

1 AN ACT concerning bonds. 49

2 Be it enacted by the People of the State of Illinois, 53  
3 represented in the General Assembly: 54

4 Section 5. The Public Construction Bond Act is amended 57  
5 by changing Section 3 as follows: 58

6 (30 ILCS 550/3) 61

7 Sec. 3. Builder or developer cash bond or other surety. 63

8 (a) A county or municipality may not require a cash 65  
9 bond, irrevocable letter of credit, surety bond, or letter of 66  
10 commitment issued by a bank, savings and loan association, 67  
11 surety, or insurance company from a builder or developer to 68  
12 guarantee completion of a project improvement when the 69  
13 builder or developer has filed with the county or municipal 70  
14 clerk a current, irrevocable letter of credit, surety bond, 71  
15 or letter of commitment issued by a bank, savings and loan 72  
16 association, surety, or insurance company, deemed good and 73  
17 sufficient by the county or municipality accepting such 74  
18 security, in an amount equal to or greater than 110% of the 75  
19 amount of the bid on each project improvement. A builder or 76  
20 developer has the option may elect to utilize a cash bond, an 77  
21 irrevocable letter of credit, surety bond, or letter of 78  
22 commitment, issued by a bank, savings and loan association, 79  
23 surety, or insurance company, deemed good and sufficient by 81  
24 the county or municipality, to satisfy any cash bond 82  
25 requirement established by a county or municipality. Except 83  
26 for a municipality or county with a population of 1,000,000  
27 or more, the county or municipality must approve and deem a 84  
28 surety or insurance company good and sufficient for the 85  
29 purposes set forth in this Section if the surety or insurance 86  
30 company is authorized by the Illinois Department of Insurance 87  
31 to sell and issue sureties in the State of Illinois. 88

Clerk of the House

Originated in the House of Representatives

PUBLIC ACT 92-479

1 (b) If a county or municipality receives a cash bond, 90  
 2 irrevocable letter of credit, or surety bond from a builder 91  
 3 or developer to guarantee completion of a project 93  
 4 improvement, the county or municipality shall (i) register 94  
 5 the bond under the address of the project and the 96  
 6 construction permit number and (ii) give the builder or 97  
 7 developer a receipt for the bond. The county or municipality  
 8 shall establish and maintain a separate account for all cash 99  
 9 bonds received from builders and developers to guarantee 100  
 10 completion of a project improvement.

11 (c) The county or municipality shall refund a cash bond 102  
 12 to a builder or developer, or release the irrevocable letter 103  
 13 of credit or surety bond, within 60 days after the builder or 105  
 14 developer notifies the county or municipality in writing of 106  
 15 the completion of the project improvement for which the bond 107  
 16 was required. For these purposes, "completion" means that the 109  
 17 county or municipality has determined that the project 111  
 18 improvement for which the bond was required is complete or a  
 19 licensed engineer or licensed architect has certified to the 112  
 20 builder or developer and the county or municipality that the 113  
 21 project improvement has been completed to the applicable 115  
 22 codes and ordinances. The county or municipality shall pay 116  
 23 interest to the builder or developer, beginning 60 days after 118  
 24 the builder or developer notifies the county or municipality  
 25 in writing of the completion of the project improvement, on 121  
 26 any bond not refunded to a builder or developer, at the rate 122  
 27 of 1% per month. 123

28 (d) A home rule county or municipality may not require 125  
 29 or maintain cash bonds, irrevocable letters of credit, surety 127  
 30 bonds, or letters of commitment issued by a bank, savings and 128  
 31 loan association, surety, or insurance company from builders 129  
 32 or developers in a manner inconsistent with this Section. 130  
 33 This Section supercedes and controls over other provisions of 131  
 34 the Counties Code or Illinois Municipal Code as they apply to 132

