



Rep. Martin J. Moylan

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10000HB3751ham002

LRB100 07336 MLM 25578 a

1 AMENDMENT TO HOUSE BILL 3751

2 AMENDMENT NO. _____. Amend House Bill 3751, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Public Construction Bond Act is amended by
6 changing Section 3 as follows:

7 (30 ILCS 550/3)

8 Sec. 3. Builder or developer cash bond or other surety.

9 (a) A county or municipality may ~~not~~ require an ~~a cash~~
10 ~~bond,~~ irrevocable letter of credit, surety bond, or letter of
11 commitment issued by a bank, savings and loan association,
12 surety, or insurance company from a builder or developer to
13 guarantee completion of a project improvement ~~when the builder~~
14 ~~or developer has filed with the county or municipal clerk a~~
15 ~~current, irrevocable letter of credit, surety bond, or letter~~
16 ~~of commitment issued by a bank, savings and loan association,~~

1 ~~surety, or insurance company, deemed good and sufficient by the~~
2 ~~county or municipality accepting such security, in an amount~~
3 ~~equal to or greater than 110% of the amount of the bid on each~~
4 ~~project improvement. A builder or developer has the option to~~
5 ~~utilize a cash bond, irrevocable letter of credit, surety bond,~~
6 ~~or letter of commitment, issued by a bank, savings and loan~~
7 ~~association, surety, or insurance company, deemed good and~~
8 ~~sufficient by the county or municipality, to satisfy any cash~~
9 ~~bond requirement established by a county or municipality.~~
10 ~~Except for a municipality or county with a population of~~
11 ~~1,000,000 or more, the county or municipality must approve and~~
12 ~~deem a surety or insurance company good and sufficient for the~~
13 ~~purposes set forth in this Section if the surety or insurance~~
14 ~~company is authorized by the Illinois Department of Insurance~~
15 ~~to sell and issue sureties in the State of Illinois.~~

16 (b) If a county or municipality receives an ~~a cash bond,~~
17 ~~irrevocable letter of credit, or surety bond from a builder or~~
18 ~~developer to guarantee completion of a project improvement, the~~
19 ~~county or municipality shall (i) register the bond under the~~
20 ~~address of the project and the construction permit number and~~
21 ~~(ii) give the builder or developer a receipt for the bond. The~~
22 ~~county or municipality shall establish and maintain a separate~~
23 ~~account for all cash bonds received from builders and~~
24 ~~developers to guarantee completion of a project improvement.~~

25 (c) The county or municipality shall ~~refund a cash bond to~~
26 ~~a builder or developer, or~~ release the irrevocable letter of

1 credit or surety bond, within 60 days after the builder or
2 developer notifies the county or municipality in writing of the
3 completion of the project improvement for which the bond was
4 required. For these purposes, "completion" means that the
5 county or municipality has determined that the project
6 improvement for which the bond was required is complete or a
7 licensed engineer or licensed architect has certified to the
8 builder or developer and the county or municipality that the
9 project improvement has been completed to the applicable codes
10 and ordinances. The county or municipality shall pay interest
11 to the builder or developer, beginning 60 days after the
12 builder or developer notifies the county or municipality in
13 writing of the completion of the project improvement, on any
14 bond not refunded to a builder or developer, at the rate of 1%
15 per month.

16 (d) (Blank). ~~A home rule county or municipality may not~~
17 ~~require or maintain cash bonds, irrevocable letters of credit,~~
18 ~~surety bonds, or letters of commitment issued by a bank,~~
19 ~~savings and loan association, surety, or insurance company from~~
20 ~~builders or developers in a manner inconsistent with this~~
21 ~~Section. This Section supersedes and controls over other~~
22 ~~provisions of the Counties Code or Illinois Municipal Code as~~
23 ~~they apply to and guarantee completion of a project improvement~~
24 ~~that is required by the county or municipality, regardless of~~
25 ~~whether the project improvement is a condition of annexation~~
26 ~~agreements. This Section is a denial and limitation under~~

1 ~~subsection (i) of Section 6 of Article VII of the Illinois~~
2 ~~Constitution on the concurrent exercise by a home rule county~~
3 ~~or municipality of powers and functions exercised by the State.~~
4 (Source: P.A. 96-1000, eff. 7-2-10.)

