

HB1076



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB1076

Introduced 2/11/2009, by Rep. Timothy L. Schmitz

SYNOPSIS AS INTRODUCED:

30 ILCS 550/3

Amends the Public Construction Bond Act. Provides that refund of a cash bond is subject to satisfaction of the requirements of the bond. Provides that bonds, irrevocable letters of credit, surety bonds, and letters of commitment are deemed to contain undertakings set forth in the Act and persons furnishing material or performing labor have a right to sue thereon.

LRB096 10449 RCE 20621 b

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 a cash bond,
9 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 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, subject to satisfaction of the requirements of the
23 bond. For these purposes, "completion" means that the county or
24 municipality has determined that the project improvement for
25 which the bond was required is complete or a licensed engineer
26 or licensed architect has certified to the builder or developer

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

8 (c-5) Each such cash bond, irrevocable letter of credit,
9 surety bond, or letter of commitment is deemed to contain the
10 provisions set forth in Section 1 of this Act for bonds
11 required by that Section whether those provisions are inserted
12 in the instrument or not. Further, every person furnishing
13 material or performing labor, either as an individual or as a
14 subcontractor for any contractor that is required to furnish
15 such an instrument under this Section, shall have the same
16 right to sue thereon, and in the same manner, as is provided
17 for actions brought pursuant to Section 2 of this Act.

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

1 project improvement is a condition of annexation agreements.
2 This Section is a denial and limitation under subsection (i) of
3 Section 6 of Article VII of the Illinois Constitution on the
4 concurrent exercise by a home rule county or municipality of
5 powers and functions exercised by the State.
6 (Source: P.A. 92-479, eff. 1-1-02.)