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1     and guarantee completion of a project improvement that is     133  
 2     required by the county or municipality, regardless of whether     134  
 3     the project improvement is a condition of annexation  
 4     agreements. This Section is a denial and limitation under     136  
 5     subsection (i) of Section 6 of Article VII of the Illinois     137  
 6     Constitution on the concurrent exercise by a home rule county     139  
 7     or municipality of powers and functions exercised by the  
 8     State.  
 9     (Source: P.A. 89-518, eff. 1-1-97; 90-558, eff. 12-12-97.)     141

10     Section 10. The Counties Code is amended by changing     144  
 11     Sections 5-1041 and 5-1123 as follows:     145

12             (55 ILCS 5/5-1041) (from Ch. 34, par. 5-1041)     148  
 13             Sec. 5-1041. Maps, plats and subdivisions. A county board     150  
 14     may prescribe, by resolution or ordinance, reasonable rules     151  
 15     and regulations governing the location, width and course of     152  
 16     streets and highways and of floodplain, stormwater and     153  
 17     floodwater runoff channels and basins, and the provision of  
 18     necessary public grounds for schools, public libraries, parks     154  
 19     or playgrounds, in any map, plat or subdivision of any block,     155  
 20     lot or sub-lot or any part thereof or any piece or parcel of     156  
 21     land, not being within any city, village or incorporated     157  
 22     town. The rules and regulations may include such reasonable     158  
 23     requirements with respect to water supply and sewage  
 24     collection and treatment as may be established by the     159  
 25     Environmental Protection Agency, and such reasonable     160  
 26     requirements with respect to floodplain and stormwater     161  
 27     management as may be established by the County Stormwater     162  
 28     Management Committee established under Section 5-1062 of this  
 29     Code, and such reasonable requirements with respect to street     163  
 30     drainage and surfacing as may be established by the county     165  
 31     engineer or superintendent of highways and which by  
 32     resolution shall be deemed to be the minimum requirements in     167

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1 the interest of the health, safety, education and convenience 168  
2 of the public of the county; and may provide by resolution 169  
3 that the map, plat or subdivision shall be submitted to the  
4 county board or to some officer to be designated by the 170  
5 county board for their or his approval. The county board 171  
6 shall have a qualified engineer make an estimate of the 172  
7 probable expenditures necessary to enable any person to 173  
8 conform with the standards of construction established by the  
9 board pursuant to the provisions of this Section. Except as 174  
10 provided in Section 3 of the Public Construction Bond Act, 175  
11 each person who seeks the county board's approval of a map, 176  
12 plat or subdivision shall post a good and sufficient cash 177  
13 bond, irrevocable letter of credit, surety bond, or other 178  
14 adequate security with the county clerk, in a penal sum 179  
15 sufficient to cover the estimate of expenditures made by the  
16 estimating engineer. The cash bond, irrevocable letter of 180  
17 credit, surety bond, or other adequate security shall be 181  
18 conditioned upon faithful adherence to the rules and 182  
19 regulations of the county board promulgated pursuant to the 183  
20 authorization granted to it by this Section or by Section 184  
21 5-1062 of this Code, and in such cases no such map, plat or 185  
22 subdivision shall be entitled to record in the proper county  
23 or have any validity until it has been so approved. If the 187  
24 county board requires a cash bond, letter of credit, surety,  
25 or any other method to cover the costs and expenses and to 188  
26 insure completion of the requirements, the requirements shall 189  
27 be subject to the provisions of Section 5-1123 of this Code. 190  
28 This Section is subject to the provisions of Section 5-1123. 191  
29 The county board may, by resolution, provide a schedule 193  
30 of fees sufficient to reimburse the county for the costs 194  
31 incurred in reviewing such maps, plats and subdivisions 195  
32 submitted for approval to the county board. The fees 196  
33 authorized by this Section are to be paid into the general  
34 corporate fund of the county by the party desiring to have 197

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1 the plat approved. 198

2 No officer designated by a county board for the approval 200

3 of plats shall engage in the business of surveying, and no 201

4 map, plat or subdivision shall be received for record or have 202

5 any validity which has been prepared by or under the 203

6 direction of such plat officer.

