

No. 1980-230

AN ACT

SB 1251

Amending the act of May 2, 1945 (P.L.382, No.164), entitled "An act providing for the incorporation as bodies corporate and politic of 'Authorities' for municipalities, counties and townships; prescribing the rights, powers and duties of such Authorities heretofore or hereafter incorporated; authorizing such Authorities to acquire, construct, improve, maintain and operate projects, and to borrow money and issue bonds therefor; providing for the payment of such bonds, and prescribing the rights of the holders thereof; conferring the right of eminent domain on such Authorities; authorizing such Authorities to enter into contracts with and to accept grants from the Federal Government or any agency thereof; and conferring exclusive jurisdiction on certain courts over rates," further providing for financial security for certain improvements.

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

Section 1. Subsection B of section 4, act of May 2, 1945 (P.L.382, No.164), known as the "Municipality Authorities Act of 1945," is amended by adding a clause to read:

Section 4. Purposes and Powers; General.—

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B. Every Authority is hereby granted, and shall have and may exercise all powers necessary or convenient for the carrying out of the aforesaid purposes, including but without limiting the generality of the foregoing, the following rights and powers:

* * *

(s.1) To require the posting of financial security to insure the completion, in accordance with the approved plat and with the rules and regulations of the Authority, of any water mains or sanitary sewer lines, or both, and related apparatus and facilities, required to be installed by or on behalf of a developer pursuant to an approved land development or subdivision plat as such terms are defined in the act of July 31, 1968 (P.L.805, No.247), known as the "Pennsylvania Municipalities Planning Code." If financial security is required by the Authority, and without limitation as to other types of financial security which the Authority may approve, which approval shall not be unreasonably withheld, Federal or Commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions shall be deemed acceptable financial security. Such financial security shall be posted with a bonding company or Federal or Commonwealth chartered lending institution chosen by the party posting the financial security, if the bonding company or lending institution is authorized to conduct such business within the Commonwealth. Such bond or other security shall provide

for, and secure to the Authority, the completion of any improvements which may be required within one year from the date of posting of the security. The amount of financial security shall be equal to one hundred ten per centum of the cost of the required improvements for which financial security is to be posted. The cost of the required improvements shall be established by submission to the Authority of a bona fide bid or bids from the contractor or contractors chosen by the party posting the financial security or, in the absence of such bona fide bids, the cost shall be established by estimate prepared by the Authority's engineer. If the party posting the financial security requires more than one year from the date of posting of such financial security to complete the required improvements, the amount of financial security may be increased by an additional ten per centum for each one-year period beyond the first anniversary date from the posting of financial security or to one hundred ten per centum of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one-year period by using the above bidding procedure. As the work of installing the required improvements proceeds, the party posting the financial security may request the Authority to release or authorize the release, from time to time, such portions of the financial security necessary for payment to the contractor or contractors performing the work. Any such requests shall be in writing addressed to the Authority, and the Authority shall have forty-five days from receipt of such request within which to allow the Authority engineer to certify, in writing, to the Authority that such portion of the work upon the improvements has been completed in accordance with the approved plat. Upon such certification, the Authority shall authorize release by the bonding company or lending institution of an amount as estimated by the Authority engineer fairly representing the value of the improvements completed or, if the Authority fails to act within said forty-five-day period, the Authority shall be deemed to have approved the release of funds as requested. The Authority may, prior to final release at the time of completion and certification by its engineer, require retention of ten per centum of the estimated cost of the aforesaid improvements. Where the Authority accepts dedication of all or some of the required improvements following completion, the Authority may require the posting of financial security to secure structural integrity of said improvements as well as the functioning of said improvements in accordance with the design and specifications as depicted on the final plat and the Authority's rules and regulations for a term not to exceed eighteen months from the date of acceptance of dedication. Said financial security shall be of the same type as set forth in this clause with regard to installation of the improvements, and the amount of the financial security shall not exceed fifteen per centum of the actual cost of installation of the improvements. Any ordinance, resolution or statute inconsistent herewith is hereby expressly repealed.

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

APPROVED—The 19th day of December, A. D. 1980.

DICK THORNBURGH