



Sen. Pamela J. Althoff

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LRB099 20702 AWJ 47223 a

1 AMENDMENT TO SENATE BILL 3053

2 AMENDMENT NO. _____. Amend Senate Bill 3053 by replacing
3 everything after the enacting clause with the following:

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) Except as otherwise provided under subsection (a-5), a
9 ~~A~~ county or municipality may not require a cash bond,
10 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 (a-5) Notwithstanding subsection (a), a county or
17 municipality may, by ordinance, require a cash bond,
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 from a builder or developer to
21 guarantee completion of a project improvement without regard to
22 whether the builder or developer has filed with the county or
23 municipal clerk a current, irrevocable letter of credit, surety
24 bond, or letter of commitment issued by a bank, savings and
25 loan association, surety, or insurance company, deemed good and
26 sufficient by the county or municipality accepting such

1 security, or the amount of such security. In such an ordinance,
2 the county or municipality may also specify whether any of the
3 following may or may not be used by a builder or developer to
4 satisfy the cash bond requirement of the county or
5 municipality: an irrevocable letter of credit, surety bond, or
6 letter of commitment issued by a bank, savings and loan
7 association, surety, or insurance company.

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

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

23 Section 10. The Illinois Municipal Code is amended by
24 changing Section 11-39-3 as follows:

1 (65 ILCS 5/11-39-3)

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

4 (a) Except as otherwise provided under subsection (a-5), a
5 ~~A~~ municipality may not require a cash bond, irrevocable letter
6 of credit, surety bond, or letter of commitment issued by a
7 bank, savings and loan association, surety, or insurance
8 company from a builder or developer to guarantee completion of
9 a project improvement when the builder or developer has filed
10 with the municipal clerk a current, irrevocable letter of
11 credit, surety bond, or letter of commitment issued by a bank,
12 savings and loan association, surety, or insurance company,
13 deemed good and sufficient by the municipality accepting such
14 security, in an amount equal to or greater than 110% of the
15 amount of the bid on each project improvement. A builder or
16 developer has the option to utilize a cash bond, irrevocable
17 letter of credit, surety bond, or letter of commitment, issued
18 by a bank, savings and loan association, surety, or insurance
19 company, deemed good and sufficient by the municipality, to
20 satisfy any cash bond requirement established by a
21 municipality. Except for a municipality or county with a
22 population of 1,000,000 or more, the municipality must approve
23 and deem a surety or insurance company good and sufficient for
24 the purposes set forth in this Section if the surety or
25 insurance company is authorized by the Illinois Department of
26 Insurance to sell and issue sureties in the State of Illinois.

1 (a-5) Notwithstanding subsection (a), a municipality may,
2 by ordinance, require a cash bond, irrevocable letter of
3 credit, surety bond, or letter of commitment issued by a bank,
4 savings and loan association, surety, or insurance company from
5 a builder or developer to guarantee completion of a project
6 improvement without regard to whether the builder or developer
7 has filed with the municipal clerk a current, irrevocable
8 letter of credit, surety bond, or letter of commitment issued
9 by a bank, savings and loan association, surety, or insurance
10 company, deemed good and sufficient by the municipality
11 accepting such security, or the amount of such security. In
12 such an ordinance, the municipality may also specify whether
13 any of the following may or may not be used by a builder or
14 developer to satisfy the cash bond requirement of the
15 municipality: an irrevocable letter of credit, surety bond, or
16 letter of commitment issued by a bank, savings and loan
17 association, surety, or insurance company.

18 (b) If a municipality receives 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) A home rule municipality may not require or maintain
18 cash bonds, irrevocable letters of credit, surety bonds, or
19 letters of commitment issued by a bank, savings and loan
20 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.)

5 Section 15. The Illinois Highway Code is amended by
6 changing Sections 5-701.15 and 7-202.21a as follows:

7 (605 ILCS 5/5-701.15) (from Ch. 121, par. 5-701.15)

8 Sec. 5-701.15. The formula allocation for counties for the
9 distribution of motor fuel tax funds, provided for in Section 8
10 in the "Motor Fuel Tax Law", may be used by the county board
11 for the maintenance or improvement of nondedicated subdivision
12 roads established prior to July 23, 1959. ~~Any such improved~~
13 ~~road becomes, by operation of law, a part of the township or~~
14 ~~district road system in accordance with Section 6-325 of this~~
15 ~~Code.~~ The county board may ~~shall~~ condition its approval, as
16 required by this Section, upon proportional matching
17 contributions, whether in cash, kind, services or otherwise, by
18 property owners in the subdivision where such a road is
19 situated. No more than the amount of the increase in allocation
20 of such funds allocated under the formula as provided in
21 Section 8 in the "Motor Fuel Tax Law" which is attributable to
22 this amendatory Act of 1979 and any subsequent amendatory Act
23 and subsequently approved as provided in this Section, may be
24 expended on eligible nondedicated subdivision roads.

1 (Source: P.A. 83-957.)

2 (605 ILCS 5/7-202.21a) (from Ch. 121, par. 7-202.21a)

3 Sec. 7-202.21a. The formula allocation for municipalities
4 for the distribution of motor fuel tax funds, provided for in
5 Section 8 in the "Motor Fuel Tax Law", may be used by the
6 municipal authority for the maintenance or improvement of
7 nondedicated subdivision roads established prior to July 23,
8 1959. ~~Any such improved road becomes, by operation of law, a~~
9 ~~part of the municipal street system of such municipality.~~ The
10 municipal authority may ~~shall~~ condition its approval, as
11 required by this Section, upon proportional matching
12 contributions, whether in cash, kind, services or otherwise, by
13 property owners in the subdivision where such a road is
14 situated. No more than the amount of the increase in allocation
15 of such funds allocated under the formula as provided in
16 Section 8 in the "Motor Fuel Tax Law" which is attributable to
17 this amendatory Act and any subsequent amendatory Act and
18 subsequently approved as provided in this Section may be
19 expended on eligible nondedicated subdivision roads.

20 (Source: P.A. 86-447.)".