

[Second Reprint]

**SENATE, No. 1919**

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**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

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INTRODUCED JUNE 5, 2008

**Sponsored by:**

**Senator PAUL A. SARLO**

**District 36 (Bergen, Essex and Passaic)**

**Senator JEFF VAN DREW**

**District 1 (Cape May, Atlantic and Cumberland)**

**Co-Sponsored by:**

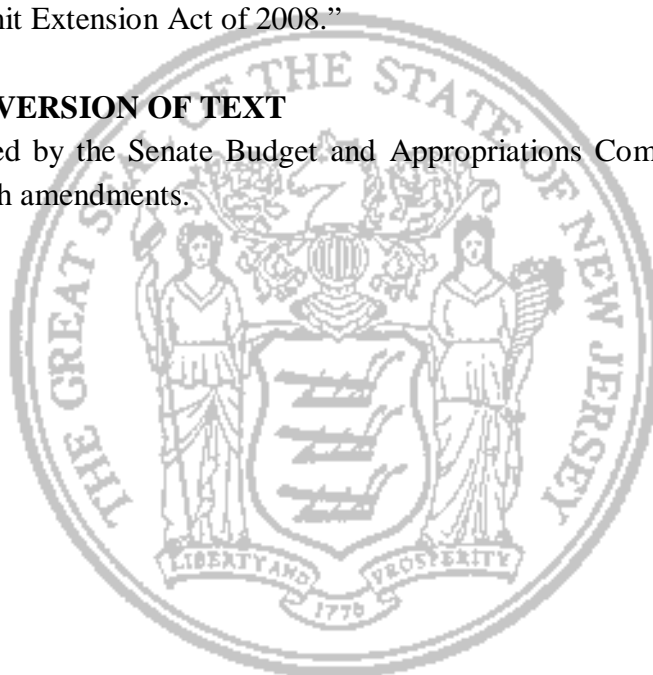
**Senators Haines, Sweeney, Buono, Cardinale, Oroho, Pennacchio, Ciesla, Bateman, Sacco, Allen, Kyrillos, Singer, Codey, Bucco, Madden, Stack, Baroni and Whelan**

**SYNOPSIS**

The "Permit Extension Act of 2008."

**CURRENT VERSION OF TEXT**

As reported by the Senate Budget and Appropriations Committee on June 19, 2008, with amendments.



**(Sponsorship Updated As Of: 6/24/2008)**

1 AN ACT concerning the extension of certain permits and approvals  
2 affecting the physical development of property located within the  
3 State of New Jersey, superseding all statutory and regulatory  
4 requirements to the contrary, and supplementing Title 40 of the  
5 Revised Statutes.

6  
7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:

9  
10 1. This act shall be known and may be cited as the “Permit  
11 Extension Act of 2008.”

12  
13 2. The Legislature finds and declares that:  
14 a. There exists a state of <sup>1</sup>**[**economic emergency in the State of  
15 New Jersey, which began on January 1, 2006, and is anticipated to  
16 extend at least through December 31, 2012**]** national recession<sup>1</sup>,  
17 which has drastically affected various segments of the New Jersey  
18 economy, but none as severely as the State's banking, real estate  
19 and construction sectors.

20 b. The real estate finance sector of the economy is in severe  
21 decline due to the sub-prime mortgage problem and the resultant  
22 widening mortgage finance crisis. The extreme tightening of  
23 lending standards for home buyers and other real estate borrowers  
24 has reduced access to the capital markets.

25 c. As a result of the crisis in the real estate finance sector of the  
26 economy, real estate developers and redevelopers, including  
27 homebuilders, and commercial, office, and industrial developers,  
28 have experienced an industry-wide decline, including reduced  
29 demand, cancelled orders, declining sales and rentals, price  
30 reductions, increased inventory, fewer buyers who qualify to  
31 purchase homes, layoffs, and scaled back growth plans.

32 d. <sup>1</sup>**[**A myriad of new regulations with regard to environmental  
33 protection have significantly increased the costs of infrastructure,  
34 site remediation, and construction, putting an additional strain on  
35 the economy.