5 Section 10. The Counties Code is amended by changing
6 Section 5-1123 as follows:

7 (55 ILCS 5/5-1123)

8 Sec. 5-1123. Builder or developer cash bond or other
9 surety.

10 (a) A county may ~~not~~ require an ~~a cash bond,~~ irrevocable
11 letter of credit, surety bond, or letter of commitment issued
12 by a bank, savings and loan association, surety, or insurance
13 company from a builder or developer to guarantee completion of
14 a project improvement ~~when the builder or developer has filed~~
15 ~~with the county clerk a current, irrevocable letter of credit,~~
16 ~~surety bond, or letter of commitment, issued by a bank, savings~~
17 ~~and loan association, surety, or insurance company, deemed good~~
18 ~~and sufficient by the county accepting such security, in an~~
19 ~~amount equal to or greater than 110% of the amount of the bid~~
20 ~~on each project improvement. A builder or developer has the~~
21 ~~option to utilize a cash bond, irrevocable letter of credit,~~
22 ~~surety bond, or letter of commitment issued by a bank, savings~~
23 ~~and loan association, surety, or insurance company, deemed good~~
24 ~~and sufficient by the county, to satisfy any cash bond~~

1 ~~requirement established by a county. The county must approve~~
2 ~~and deem a surety or insurance company good and sufficient for~~
3 ~~the purposes set forth in this Section if the surety or~~
4 ~~insurance company is authorized by the Illinois Department of~~
5 ~~Insurance to sell and issue sureties in the State of Illinois.~~

6 (b) If a county receives an ~~a cash bond~~, irrevocable letter
7 of credit, or surety bond from a builder or developer to
8 guarantee completion of a project improvement, the county shall
9 (i) register the bond under the address of the project and the
10 construction permit number and (ii) give the builder or
11 developer a receipt for the bond. ~~The county shall establish~~
12 ~~and maintain a separate account for all cash bonds received~~
13 ~~from builders and developers to guarantee completion of a~~
14 ~~project improvement.~~

15 (c) The county shall ~~refund a cash bond to a builder or~~
16 ~~developer, or~~ release the irrevocable letter of credit or
17 surety bond, within 60 days after the builder or developer
18 notifies the county in writing of the completion of the project
19 improvement for which the bond was required. For these
20 purposes, "completion" means that the county has determined
21 that the project improvement for which the bond was required is
22 complete or a licensed engineer or licensed architect has
23 certified to the builder or developer and the county that the
24 project improvement has been completed to the applicable codes
25 and ordinances. The county shall pay interest to the builder or
26 developer, beginning 60 days after the builder or developer

1 notifies the county in writing of the completion of the project
2 improvement, on any bond not refunded to a builder or
3 developer, at the rate of 1% per month.

4 (d) (Blank). ~~A home rule county may not require or maintain~~
5 ~~cash bonds, irrevocable letters of credit, surety bonds, or~~
6 ~~other adequate securities from builders or developers in a~~
7 ~~manner inconsistent with this Section. This Section supersedes~~
8 ~~and controls over other provisions of this Code as they apply~~
9 ~~to and guarantee completion of a project improvement that is~~
10 ~~required by the county. This Section is a denial and limitation~~
11 ~~under subsection (i) of Section 6 of Article VII of the~~
12 ~~Illinois Constitution on the concurrent exercise by a home rule~~
13 ~~county of powers and functions exercised by the State.~~

14 (Source: P.A. 96-1000, eff. 7-2-10.)

