
29 notice of the determination is issued.

30     Section 916.2. Procedure to Obtain Preliminary Opinion.--In

1 order not to unreasonably delay the time when a landowner may  
2 secure assurance that the proposed use or development complies  
3 with the ordinance or map under which he [proposed] proposes to  
4 build and is free from challenge, and recognizing that the  
5 procedure for preliminary approval of his development may be too  
6 cumbersome or may be unavailable, the landowner may advance the  
7 date from which time for any challenge to the ordinance [or],  
8 map or proposed use will run under section 914.1 by the  
9 following procedure:

10 (1) The landowner may submit plans and other materials  
11 describing his proposed use or development to the zoning  
12 officer for a preliminary opinion, which shall be a  
13 determination, as to their compliance with the applicable  
14 ordinances and maps. Such plans and other materials shall not  
15 be required to meet the standards prescribed for preliminary,  
16 tentative or final approval or for the issuance of a building  
17 permit so long as they provide reasonable notice of the  
18 proposed use or development and a sufficient basis for a  
19 preliminary opinion as to its compliance.

20 (2) The zoning officer shall issue a written preliminary  
21 opinion no later than 45 days after receipt of a written  
22 request for preliminary opinion. If the zoning officer's  
23 preliminary opinion is that the use or development complies  
24 with the ordinance or map, notice thereof shall be published  
25 once each week for two successive weeks in a newspaper of  
26 general circulation in the municipality. Such notice shall  
27 include a general description of the proposed use or  
28 development and its location, by some readily identifiable  
29 directive, and the place and times where the plans and other  
30 materials may be examined by the public. [The favorable

1 preliminary approval under section 914.1 and the time therein  
2 specified for commencing a proceeding with the board shall  
3 run from the time when the second notice thereof has been  
4 published] The time period specified in section 914.1 for an  
5 appeal from a favorable preliminary opinion issued under this  
6 section shall run from the date of the second publication of  
7 notice of the preliminary opinion.

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