



**PA 12-182**—sHB 5320

*Planning and Development Committee*

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

**SUMMARY:** The law allows municipal land use commissions to require developers to post a bond or surety to guarantee that site plan and subdivision improvements are completed. This act amends the laws governing these guarantees in various ways. Among other things, it:

1. eliminates references to bonds and surety, referring instead to these instruments as “financial guarantees;”
2. limits the types of site improvements and activities for which a zoning commission can require a guarantee;
3. allows commissions to require guarantees to secure the maintenance of certain improvements for up to one year;
4. allows, rather than requires, municipal planning and zoning commissions to accept surety bonds;
5. creates an exception to the requirement that a developer post a guarantee before a certificate of occupancy is issued or lots are transferred; and
6. prohibits commissions from requiring developers to establish a homeowners association or placing a deed restriction on the property to maintain approved site improvements.

Prior law allowed municipalities to enact ordinances prohibiting or regulating building permits for structures on lots that abut unaccepted highways or streets, except for farm or accessory buildings that conform to the municipality’s zoning or building regulations. The act bars such ordinances from also prohibiting buildings or structures on site plans and subdivisions approved on or after the act’s passage, as long as the approvals have not expired.

The bill also makes technical and conforming changes.

**EFFECTIVE DATE:** Upon passage; the provisions concerning financial guarantees for site plan and subdivision approvals are applicable to approvals or extensions granted on or after that date.

**FORM OF THE FINANCIAL GUARANTEE**

The law specifies the types of financial instruments that a person can use to fulfill a guarantee requirement for site plan and subdivision approvals. Under prior law, municipal planning and zoning commissions had to accept (1) surety bonds; (2) cash bonds; (3) passbook or statement savings accounts; and (4) other surety, including letters of credit, provided the commission found the instrument and the financial institution or entity issuing it acceptable. The act allows, rather

## OLR PUBLIC ACT SUMMARY

than requires, the commissions to accept surety bonds. It continues to require the commissions to accept the other types of guarantees, including letters of credit they find acceptable.

### POSTING AND RELEASING THE FINANCIAL GUARANTEE

Prior law gave the person required to post the guarantee the discretion to post it any time before completing the site plan improvements or subdivision public improvements and utilities, as long as it was posted before the (1) town issued a certificate of occupancy for the site plan or (2) developer transferred lots to buyers in the subdivision. Under the act the developer need not post a guarantee if the commission or its agent is reasonably satisfied that the approved site improvements or public improvements and utilities are complete.

By law, a commission can require a developer to post a guarantee for erosion control before work can start. The act allows a commission to also require a guarantee for sediment controls before work starts.

Prior law required a commission, if it was reasonably satisfied that the required work had been completed, to release all or part of a guarantee within 65 days after receiving a request by the person who posted it. Under the act, the commission must either release the guarantee or authorize its release within this timeframe. As under prior law, if the commission is not reasonably satisfied with the work, it must give the person who posted the guarantee a written explanation describing the additional work that must be completed before its release.

### FINANCIAL GUARANTEES FOR MAINTENANCE PURPOSES

Prior law prohibited a commission from requiring a guarantee to secure the maintenance of roads, streets, or other improvements associated with a site plan or subdivision for maintenance occurring after a municipality has accepted the improvements. The act allows the commission to require guarantees for maintenance purposes for up to one year after the improvements are completed to the reasonable satisfaction of the commission or its agent, or accepted by the municipality. It also allows commissions to require guarantees for the maintenance of retention and detention basins for up to one year after completion.

The act bars commissions from requiring payments, not just financial guarantees, to secure the maintenance. It also prohibits commissions from (1) requiring developers to establish a homeowners association or (2) placing a deed restriction or easement on the property to maintain approved public site improvements that will be owned, operated, or maintained by the municipality. It specifies that this prohibition does not apply to any deed restriction or easement that is necessary to give the municipality access to the improvements.

### SITE PLAN IMPROVEMENTS SECURED BY FINANCIAL GUARANTEES

By law, a zoning commission can approve, deny, or modify a site plan. The law allows zoning commissions, as a condition of approving modified site plans, to require developers to post a guarantee to secure the site plan modifications (i.e.,

## OLR PUBLIC ACT SUMMARY

site improvements). The act allows zoning commissions to require guarantees for any site plan, not just modified site plans. This conforms to current practice.

The bill also restricts the types of improvements or activities for which a zoning commission can require a guarantee for site plan approval to (1) site improvements that will be conveyed to or controlled by the town and (2) erosion and sediment controls required during construction. Under prior law, the commission could require a guarantee to secure any site improvements.

### FINANCIAL GUARANTEE AMOUNT FOR SITE PLAN APPROVAL

Prior law capped the guarantee amount a commission could require as a condition of approving a site plan at no more than the cost of performing the modifications plus an additional 10%. The act instead limits the guarantee to the anticipated actual costs for completing the site improvements or erosion and sediment controls described above plus a contingency amount of up to 10% of such costs.

OLR Tracking: RP:KS:PF:eh