7 It is the intention of this amendatory Act of 1990 to 205

8 repeal the language added to Section 25.09 of "An Act to 206

9 revise the law in relation to counties", approved March 31, 207

10 1874, by P.A. 86-614, Section 25.09 of that Act being the 208

11 predecessor of this Section.

12 (Source: P.A. 90-558, eff. 12-12-97; 91-328, eff. 1-1-00.) 210

13 (55 ILCS 5/5-1123) 213

14 Sec. 5-1123. Builder or developer cash bond or other 215

15 surety.

16 (a) A county may not require a cash bond, irrevocable 217

17 letter of credit, surety bond, or letter of commitment issued 218

18 by a bank, savings and loan association, surety, or insurance 219

19 company from a builder or developer to guarantee completion 220

20 of a project improvement when the builder or developer has 221

21 filed with the county clerk a current, irrevocable letter of

22 credit, surety bond, or letter of commitment, issued by a 222

23 bank, savings and loan association, surety, or insurance 223

24 company, deemed good and sufficient by the county accepting 224

25 such security, in an amount equal to or greater than 110% of

26 the amount of the bid on each project improvement. A builder 225

27 or developer has the option may-effect to utilize a cash bond, 227

28 an irrevocable letter of credit, surety bond, or letter of 228

29 commitment issued by a bank, savings and loan association, 229

30 surety, or insurance company, deemed good and sufficient by 230

31 the county, to satisfy any cash bond requirement established 231

32 by a county. The county must approve and deem a surety or 232

33 insurance company good and sufficient for the purposes set 233

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1 forth in this Section if the surety or insurance company is  
2 authorized by the Illinois Department of Insurance to sell 235  
3 and issue sureties in the State of Illinois.

4 (b) If a county receives a cash bond, irrevocable letter 237  
5 of credit, or surety bond from a builder or developer to 238  
6 guarantee completion of a project improvement, the county 239  
7 shall (i) register the bond under the address of the project 241  
8 and the construction permit number and (ii) give the builder 242  
9 or developer a receipt for the bond. The county shall  
10 establish and maintain a separate account for all cash bonds 243  
11 received from builders and developers to guarantee completion 244  
12 of a project improvement.

13 (c) The county shall refund a cash bond to a builder or 246  
14 developer, or release the irrevocable letter of credit or 247  
15 surety bond, within 60 days after the builder or developer 248  
16 notifies the county in writing of the completion of the 249  
17 project improvement for which the bond was required. For  
18 these purposes, "completion" means that the county has 250  
19 determined that the project improvement for which the bond 251  
20 was required is complete or a licensed engineer or licensed 252  
21 architect has certified to the builder or developer and the 253  
22 county that the project improvement has been completed to the  
23 applicable codes and ordinances. The county shall pay 254  
24 interest to the builder or developer, beginning 60 days after 255  
25 the builder or developer notifies the county in writing of 256  
26 the completion of the project improvement, on any bond not  
27 refunded to a builder or developer, at the rate of 1% per 257  
28 month.

29 (d) A home rule county may not require or maintain cash 259  
30 bonds, irrevocable letters of credit, surety bonds, or other 260  
31 adequate securities from builders or developers in a manner 261  
32 inconsistent with this Section. This Section supercedes and 262  
33 controls over other provisions of this Code as they apply to 263  
34 and guarantee completion of a project improvement that is

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1 required by the county. This Section is a denial and 265  
 2 limitation under subsection (i) of Section 6 of Article VII  
 3 of the Illinois Constitution on the concurrent exercise by a 266  
 4 home rule county of powers and functions exercised by the 267  
 5 State.  
 6 (Source: P.A. 89-518, eff. 1-1-97; 90-14, eff. 7-1-97; 269  
 7 90-558, eff. 12-12-97.) 270

