

No. 1980-231

AN ACT

SB 1252

Amending the act of July 31, 1968 (P.L.805, No.247), entitled, as amended, "An act to empower cities of the second class A, and third class, boroughs, incorporated towns, townships of the first and second classes including those within a county of the second class and counties of the second class A through eighth classes, individually or jointly, to plan their development and to govern the same by zoning, subdivision and land development ordinances, planned residential development and other ordinances, by official maps, by the reservation of certain land for future public purpose and by the acquisition of such land; providing for the establishment of planning commissions, planning departments, planning committees and zoning hearing boards, authorizing them to charge fees, make inspections and hold public hearings; providing for appropriations, appeals to courts and penalties for violations; and repealing acts and parts of acts," further providing for financial security for the completion of certain improvements.

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

Section 1. Section 509, act of July 31, 1968 (P.L.805, No.247), known as the "Pennsylvania Municipalities Planning Code," amended June 9, 1978 (P.L.460, No.60), is amended to read:

Section 509. Completion of Improvements or Guarantee Thereof Prerequisite to Final Plat Approval.—No plat shall be finally approved unless the streets shown on such plat have been improved to a mud-free or otherwise permanently passable condition, or improved as may be required by the subdivision and land development ordinance and any walkways, curbs, gutters, street lights, fire hydrants, shade trees, water mains, sanitary sewers, storm drains and other improvements as may be required by the subdivision and land development ordinance have been installed in accordance with such ordinance. In lieu of the completion of any improvements required as a condition for the final approval of a plat, the subdivision and land development ordinance shall provide for the deposit with the municipality of **[a corporate bond, or other]** financial security **[acceptable to the governing body]** in an amount sufficient to cover the costs of any improvements *or common amenities including, but not limited to, roads, storm water detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements, or buffer or screen plantings* which may be required[, which financial security may include among others, a lending institution letter of credit or a restrictive or escrow account in a lending institution]. *Without limitation as to other types of financial security which the municipality 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 for the purposes of this section. 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, provided said 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 public, the completion of any improvements which may be required within one year of the date fixed in the subdivision plat for completion of such improvements. The amount of financial security shall be equal to one hundred ten percent of the cost of the required improvements for which financial security is to be posted. The cost of the improvements shall be established by submission to the governing body or the planning agency of bona fide bid or bids from the contractor or contractors chosen by the party posting the financial security to complete the improvements or, in the absence of such bona fide bids, the costs shall be established by estimate prepared by the municipality's engineer. If the party posting the financial security requires more than one year from the date of posting of the financial security to complete the required improvements, the amount of financial security may be increased by an additional ten percent for each one-year period beyond the first anniversary date from posting of financial security or to an amount not exceeding one hundred ten percent 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. In the case where development is projected over a period of years, the governing body or the planning agency may authorize submission of final plats by section or stages of development subject to such requirements or guarantees as to improvements in future sections or stages of development as it finds essential for the protection of any finally approved section of the development. As the work of installing the required improvements proceeds, the party posting the financial security may request the governing body 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 governing body, and the governing body shall have forty-five days from receipt of such request within which to allow the municipal engineer to certify, in writing, to the governing body that such portion of the work upon the improvements has been completed in accordance with the approved plat. Upon such certification the governing body shall authorize release by the bonding company or lending institution of an amount as estimated by the municipal engineer fairly representing the value of the improvements completed or, if the governing body fails to act within said forty-five-day period, the governing body shall be deemed to have approved the release of funds as requested. The governing body may, prior to final release at the time of completion

and certification by its engineer, require retention of ten percent of the estimated cost of the aforesaid improvements. Where the governing body accepts dedication of all or some of the required improvements following completion, the governing body 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 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 otherwise required in this section with regard to installation of such improvements, and the amount of the financial security shall not exceed fifteen percent of the actual cost of installation of said improvements. If water mains or sanitary sewer lines, or both, along with apparatus or facilities related thereto, are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or municipal authority separate and distinct from the municipality, financial security to assure proper completion and maintenance thereof shall be posted in accordance with the regulations of the controlling public utility or municipal authority and shall not be included within the financial security as otherwise required by this section. If financial security has been provided in lieu of the completion of improvements required as a condition for the final approval of a plat as set forth in this section, the municipality shall not condition the issuance of building, grading or other permits relating to the erection or placement of improvements, including buildings, upon the lots or land as depicted upon the final plat upon actual completion of the improvements depicted upon the approved final plat. Moreover, if said financial security has been provided, occupancy permits for any building or buildings to be erected shall not be withheld following: the improvement of the streets providing access to and from existing public roads to such building or buildings to a mud-free or otherwise permanently passable condition, as well as the completion of all other improvements as depicted upon the approved plat, either upon the lot or lots or beyond the lot or lots in question if such improvements are necessary for the reasonable use of or occupancy of the building or buildings. Any ordinance or statute inconsistent herewith is hereby expressly repealed.

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

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

DICK THORNBURGH