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## **OLR Bill Analysis**

### **sSB 860**

#### ***AN ACT CONCERNING BONDS AND OTHER SURETY FOR APPROVED SITE PLANS AND SUBDIVISIONS.***

#### **SUMMARY:**

This bill expands the types of surety that a person may use to fulfill a bond requirement, which a municipal land use commission may require for modified site plan or subdivision approval. Under current law, a commission may require a bond in an amount and with surety and conditions it sets. The bill allows the person to choose the surety form, including, for example, a statement savings account, as long as it is acceptable to a commission.

It also changes the surety process, providing additional leeway for the person posting the bond or other surety. The bill authorizes the person posting the required site or subdivision plan bond to post it at any time before completing all site plan modifications or subdivision public improvements or utilities, except that a commission may require a bond or surety for erosion control before work can start. Before the required bond or other surety is posted, it prohibits issuing certificates of occupancy for site plans and transferring lots to buyers for subdivision plans.

The bill:

1. limits the bond amount a zoning commission may require for site plan modifications;
2. establishes that, for phased development, the surety requirements apply as if each phase is approved as a separate site plan or subdivision; and
3. prohibits any land use commission from requiring a bond or other surety to secure the maintenance of roads, streets, or other

improvements associated with a site plan or subdivision.

The bill requires a commission to (1) release all or part of a site plan or subdivision related bond within 30 days of the person who posted the bond requesting it, if the commission is reasonably satisfied required work has been completed, or (2) explain in writing what work is still required for release, if it is not reasonably satisfied.

The bill makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2011

## **SURETY FOR SITE PLAN MODIFICATION AND SUBDIVISION FINAL APPROVAL**

### ***Modified Site Plans***

Under current law, a municipal land use commission may (1) require a bond in an amount and with surety and conditions it sets as a condition for approving any modified site plan or (2) grant an extension for completion of work on the modified site plan with approval conditioned on whether the bond or other surety amount is adequate. (Current law is silent on what constitutes "other surety.") The bill (1) limits the bond amount on a modified site plan to no more than the cost of performing the modifications plus an additional 10% of the bond amount and (2) eliminates the option to condition extension approval on an unspecified amount of bond or other surety. It also specifies the type of surety that may be used to meet current law's bond requirement (see below).

### ***Subdivisions***

Under current law, a land use commission may, for subdivision plan approval, accept a bond in an amount and with surety and conditions it finds satisfactory for securing the actual construction, maintenance, and installation of the subdivision's streets and utilities, as specified in the bond, in lieu of the work being completed before final plan approval. A commission may authorize a developer to file a plan with a conditional approval based on (1) the actual construction, maintenance, and installation of any improvements or utilities the

commission sets or (2) a bond. (By law, if work is completed or a bond furnished, the commission must endorse final plan approval.) The bill authorizes other surety (see below).

***Other Surety for Site Plan Modification and Subdivision Approval***

To satisfy a bond requirement for modified site plan or subdivision plan approval, the bill requires municipal land use commissions to accept, at the discretion of the person posting the bond, as surety:

1. surety bonds;
2. cash bonds in a form the commission finds acceptable;
3. passbook or statement savings accounts in a form acceptable to the commission; and
4. other surety, including but not limited to letters of credit, provided the commission finds the financial institution or other entity issuing any letter of credit acceptable.

**BOND RELEASE**

Under the bill, the commission must release a bond or part of it when reasonably satisfied that the modifications the bond covered have been completed. Current law is silent on bond release.

If not satisfied, the bill requires the commission to provide the person posting the bond a written explanation describing the additional modifications that must be completed for release. In the case of a site plan, the bill also authorizes a commission's agent to release all or part of a bond. Apparently, this also applies to sureties other than bonds that are permitted under the bill.

**BACKGROUND**

***Related Bill***

SB 896 (File 218) alters the municipal review, decision, and appeal process for a site or subdivision plan, primarily by changing who is and may be involved in reviewing and determining whether to approve a plan. Specifically, the bill requires a developer to submit a

site plan to a municipal official authorized by a planning and zoning commission, instead of the commission itself, and transfers the commission's corresponding duties under existing law to the official. For a subdivision plan, it authorizes a commission to delegate its duties to an agent to review and decide whether to approve the plan and extends the corresponding duties to the agent.

***Planning and Zoning Commissions***

By law, a municipality may have a planning (CGS § 8-18), zoning (CGS § 8-1), or a combined planning and zoning commission (CGS § 8-4a). A combined commission has all the powers and duties of both a planning commission and zoning commission.

**COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable Substitute

Yea 17 Nay 3 (03/25/2011)