



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB4531

by Rep. Martin J. Moylan

#### SYNOPSIS AS INTRODUCED:

30 ILCS 550/3  
55 ILCS 5/5-1123  
65 ILCS 5/11-39-3

Amends the Public Construction Bond Act, the Counties Code, and the Illinois Municipal Code. Allows a county or municipality to require an irrevocable letter of credit, surety bond, or letter of commitment issued by a bank, savings and loan association, surety, or insurance company from a builder or developer to guarantee completion of a project improvement. Eliminates the preemption of home rule powers.

LRB100 16562 HLH 31694 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

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

6 (30 ILCS 550/3)

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

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

1 ~~bond requirement established by a county or municipality.~~  
2 ~~Except for a municipality or county with a population of~~  
3 ~~1,000,000 or more, the county or municipality must approve and~~  
4 ~~deem a surety or insurance company good and sufficient for the~~  
5 ~~purposes set forth in this Section if the surety or insurance~~  
6 ~~company is authorized by the Illinois Department of Insurance~~  
7 ~~to sell and issue sureties in the State of Illinois.~~

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

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

1 project improvement has been completed to the applicable codes  
2 and ordinances. The county or municipality shall pay interest  
3 to the builder or developer, beginning 60 days after the  
4 builder or developer notifies the county or municipality in  
5 writing of the completion of the project improvement, on any  
6 bond not refunded to a builder or developer, at the rate of 1%  
7 per month.

8 (d) (Blank). ~~A home rule county or municipality may not~~  
9 ~~require or maintain cash bonds, irrevocable letters of credit,~~  
10 ~~surety bonds, or letters of commitment issued by a bank,~~  
11 ~~savings and loan association, surety, or insurance company from~~  
12 ~~builders or developers in a manner inconsistent with this~~  
13 ~~Section. This Section supersedes and controls over other~~  
14 ~~provisions of the Counties Code or Illinois Municipal Code as~~  
15 ~~they apply to and guarantee completion of a project improvement~~  
16 ~~that is required by the county or municipality, regardless of~~  
17 ~~whether the project improvement is a condition of annexation~~  
18 ~~agreements. This Section is a denial and limitation under~~  
19 ~~subsection (i) of Section 6 of Article VII of the Illinois~~  
20 ~~Constitution on the concurrent exercise by a home rule county~~  
21 ~~or municipality of powers and functions exercised by the State.~~

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

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

1 (55 ILCS 5/5-1123)

2 Sec. 5-1123. Builder or developer cash bond or other  
3 surety.

4 (a) A county may ~~not~~ require an ~~a cash bond~~, irrevocable  
5 letter of credit, surety bond, or letter of commitment issued  
6 by a bank, savings and loan association, surety, or insurance  
7 company from a builder or developer to guarantee completion of  
8 a project improvement ~~when the builder or developer has filed~~  
9 ~~with the county clerk a current, irrevocable letter of credit,~~  
10 ~~surety bond, or letter of commitment, issued by a bank, savings~~  
11 ~~and loan association, surety, or insurance company, deemed good~~  
12 ~~and sufficient by the county accepting such security, in an~~  
13 ~~amount equal to or greater than 110% of the amount of the bid~~  
14 ~~on each project improvement. A builder or developer has the~~  
15 ~~option to utilize a cash bond, 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, to satisfy any cash bond~~  
19 ~~requirement established by a county. The county must approve~~  
20 ~~and deem a surety or insurance company good and sufficient for~~  
21 ~~the purposes set forth in this Section if the surety or~~  
22 ~~insurance company is authorized by the Illinois Department of~~  
23 ~~Insurance to sell and issue sureties in the State of Illinois.~~

24 (b) If a county receives an ~~a cash bond~~, irrevocable letter  
25 of credit~~,~~ or surety bond from a builder or developer to  
26 guarantee completion of a project improvement, the county shall

1 (i) register the bond under the address of the project and the  
2 construction permit number and (ii) give the builder or  
3 developer a receipt for the bond. ~~The county shall establish  
4 and maintain a separate account for all cash bonds received  
5 from builders and developers to guarantee completion of a  
6 project improvement.~~

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

22 (d) (Blank). ~~A home rule county may not require or maintain  
23 cash bonds, irrevocable letters of credit, surety bonds, or  
24 other adequate securities from builders or developers in a  
25 manner inconsistent with this Section. This Section supersedes  
26 and controls over other provisions of this Code as they apply~~

1 ~~to and guarantee completion of a project improvement that is~~  
2 ~~required by the county. This Section is a denial and limitation~~  
3 ~~under subsection (i) of Section 6 of Article VII of the~~  
4 ~~Illinois Constitution on the concurrent exercise by a home rule~~  
5 ~~county of powers and functions exercised by the State.~~

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

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

9 (65 ILCS 5/11-39-3)

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

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

1 ~~of commitment, issued by a bank, savings and loan association,~~  
2 ~~surety, or insurance company, deemed good and sufficient by the~~  
3 ~~municipality, to satisfy any cash bond requirement established~~  
4 ~~by a municipality. Except for a municipality or county with a~~  
5 ~~population of 1,000,000 or more, the municipality must approve~~  
6 ~~and deem a surety or insurance company good and sufficient for~~  
7 ~~the purposes set forth in this Section if the surety or~~  
8 ~~insurance company is authorized by the Illinois Department of~~  
9 ~~Insurance to sell and issue sureties in the State of Illinois.~~

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

19 (c) The municipality shall ~~refund a cash bond to a builder~~  
20 ~~or developer, or~~ release the irrevocable letter of credit or  
21 surety bond within 60 days after the builder or developer  
22 notifies the municipality in writing of the completion of the  
23 project improvement for which the bond was required. For these  
24 purposes, "completion" means that the municipality has  
25 determined that the project improvement for which the bond was  
26 required is complete or a licensed engineer or licensed



1 architect has certified to the builder or developer and the  
2 municipality that the project improvement has been completed to  
3 the applicable codes and ordinances. The municipality shall pay  
4 interest to the builder or developer, beginning 60 days after  
5 builder or developer notifies the municipality in writing of  
6 the completion of the project improvement, on any bond not  
7 refunded to a builder or developer, at the rate of 1% per  
8 month.

9 (d) (Blank). ~~A home rule municipality may not require or~~  
10 ~~maintain cash bonds, irrevocable letters of credit, surety~~  
11 ~~bonds, or letters of commitment issued by a bank, savings and~~  
12 ~~loan association, surety, or insurance company from builders or~~  
13 ~~developers in a manner inconsistent with this Section. This~~  
14 ~~Section supersedes and controls over other provisions of this~~  
15 ~~Code as they apply to and guarantee completion of a project~~  
16 ~~improvement that is required by the municipality, regardless of~~  
17 ~~whether the project improvement is a condition of annexation~~  
18 ~~agreements. This Section is a denial and limitation under~~  
19 ~~subsection (i) of Section 6 of Article VII of the Illinois~~  
20 ~~Constitution on the concurrent exercise by a home rule~~  
21 ~~municipality of powers and functions exercised by the State.~~

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