15 Section 15. The Illinois Municipal Code is amended by
16 changing Section 11-39-3 as follows:

17 (65 ILCS 5/11-39-3)

18 Sec. 11-39-3. Builder or developer cash bond or other
19 surety.

20 (a) A municipality may ~~not~~ require an ~~a cash bond,~~
21 ~~irrevocable letter of credit, surety bond, or letter of~~
22 ~~commitment issued by a bank, savings and loan association,~~
23 ~~surety, or insurance company from a builder or developer to~~
24 ~~guarantee completion of a project improvement when the builder~~

1 ~~or developer has filed with the municipal clerk a current,~~
2 ~~irrevocable letter of credit, surety bond, or letter of~~
3 ~~commitment issued by a bank, savings and loan association,~~
4 ~~surety, or insurance company, deemed good and sufficient by the~~
5 ~~municipality accepting such security, in an amount equal to or~~
6 ~~greater than 110% of the amount of the bid on each project~~
7 ~~improvement. A builder or developer has the option to utilize a~~
8 ~~cash bond, irrevocable letter of credit, surety bond, or letter~~
9 ~~of commitment, issued by a bank, savings and loan association,~~
10 ~~surety, or insurance company, deemed good and sufficient by the~~
11 ~~municipality, to satisfy any cash bond requirement established~~
12 ~~by a municipality. Except for a municipality or county with a~~
13 ~~population of 1,000,000 or more, the municipality must approve~~
14 ~~and deem a surety or insurance company good and sufficient for~~
15 ~~the purposes set forth in this Section if the surety or~~
16 ~~insurance company is authorized by the Illinois Department of~~
17 ~~Insurance to sell and issue sureties in the State of Illinois.~~

18 (b) If a municipality receives an ~~a cash bond,~~ irrevocable
19 letter of credit, or surety bond from a builder or developer to
20 guarantee completion of a project improvement, the
21 municipality shall (i) register the bond under the address of
22 the project and the construction permit number and (ii) give
23 the builder or developer a receipt for the bond. ~~The~~
24 ~~municipality shall establish and maintain a separate account~~
25 ~~for all cash bonds received from builders and developers to~~
26 ~~guarantee completion of a project improvement.~~

1 (c) The municipality shall ~~refund a cash bond to a builder~~
2 ~~or developer, or~~ release the irrevocable letter of credit or
3 surety bond within 60 days after the builder or developer
4 notifies the municipality in writing of the completion of the
5 project improvement for which the bond was required. For these
6 purposes, "completion" means that the municipality has
7 determined that the project improvement for which the bond was
8 required is complete or a licensed engineer or licensed
9 architect has certified to the builder or developer and the
10 municipality that the project improvement has been completed to
11 the applicable codes and ordinances. The municipality shall pay
12 interest to the builder or developer, beginning 60 days after
13 builder or developer notifies the municipality in writing of
14 the completion of the project improvement, on any bond not
15 refunded to a builder or developer, at the rate of 1% per
16 month.

17 (d) (Blank). ~~A home rule municipality may not require or~~
18 ~~maintain cash bonds, irrevocable letters of credit, surety~~
19 ~~bonds, or letters of commitment issued by a bank, savings and~~
20 ~~loan association, surety, or insurance company from builders or~~
21 ~~developers in a manner inconsistent with this Section. This~~
22 ~~Section supersedes and controls over other provisions of this~~
23 ~~Code as they apply to and guarantee completion of a project~~
24 ~~improvement that is required by the municipality, regardless of~~
25 ~~whether the project improvement is a condition of annexation~~
26 ~~agreements. This Section is a denial and limitation under~~

1 ~~subsection (i) of Section 6 of Article VII of the Illinois~~
2 ~~Constitution on the concurrent exercise by a home rule~~
3 ~~municipality of powers and functions exercised by the State.~~
4 (Source: P.A. 96-1000, eff. 7-2-10.)".