

1 AN ACT concerning bonds.

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
5 by 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
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
13 builder or developer has filed with the county or municipal
14 clerk a current, irrevocable letter of credit, surety bond,
15 or letter of commitment issued by a bank, savings and loan
16 association, surety, or insurance company, deemed good and
17 sufficient by the county or municipality accepting such
18 security, in an amount equal to or greater than 110% of the
19 amount of the bid on each project improvement. A builder or
20 developer has the option ~~may elect~~ to utilize a cash bond, an
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
24 the county or municipality, to satisfy any cash bond
25 requirement established by a county or municipality. The
26 county or municipality must approve and deem a surety or
27 insurance company good and sufficient for the purposes set
28 forth in this Section if the surety or insurance company is
29 authorized by the Illinois Department of Insurance to sell
30 and issue sureties in the State of Illinois.

31 (b) If a county or municipality receives a cash bond,

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

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

27 (d) A home rule county or municipality may not require
28 or maintain cash bonds, irrevocable letters of credit, surety
29 bonds, or letters of commitment issued by a bank, savings and
30 loan association, surety, or insurance company from builders
31 or developers in a manner inconsistent with this Section.
32 This Section supercedes and controls over other provisions of
33 the Counties Code or Illinois Municipal Code as they apply to
34 and guarantee completion of a project improvement that is

1 required by the county or municipality, regardless of whether
 2 the project improvement is a condition of annexation
 3 agreements. This Section is a denial and limitation under
 4 subsection (i) of Section 6 of Article VII of the Illinois
 5 Constitution on the concurrent exercise by a home rule county
 6 or municipality of powers and functions exercised by the
 7 State.

8 (Source: P.A. 89-518, eff. 1-1-97; 90-558, eff. 12-12-97.)

9 Section 10. The Counties Code is amended by changing
 10 Sections 5-1041 and 5-1123 as follows:

11 (55 ILCS 5/5-1041) (from Ch. 34, par. 5-1041)

12 Sec. 5-1041. Maps, plats and subdivisions. A county board
 13 may prescribe, by resolution or ordinance, reasonable rules
 14 and regulations governing the location, width and course of
 15 streets and highways and of floodplain, stormwater and
 16 floodwater runoff channels and basins, and the provision of
 17 necessary public grounds for schools, public libraries, parks
 18 or playgrounds, in any map, plat or subdivision of any block,
 19 lot or sub-lot or any part thereof or any piece or parcel of
 20 land, not being within any city, village or incorporated
 21 town. The rules and regulations may include such reasonable
 22 requirements with respect to water supply and sewage
 23 collection and treatment as may be established by the
 24 Environmental Protection Agency, and such reasonable
 25 requirements with respect to floodplain and stormwater
 26 management as may be established by the County Stormwater
 27 Management Committee established under Section 5-1062 of this
 28 Code, and such reasonable requirements with respect to street
 29 drainage and surfacing as may be established by the county
 30 engineer or superintendent of highways and which by
 31 resolution shall be deemed to be the minimum requirements in
 32 the interest of the health, safety, education and convenience

1 of the public of the county; and may provide by resolution
2 that the map, plat or subdivision shall be submitted to the
3 county board or to some officer to be designated by the
4 county board for their or his approval. The county board
5 shall have a qualified engineer make an estimate of the
6 probable expenditures necessary to enable any person to
7 conform with the standards of construction established by the
8 board pursuant to the provisions of this Section. Except as
9 provided in Section 3 of the Public Construction Bond Act,
10 each person who seeks the county board's approval of a map,
11 plat or subdivision shall post a good and sufficient cash
12 bond, irrevocable letter of credit, surety bond, or other
13 adequate security with the county clerk, in a penal sum
14 sufficient to cover the estimate of expenditures made by the
15 estimating engineer. The cash bond, irrevocable letter of
16 credit, surety bond, or other adequate security shall be
17 conditioned upon faithful adherence to the rules and
18 regulations of the county board promulgated pursuant to the
19 authorization granted to it by this Section or by Section
20 5-1062 of this Code, and in such cases no such map, plat or
21 subdivision shall be entitled to record in the proper county
22 or have any validity until it has been so approved. If the
23 county board requires a cash bond, letter of credit, surety,
24 or any other method to cover the costs and expenses and to
25 insure completion of the requirements, the requirements shall
26 be subject to the provisions of Section 5-1123 of this Code.
27 This Section is subject to the provisions of Section 5-1123.

