



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB6095

Introduced 2/11/2010, by Rep. Linda Chapa LaVia

#### SYNOPSIS AS INTRODUCED:

30 ILCS 550/3

Amends the Public Construction Bond Act concerning a cash bond or other surety from a builder or developer. Allows a county or municipality to require a cash bond or other surety (instead of the county or municipality being required to accept a letter of credit or other instrument issued by a financial institution). Eliminates a procedure whereby an engineer or architect may certify completion of a project and 60 days after notice the county or municipality must pay interest on any unrefunded bond. Eliminates the preemption of home rule powers. Effective immediately.

LRB096 16821 RLJ 32130 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

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 county or municipality ~~builder or~~~~  
20 ~~developer~~ has the option to require ~~utilize~~ 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, deemed good and sufficient by the

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

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

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

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

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

23 (Source: P.A. 92-479, eff. 1-1-02; revised 10-30-09.)

24 Section 99. Effective date. This Act takes effect upon  
25 becoming law.