8 Section 15. The Illinois Municipal Code is amended by 273  
 9 changing Sections 11-12-8 and 11-39-3 as follows: 274

10 (65 ILCS 5/11-12-8) (from Ch. 24, par. 11-12-8) 277

11 Sec. 11-12-8. Compliance of plat with map; designation of 280  
 12 public lands; approval; bond; order; failure to act upon 281  
 13 plat. The corporate authorities of the municipality shall 282  
 14 determine whether a proposed plat of subdivision or 283  
 15 resubdivision complies with the official map. To secure such 284  
 16 determination, the person requesting the subdivision or  
 17 resubdivision shall file four copies of a plat thereof with 285  
 18 the clerk of the municipality, and shall furnish therewith 286  
 19 four copies of all data necessary to show compliance with all 287  
 20 applicable municipal regulations and shall make application 288  
 21 for preliminary or final approval of the proposed plat. 289

22 Whenever the reasonable requirements provided by the 291  
 23 ordinance including the official map shall indicate the 292  
 24 necessity for providing for a school site, park site, or 293  
 25 other public lands within any proposed subdivision for which 294  
 26 approval has been requested, and no such provision has been  
 27 made therefor, the municipal authority may require that lands 295  
 28 be designated for such public purpose before approving such 296  
 29 plat. Whenever a final plat of subdivision, or part thereof, 297  
 30 has been approved by the corporate authorities as complying 298  
 31 with the official map and there is designated therein a 299  
 32 school site, park site or other public land, the corporate

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1 authorities having jurisdiction of such use, be it a school 300  
2 board, park board or other authority, such authority shall 301  
3 acquire the land so designated by purchase or commence 302  
4 proceedings to acquire such land by condemnation within one 303  
5 year from the date of approval of such plat; and if it does 304  
6 not do so within such period of one year, the land so  
7 designated may then be used by the owners thereof in any 305  
8 other manner consistent with the ordinance including the 306  
9 official map and the zoning ordinance of the municipality. 307

10 The corporate authorities may by ordinance provide that a 309  
11 plat of subdivision may be submitted initially to the plan 310  
12 commission for preliminary approval. The application for 311  
13 preliminary approval shall show location and width of 312  
14 proposed streets and public ways, shall indicate proposed 313  
15 location of sewers and storm drains, proposed dedication of  
16 public grounds, if any, lot sizes, proposed easements for 314  
17 public utilities, and proposed method of sewage and waste 315  
18 disposal, but need not contain specifications for proposed 316  
19 improvements.

20 The plan Commission shall approve or disapprove the 318  
21 application for preliminary approval within 90 days from the 319  
22 date of the application or the filing by the applicant of the 320  
23 last item of required supporting data, whichever date is 321  
24 later, unless such time is extended by mutual consent. If  
25 such plat is disapproved, then within said 90 days the plan 322  
26 commission shall furnish to applicant in writing a statement 323  
27 setting forth the reason for disapproval and specifying with 324  
28 particularity the aspects in which the proposed plat fails to 325  
29 conform to the ordinances including official map. If such 326  
30 plat is approved the corporate authority shall accept or  
31 reject said plat within 30 days after its next regular stated 327  
32 meeting following the action of the plan commission. 328  
33 Preliminary approval shall not qualify a plat for recording. 329  
34 Application for final approval of a plat shall be made 331

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1 not later than one year after preliminary approval has been 332  
2 granted. This application must be supported by such drawings, 333  
3 specifications and bond as may be necessary to demonstrate 334  
4 compliance with all requirements of this statute and such  
5 regulations as the corporate authorities may provide by 335  
6 ordinance under authority of this statute. This Section is 337  
7 subject to the provisions of Section 11-39-3 of this Code. 338

8 The applicant may elect to have final approval of a 340  
9 geographic part or parts of the plat that received 341  
10 preliminary approval, and may delay application for approval 342  
11 of other parts until a later date or dates beyond one year 343  
12 with the approval of the municipal authorities; provided, all  
13 facilities required to serve the part or parts for which 344  
14 final approval is sought have been provided. In such case 345  
15 only such part or parts of the plat as have received final 346  
16 approval shall be recorded.