28 The county board may, by resolution, provide a schedule
29 of fees sufficient to reimburse the county for the costs
30 incurred in reviewing such maps, plats and subdivisions
31 submitted for approval to the county board. The fees
32 authorized by this Section are to be paid into the general
33 corporate fund of the county by the party desiring to have
34 the plat approved.

1 No officer designated by a county board for the approval
 2 of plats shall engage in the business of surveying, and no
 3 map, plat or subdivision shall be received for record or have
 4 any validity which has been prepared by or under the
 5 direction of such plat officer.

6 It is the intention of this amendatory Act of 1990 to
 7 repeal the language added to Section 25.09 of "An Act to
 8 revise the law in relation to counties", approved March 31,
 9 1874, by P.A. 86-614, Section 25.09 of that Act being the
 10 predecessor of this Section.

11 (Source: P.A. 90-558, eff. 12-12-97; 91-328, eff. 1-1-00.)

12 (55 ILCS 5/5-1123)

13 Sec. 5-1123. Builder or developer cash bond or other
 14 surety.

15 (a) A county may not require a cash bond, irrevocable
 16 letter of credit, surety bond, or letter of commitment issued
 17 by a bank, savings and loan association, surety, or insurance
 18 company from a builder or developer to guarantee completion
 19 of a project improvement when the builder or developer has
 20 filed with the county clerk a current, irrevocable letter of
 21 credit, surety bond, or letter of commitment, issued by a
 22 bank, savings and loan association, surety, or insurance
 23 company, deemed good and sufficient by the county accepting
 24 such security, in an amount equal to or greater than 110% of
 25 the amount of the bid on each project improvement. A builder
 26 or developer has the option ~~may elect~~ to utilize a cash bond,
 27 an irrevocable letter of credit, surety bond, or letter of
 28 commitment issued by a bank, savings and loan association,
 29 surety, or insurance company, deemed good and sufficient by
 30 the county, to satisfy any cash bond requirement established
 31 by a county. The county must approve and deem a surety or
 32 insurance company good and sufficient for the purposes set
 33 forth in this Section if the surety or insurance company is

1 authorized by the Illinois Department of Insurance to sell
2 and issue sureties in the State of Illinois.

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

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

28 (d) A home rule county may not require or maintain cash
29 bonds, irrevocable letters of credit, surety bonds, or other
30 adequate securities from builders or developers in a manner
31 inconsistent with this Section. This Section supercedes and
32 controls over other provisions of this Code as they apply to
33 and guarantee completion of a project improvement that is
34 required by the county. This Section is a denial and

1 limitation under subsection (i) of Section 6 of Article VII
2 of the Illinois Constitution on the concurrent exercise by a
3 home rule county of powers and functions exercised by the
4 State.

5 (Source: P.A. 89-518, eff. 1-1-97; 90-14, eff. 7-1-97;
6 90-558, eff. 12-12-97.)

7 Section 15. The Illinois Municipal Code is amended by
8 changing Sections 11-12-8 and 11-39-3 as follows:

9 (65 ILCS 5/11-12-8) (from Ch. 24, par. 11-12-8)

10 Sec. 11-12-8. Compliance of plat with map; designation of
11 public lands; approval; bond; order; failure to act upon
12 plat. The corporate authorities of the municipality shall
13 determine whether a proposed plat of subdivision or
14 resubdivision complies with the official map. To secure such
15 determination, the person requesting the subdivision or
16 resubdivision shall file four copies of a plat thereof with
17 the clerk of the municipality, and shall furnish therewith
18 four copies of all data necessary to show compliance with all
19 applicable municipal regulations and shall make application
20 for preliminary or final approval of the proposed plat.

