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AB 782: BOND LIMITS

FACT SHEET



SUMMARY

AB 782 removes burdensome and costly double-bonding requirements imposed by some local governments on developers for private improvements.

BACKGROUND

A bond is a type of surety bond used in construction projects to protect against financial loss if a contractor fails to complete a project or meet specifications. If a contractor does not fulfill the contract, both the surety and the contractor are liable.

Some local governments improperly require developers to bond for private improvements, such as streets, sidewalks, lighting, and landscaping, in addition to the bonds already required for public improvements. This double-bonding increases costs, creates administrative hurdles, and requires unnecessary public inspections for improvements that private entities, such as Homeowners Associations (HOAs), will ultimately own and maintain.

The Subdivision Map Act (SMA) should *clearly* state that private improvements are NOT subject to bonding requirements under the Subdivision Improvement Agreements (SIAs) with public entities.

Private improvements are typically bonded through the California Department of Real Estate (DRE) at the time a Public Report is issued.

This ensures that the developer has adequate financial assurance to complete the private work without burdening local governments.

However, some jurisdictions, including Livermore, Sonoma, and Calistoga, refuse to issue SIAs unless developers also bond for private improvements. This practice creates significant financial and administrative burdens, especially on large, multi-phase projects where bonding costs can reach hundreds of thousands of dollars.

Local jurisdictions cannot legally access these bonds to fund improvements. Despite requiring developers to post these bonds, cities have no legal right to "call the bond" or use the funds. In effect, local governments demand financial guarantees they can never use.

Some local governments force developers to post excessive bonds for private improvements, significantly increasing costs and delaying projects. In Livermore, the CAVA development was required to bond \$4.49 million for HOA-maintained improvements, adding between \$45,000 and \$180,000 in unnecessary costs. A similar issue occurred with the Amarone project, where the city required a \$7.03 million bond, increasing costs by \$70,000 to \$281,000.

Courts have ruled that local governments cannot impose requirements that state law does not explicitly mandate. However, some cities exploit loopholes in development permits to enforce double-bonding.

SOLUTION

AB 782 prohibits local governments from requiring bonds for private improvements under SIAs.

This bill does not affect the DRE's authority to require developers to bond for private improvements when issuing a Public Report. Developers would still provide financial assurances to DRE, but local governments could no longer impose redundant bonding.

SUPPORT

- California Building Industry Association (CBIA)

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