



HOUSE BILL 721: Subdivision Ordinance/Land Develop. Changes

2015-2016 General Assembly

Committee:	House Judiciary IV	Date:	April 21, 2015
Introduced by:	Reps. Bryan, Stam, Bishop, Bradford	Prepared by:	Kelly Tornow
Analysis of:	PCS to First Edition H721-CSTH-13		Committee Counsel

SUMMARY: *The PCS for House Bill 721 would amend and clarify the law regarding performance guarantees.*

CURRENT LAW: Cities (Part 2 of Article 19 of Chapter 160A) and counties (Part 2 of Article 18 of Chapter 153A) are authorized to adopt ordinances to regulate the subdivision of land within their territorial jurisdiction. These statutes authorize subdivision ordinances to require the construction of "community service facilities". To assure compliance with these and other ordinance requirements, cities and counties are authorized to provide for performance guarantees to assure successful completion of required improvements. Performance guarantees are financial assurances that guarantee funds if the developer fails to complete the agreed-to improvements. If a guarantee is required, the developer can choose from a range of different types of assurance.

BILL ANALYSIS: House Bill 721 would clarify that a performance guarantee is required at the time the plat is recorded. The bill would also create a new subsection, G.S.160A-372(g), that applies to performance guarantees for both cities and counties. The new subsection would define "performance guarantee" as any of the following: a surety bond issued by any company authorized to do business in the state, a letter of credit issued by any financial institution licensed to do business in the state, or any other form of guarantee of equivalent security than a surety bond or letter of credit. In addition, G.S. 160A-372(g) would require a performance guarantee to be returned at the time the improvements for which the guarantee is being required are completed. If the improvements are not complete, the performance guarantee must be extended, and the form of the guarantee would remain at the election of the developer. Subsection (g) would also cap the amount of a performance guarantee at 125% of the reasonably estimated cost of completion at the time the performance guarantee is issued, and would clarify that the performance guarantee must only be used for completion of the required improvements shown on the plat and not for repairs or maintenance after completion.

House Bill 721 also clarifies that a city or county may not withhold the issuance of a building permit or certificate of occupancy to compel completion of work for a separate permit or compliance with land use regulations with respect to another property or parcel.

EFFECTIVE DATE: This act becomes effective October 1, 2015, and applies to performance guarantees issued on or after that date.

O. Walker Reagan
Director



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