

Changes to the Pa. Municipalities Planning Code Clarify Municipal Bonding Requirements

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There have been recent changes to the Pennsylvania Municipalities Planning Code ([Section 509 of the PA Senate Bill 208](#)) that are favorable to developers in relation to required financial security for completion of public improvements.

Two relatively minor changes to the statute potentially have significant benefits to real estate developers. The revision to the statute has added clarity that at no time can the amount of the required bond exceed 110% cost of the estimated improvements remaining to be completed. This is specifically referenced as it relates to the annual increase in the bonding that the municipalities can require. In the past, some municipalities would attempt to simply provide an automatic 10% increase for each one-year period. The change to the statute clarifies that, while they still have the right to add 10%, the amount cannot exceed 110% of the estimated cost of the remaining improvements to be completed.

The second change is related to the retainage that can be held by the municipality. Many municipalities took the position that they could retain 10% of the original estimated cost of completion of improvements through final release of the financial security. This frequently led to an absurd result where the estimated costs for the remaining improvements to be completed was significantly less than the 10% retainage being held by the municipality such that the municipality was holding significantly more than the 110% of the estimated cost of the remaining improvements to be completed. This statute has been revised to be clear that the municipality may hold as retainage only 10% of the estimated cost of the remaining improvements, thus preventing this absurd result.

If you have any questions about these changes, please [contact me](#) or any member of [Barley Snyder's Real Estate Practice Group](#).

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