21 Whenever the reasonable requirements provided by the
22 ordinance including the official map shall indicate the
23 necessity for providing for a school site, park site, or
24 other public lands within any proposed subdivision for which
25 approval has been requested, and no such provision has been
26 made therefor, the municipal authority may require that lands
27 be designated for such public purpose before approving such
28 plat. Whenever a final plat of subdivision, or part thereof,
29 has been approved by the corporate authorities as complying
30 with the official map and there is designated therein a
31 school site, park site or other public land, the corporate
32 authorities having jurisdiction of such use, be it a school

1 board, park board or other authority, such authority shall
2 acquire the land so designated by purchase or commence
3 proceedings to acquire such land by condemnation within one
4 year from the date of approval of such plat; and if it does
5 not do so within such period of one year, the land so
6 designated may then be used by the owners thereof in any
7 other manner consistent with the ordinance including the
8 official map and the zoning ordinance of the municipality.

9 The corporate authorities may by ordinance provide that a
10 plat of subdivision may be submitted initially to the plan
11 commission for preliminary approval. The application for
12 preliminary approval shall show location and width of
13 proposed streets and public ways, shall indicate proposed
14 location of sewers and storm drains, proposed dedication of
15 public grounds, if any, lot sizes, proposed easements for
16 public utilities, and proposed method of sewage and waste
17 disposal, but need not contain specifications for proposed
18 improvements.

19 The plan Commission shall approve or disapprove the
20 application for preliminary approval within 90 days from the
21 date of the application or the filing by the applicant of the
22 last item of required supporting data, whichever date is
23 later, unless such time is extended by mutual consent. If
24 such plat is disapproved, then within said 90 days the plan
25 commission shall furnish to applicant in writing a statement
26 setting forth the reason for disapproval and specifying with
27 particularity the aspects in which the proposed plat fails to
28 conform to the ordinances including official map. If such
29 plat is approved the corporate authority shall accept or
30 reject said plat within 30 days after its next regular stated
31 meeting following the action of the plan commission.
32 Preliminary approval shall not qualify a plat for recording.

33 Application for final approval of a plat shall be made
34 not later than one year after preliminary approval has been

1 granted. This application must be supported by such drawings,
2 specifications and bond as may be necessary to demonstrate
3 compliance with all requirements of this statute and such
4 regulations as the corporate authorities may provide by
5 ordinance under authority of this statute. This Section is
6 subject to the provisions of Section 11-39-3 of this Code.

7 The applicant may elect to have final approval of a
8 geographic part or parts of the plat that received
9 preliminary approval, and may delay application for approval
10 of other parts until a later date or dates beyond one year
11 with the approval of the municipal authorities; provided, all
12 facilities required to serve the part or parts for which
13 final approval is sought have been provided. In such case
14 only such part or parts of the plat as have received final
15 approval shall be recorded.

16 When a person submitting a plat of subdivision or
17 resubdivision for final approval has supplied all drawings,
18 maps and other documents required by the municipal ordinances
19 to be furnished in support thereof, and if all such material
20 meets all municipal requirements, the corporate authorities
21 shall approve the proposed plat within 60 days from the date
22 of filing the last required document or other paper or within
23 60 days from the date of filing application for final
24 approval of the plat, whichever date is later. The applicant
25 and the corporate authorities may mutually agree to extend
26 the 60 day period.

27 Except as provided in Section 3 of the Public
28 Construction Bond Act, the corporate authorities may provide
29 that any person, firm or corporation seeking approval of a
30 subdivision or resubdivision map or plat shall post a good
31 and sufficient cash bond, irrevocable letter of credit, or
32 surety bond with the municipal clerk in a penal sum
33 sufficient to cover the estimate made by the municipal
34 engineer, or other authorized person, of expenditures,

