

2024 -- H 7950

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO TOWNS AND CITIES -- SUBDIVISION OF LAND

Introduced By: Representatives Felix, Potter, Giraldo, Cruz, Batista, Speakman, Henries,
and Morales

Date Introduced: March 05, 2024

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 45-23-46 of the General Laws in Chapter 45-23 entitled "Subdivision
2 of Land" is hereby amended to read as follows:

3 **45-23-46. General provisions — Construction and/or improvement guarantees.**

4 (a) The local regulations shall require ~~planning board~~ approval [of the permitting authority](#)
5 of agreements for the completion of all required public improvements prior to final plan approval
6 in the form of (1) completion of actual construction of all improvements, (2) improvement
7 guarantees, or (3) combination thereof.

8 (b) Where improvements are constructed without a financial guarantee, the work is to be
9 completed prior to final approval. All construction shall be inspected [by the appropriate town staff](#)
10 [or agents in a timely manner](#) and approved ~~under the direction of by~~ the administrative officer and
11 according to local regulations.

12 (c) Improvement guarantees shall be in an amount and with all necessary conditions to
13 secure for the municipality the actual construction and complete installation of all the required
14 improvements, within the period specified by the ~~planning board~~ [permitting authority](#). The amount
15 shall be based on actual cost estimates for all required public improvements and these estimates
16 shall be reviewed and approved by the ~~planning board~~ [permitting authority](#). The ~~board~~ [permitting](#)
17 [authority](#) may fix the guarantee in a reasonable amount in excess of the estimated costs to anticipate
18 for economic or construction conditions. Local regulations may include provisions for the review
19 and/or upgrade of guarantees.

1 (d) The security shall be in the ~~form~~ forms of a financial ~~instrument acceptable to the~~
2 ~~approving authority~~ instruments set forth in local regulations and shall enable the municipality to
3 gain timely access to the secured funds, for cause. The local regulations shall provide at least three
4 (3) acceptable forms of financial security and the approving authority shall not limit the security to
5 one specific form of the acceptable forms set forth in the local regulations.

6 (e) The local regulations shall establish procedures for the setting of improvement
7 guarantee amounts, for inspections of improvements, for acceptance of improvements by the
8 municipality and for the release of the improvement guarantees to the applicant. Procedures may
9 include provisions for partial releases of the guarantees as stages of the improvements are
10 completed, inspected and approved ~~under the coordination of~~ by the administrative officer and
11 reported to the ~~planning board~~ permitting authority.

12 (f) In the cases of developments and subdivisions which are being approved and
13 constructed in phases, the ~~planning board~~ permitting authority shall specify improvement guarantee
14 requirements related to each particular phase.

15 (g) The ~~planning board~~ permitting authority may also require maintenance guarantees to
16 be provided for a one year period subsequent to completion, inspection and acceptance of the
17 improvement(s) unless there are extenuating circumstances. Such maintenance guarantee shall not
18 exceed ten (10%) percent of the original guarantee amount.

19 (h) Procedures for the acceptance of required improvements shall stipulate that all
20 improvements, once inspected and approved, shall be accepted by the municipality or other
21 appropriate municipal agency for maintenance and/or part of the municipal system.

22 (i) The municipality is granted the power to enforce the guarantees by all appropriate legal
23 and equitable remedies.

24 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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- 1 This act would provide amendments relative to the permitting authority of, and acceptable
- 2 forms of financial security permissible for construction and/or improvement guarantees relating to
- 3 the completion of required public improvements.
- 4 This act would take effect upon passage.

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