17 When a person submitting a plat of subdivision or 348  
18 resubdivision for final approval has supplied all drawings, 349  
19 maps and other documents required by the municipal ordinances 350  
20 to be furnished in support thereof, and if all such material 351  
21 meets all municipal requirements, the corporate authorities  
22 shall approve the proposed plat within 60 days from the date 352  
23 of filing the last required document or other paper or within 353  
24 60 days from the date of filing application for final 354  
25 approval of the plat, whichever date is later. The applicant 355  
26 and the corporate authorities may mutually agree to extend  
27 the 60 day period. 356

28 Except as provided in Section 3 of the Public 358  
29 Construction Bond Act, the corporate authorities may provide 359  
30 that any person, firm or corporation seeking approval of a 360  
31 subdivision or resubdivision map or plat shall post a good 361  
32 and sufficient cash bond, irrevocable letter of credit, or 362  
33 surety bond with the municipal clerk in a penal sum 363  
34 sufficient to cover the estimate made by the municipal

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1 engineer, or other authorized person, of expenditures, 364  
 2 including but not limited to reasonable inspection fees to be 365  
 3 borne by the applicant, necessary to conform to the 366  
 4 requirements established and conditioned upon completion of  
 5 said requirements in a reasonable time. The corporate 367  
 6 authorities may, by ordinance, prescribe the form of the cash 368  
 7 bond, irrevocable letter of credit, or surety bond and may 369  
 8 require surety to be approved by the corporate authorities; 370  
 9 provided, that a municipality may permit the depositing of 371  
 10 cash or other security acceptable to the corporate  
 11 authorities, to complete the improvements required in lieu of 372  
 12 a bond if it shall so provide by ordinance; and further 373  
 13 provided, that no bond or security shall be required to be 374  
 14 filed until the corporate authorities have approved the plat 375  
 15 in all other respects and have notified the applicant of such 376  
 16 approval. If the corporate authorities require a cash bond,  
 17 letter of credit, surety, or any other method to cover the 377  
 18 costs and expenses and to insure completion of the 379  
 19 requirements ~~if--the--corporate--authorities--require--a--cash~~ 380  
 20 ~~bond,~~ requirements requirement shall be subject to the 382  
 21 provisions of Section 11-39-3 of this Code. 383

22 If the preliminary or final plat is approved, the 385  
 23 municipal clerk shall attach a certified copy of the order or 386  
 24 resolution of approval to a copy of the plat. If the proposed 387  
 25 plat is disapproved, the order or resolution shall state the 388  
 26 reasons for the disapproval, specifying with particularity  
 27 the aspects in which the proposed plat fails to conform to 389  
 28 the official map. A copy of the order or resolution shall be 390  
 29 filed in the office of the municipal clerk. 391

30 If the corporate authorities fail to act upon the final 393  
 31 plat within the time prescribed the applicant may, after 394  
 32 giving 5 days written notice to the corporate authorities, 395  
 33 file a complaint for summary judgment in the circuit court 396  
 34 and upon showing that the corporate authorities have failed

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1 to act within the time prescribed the court shall enter an 397  
 2 order authorizing the recorder to record the plat as finally 399  
 3 submitted without the approval of the corporate authorities. 400  
 4 A plat so recorded shall have the same force and effect as 401  
 5 though that plat had been approved by the corporate 402  
 6 authorities. If the corporate authorities refuse to act upon  
 7 the final plat within the time prescribed and if their 403  
 8 failure to act thereon is wilful, upon such showing and upon 404  
 9 proof of damages the municipality shall be liable therefor. 405  
 10 (Source: P.A. 90-558, eff. 12-12-97; 91-328, eff. 1-1-00.) 407

11 (65 ILCS 5/11-39-3) 410  
 12 Sec. 11-39-3. Builder or developer cash bond or other 412  
 13 surety.