1 including but not limited to reasonable inspection fees to be
 2 borne by the applicant, necessary to conform to the
 3 requirements established and conditioned upon completion of
 4 said requirements in a reasonable time. The corporate
 5 authorities may, by ordinance, prescribe the form of the cash
 6 bond, irrevocable letter of credit, or surety bond and may
 7 require surety to be approved by the corporate authorities;
 8 provided, that a municipality may permit the depositing of
 9 cash or other security acceptable to the corporate
 10 authorities, to complete the improvements required in lieu of
 11 a bond if it shall so provide by ordinance; and further
 12 provided, that no bond or security shall be required to be
 13 filed until the corporate authorities have approved the plat
 14 in all other respects and have notified the applicant of such
 15 approval. If the corporate authorities require a cash bond,
 16 letter of credit, surety, or any other method to cover the
 17 costs and expenses and to insure completion of the
 18 requirements ~~If--the--corporate--authorities--require--a--cash~~
 19 ~~bond,~~ the requirements requirement shall be subject to the
 20 provisions of Section 11-39-3 of this Code.

21 If the preliminary or final plat is approved, the
 22 municipal clerk shall attach a certified copy of the order or
 23 resolution of approval to a copy of the plat. If the proposed
 24 plat is disapproved, the order or resolution shall state the
 25 reasons for the disapproval, specifying with particularity
 26 the aspects in which the proposed plat fails to conform to
 27 the official map. A copy of the order or resolution shall be
 28 filed in the office of the municipal clerk.

29 If the corporate authorities fail to act upon the final
 30 plat within the time prescribed the applicant may, after
 31 giving 5 days written notice to the corporate authorities,
 32 file a complaint for summary judgment in the circuit court
 33 and upon showing that the corporate authorities have failed
 34 to act within the time prescribed the court shall enter an

1 order authorizing the recorder to record the plat as finally
 2 submitted without the approval of the corporate authorities.
 3 A plat so recorded shall have the same force and effect as
 4 though that plat had been approved by the corporate
 5 authorities. If the corporate authorities refuse to act upon
 6 the final plat within the time prescribed and if their
 7 failure to act thereon is wilful, upon such showing and upon
 8 proof of damages the municipality shall be liable therefor.
 9 (Source: P.A. 90-558, eff. 12-12-97; 91-328, eff. 1-1-00.)

10 (65 ILCS 5/11-39-3)

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

13 (a) A municipality may not require a cash bond,
 14 irrevocable letter of credit, surety bond, or letter of
 15 commitment issued by a bank, savings and loan association,
 16 surety, or insurance company from a builder or developer to
 17 guarantee completion of a project improvement when the
 18 builder or developer has filed with the municipal clerk a
 19 current, irrevocable letter of credit, surety bond, or letter
 20 of commitment issued by a bank, savings and loan association,
 21 surety, or insurance company, deemed good and sufficient by
 22 the municipality accepting such security, in an amount equal
 23 to or greater than 110% of the amount of the bid on each
 24 project improvement. A builder or developer has the option
 25 may-eleet to utilize a cash bond, an irrevocable letter of
 26 credit, surety bond, or letter of commitment, issued by a
 27 bank, savings and loan association, surety, or insurance
 28 company, deemed good and sufficient by the municipality, to
 29 satisfy any cash bond requirement established by a
 30 municipality. The municipality must approve and deem a surety
 31 or insurance company good and sufficient for the purposes set
 32 forth in this Section if the surety or insurance company is
 33 authorized by the Illinois Department of Insurance to sell

1 and issue sureties in the State of Illinois.

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

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

28 (d) A home rule municipality may not require or maintain
29 cash bonds, irrevocable letters of credit, surety bonds, or
30 letters of commitment issued by a bank, savings and loan
31 association, surety, or insurance company from builders or
32 developers in a manner inconsistent with this Section. This
33 Section supercedes and controls over other provisions of this
34 Code as they apply to and guarantee completion of a project

1 improvement that is required by the municipality, regardless
2 of whether the project improvement is a condition of
3 annexation agreements. This Section is a denial and
4 limitation under subsection (i) of Section 6 of Article VII
5 of the Illinois Constitution on the concurrent exercise by a
6 home rule municipality of powers and functions exercised by
7 the State.

8 (Source: P.A. 89-518, eff. 1-1-97; 90-558, eff. 12-12-97.)