

By: Schwertner

S.B. No. 47

A BILL TO BE ENTITLED

AN ACT

relating to performance bonds for certain public improvements in certain municipalities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 212.073, Local Government Code, is amended to read as follows:

Sec. 212.073. PERFORMANCE BOND; LETTER OF CREDIT. (a) Except as provided by Subsection (b), the [The] developer must execute a performance bond for the construction of the improvements that are the subject of the contract under Section 212.071 to ensure completion of the project. The bond must be executed by a corporate surety in accordance with Chapter 2253, Government Code. The amount of the bond must be for the contract price for the improvements. The municipality may not require the developer to include in the amount of the bond any other improvement related to the development that the developer did not contract with the municipality to construct under Section 212.071.

(b) The municipality and developer may agree that, instead of a performance bond under Subsection (a), the developer may submit to the municipality an irrevocable letter of credit in the amount required under Subsection (a) for the bond. As part of the agreement, the municipality may not pay any amount to the developer, issue a building permit related to the development other than a permit necessary for the improvements that are the subject of

1 the contract, or approve a subdivision plat for the developer
2 until:

3 (1) the improvements are:

4 (A) complete; or

5 (B) in the final phase of construction if the
6 improvements are constructed in phases; and

7 (2) the developer has submitted to the municipality an
8 affidavit stating that the developer has paid all costs associated
9 with the construction.

10 SECTION 2. Section 212.073, Local Government Code, as
11 amended by this Act, applies only to a contract entered into under
12 Section 212.071, Local Government Code, on or after the effective
13 date of this Act. A contract entered into under Section 212.071,
14 Local Government Code, before the effective date of this Act is
15 governed by the law applicable to the contract immediately before
16 the effective date of this Act, and that law is continued in effect
17 for that purpose.

18 SECTION 3. This Act takes effect on the 91st day after the
19 last day of the legislative session.