14 (a) A municipality may not require a cash bond, 414  
 15 irrevocable letter of credit, surety bond, or letter of 415  
 16 commitment issued by a bank, savings and loan association, 416  
 17 surety, or insurance company from a builder or developer to 417  
 18 guarantee completion of a project improvement when the  
 19 builder or developer has filed with the municipal clerk a 418  
 20 current, irrevocable letter of credit, surety bond, or letter 419  
 21 of commitment issued by a bank, savings and loan association, 420  
 22 surety, or insurance company, deemed good and sufficient by 422  
 23 the municipality accepting such security, in an amount equal 424  
 24 to or greater than 110% of the amount of the bid on each 425  
 25 project improvement. A builder or developer has the option 426  
 26 may elect to utilize a cash bond, an irrevocable letter of 427  
 27 credit, surety bond, or letter of commitment, issued by a 428  
 28 bank, savings and loan association, surety, or insurance 429  
 29 company, deemed good and sufficient by the municipality, to 431  
 30 satisfy any cash bond requirement established by a 432  
 31 municipality. Except for a municipality or county with a 433  
 32 population of 1,000,000 or more, the municipality must 434  
 33 approve and deem a surety or insurance company good and 435

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1 sufficient for the purposes set forth in this Section if the  
 2 surety or insurance company is authorized by the Illinois 436  
 3 Department of Insurance to sell and issue sureties in the 437  
 4 State of Illinois.

5 (b) If a municipality receives a cash bond, irrevocable 439  
 6 letter of credit, or surety bond from a builder or developer 440  
 7 to guarantee completion of a project improvement, the 441  
 8 municipality shall (i) register the bond under the address of 444  
 9 the project and the construction permit number and (ii) give  
 10 the builder or developer a receipt for the bond. The 445  
 11 municipality shall establish and maintain a separate account 447  
 12 for all cash bonds received from builders and developers to 448  
 13 guarantee completion of a project improvement.

14 (c) The municipality shall refund a cash bond to a 450  
 15 builder or developer, or release the irrevocable letter of 451  
 16 credit or surety bond within 60 days after the builder or 453  
 17 developer notifies the municipality in writing of the 454  
 18 completion of the project improvement for which the bond was 456  
 19 required. For these purposes, "completion" means that the 457  
 20 municipality has determined that the project improvement for 458  
 21 which the bond was required is complete or a licensed 459  
 22 engineer or licensed architect has certified to the builder  
 23 or developer and the municipality that the project 460  
 24 improvement has been completed to the applicable codes and 461  
 25 ordinances. The municipality shall pay interest to the 462  
 26 builder or developer, beginning 60 days after builder or 463  
 27 developer notifies the municipality in writing of the  
 28 completion of the project improvement, on any bond not 466  
 29 refunded to a builder or developer, at the rate of 1% per 468  
 30 month.

31 (d) A home rule municipality may not require or maintain 470  
 32 cash bonds, irrevocable letters of credit, surety bonds, or 471  
 33 letters of commitment issued by a bank, savings and loan 472  
 34 association, surety, or insurance company from builders or 474

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1 developers in a manner inconsistent with this Section. This  
 2 Section supercedes and controls over other provisions of this 475  
 3 Code as they apply to and guarantee completion of a project 476  
 4 improvement that is required by the municipality, regardless 477  
 5 of whether the project improvement is a condition of 478  
 6 annexation agreements. This Section is a denial and 479  
 7 limitation under subsection (i) of Section 6 of Article VII 480  
 8 of the Illinois Constitution on the concurrent exercise by a  
 9 home rule municipality of powers and functions exercised by 481  
 10 the State.  
 11 (Source: P.A. 89-518, eff. 1-1-97; 90-558, eff. 12-12-97.) 483

Michael J. Madigan  
 Speaker, House of Representatives

J. Philip  
 President of the Senate

APPROVED

this 23rd day of August, 20 01 A.D.,

George H. Ryan  
 GOVERNOR