36 e.<sup>1</sup> The process of obtaining planning board and zoning board  
37 of adjustment approvals for subdivisions, site plans, and variances  
38 **[is] can be**<sup>1</sup> difficult, time consuming and expensive, both for  
39 private applicants and government bodies.

40 <sup>1</sup>**[f.] e.**<sup>1</sup> The process of obtaining the myriad other government  
41 approvals, required pursuant to legislative enactments and their  
42 implementing rules and regulations,<sup>1</sup> such as wetlands permits,  
43 treatment works approvals, on-site wastewater disposal permits,

**EXPLANATION** – Matter enclosed in bold-faced brackets **[ thus ]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SEG committee amendments adopted June 19, 2008.

<sup>2</sup>Senate SBA committee amendments adopted June 19, 2008.

1 stream encroachment permits, flood hazard area permits, highway  
2 access permits, and numerous waivers and variances, '[is]' also  
3 'can be' difficult and expensive; further, changes in the law can  
4 render these approvals, if expired or lapsed, impossible to renew or  
5 re-obtain.

6 '[g. County and municipal governments, including local sewer  
7 and water authorities, obtain permits and approvals from State  
8 government agencies, particularly the Department of Environmental  
9 Protection, which permits and approvals may expire or lapse due to  
10 the state of the economy and the inability of both the public sector  
11 and the private sector to proceed with projects authorized by the  
12 permit or approval.

13 h.] f.' County and municipal governments '[also]' obtain  
14 determinations of master plan consistency, conformance, or  
15 endorsement with State or regional plans, from State and regional  
16 government entities which may expire or lapse without  
17 implementation due to the state of the economy.

18 '[i.] g.' The current '[economic crisis] national recession' has  
19 severely weakened the building industry, and many landowners and  
20 developers are seeing their life's work destroyed by the lack of  
21 credit and dearth of buyers and tenants, due to the crisis in real  
22 estate financing and the building industry, uncertainty over the state  
23 of the economy, and increasing levels of unemployment in the  
24 construction industry.

25 '[j.] h.' The construction industry and related trades are  
26 sustaining severe economic losses, and the lapsing of government  
27 development approvals '[is exacerbating] would, if not addressed,  
28 exacerbate' those losses.

29 '[k.] i.' Financial institutions that lent money to property  
30 owners, builders, and developers are experiencing erosion of  
31 collateral and depreciation of their assets as permits and approvals  
32 expire, and the extension of these permits and approvals is  
33 necessary to maintain the value of the collateral and the solvency of  
34 financial institutions throughout the State.

35 '[l.] j.' Due to the current inability of builders and their  
36 purchasers to obtain financing, under existing economic conditions,  
37 more and more once-approved permits are expiring or lapsing and,  
38 as these approvals lapse, lenders must re-appraise and thereafter  
39 substantially lower real estate valuations established in conjunction  
40 with approved projects, thereby requiring the reclassification of  
41 numerous loans which, in turn, affects the stability of the banking  
42 system and reduces the funds available for future lending, thus  
43 creating more severe restrictions on credit and leading to a vicious  
44 cycle of default.

45 '[m.] k.' As a result of the continued downturn of the economy,  
46 and the continued expiration of approvals which were granted by

1 State and local governments, it is possible that thousands of  
2 government actions will be undone by the passage of time.

3 '[n.] l.' Obtaining an extension of an approval pursuant to  
4 existing statutory or regulatory provisions '[is] can be' both costly  
5 in terms of time and financial resources, and insufficient to cope  
6 with the extent of the present financial '[emergency] situation' ;  
7 moreover, the costs imposed fall on the public as well as the private  
8 sector.

9 '[o. Obtaining extensions of approvals granted by State  
10 government is frequently impossible, always difficult, and always  
11 expensive and no policy reason is served by the expiration of these  
12 permits, which were approved only after exhaustive review of the  
13 application.

14 p.] m.' It is the purpose of this act to prevent the wholesale  
15 abandonment of '[approvals] approved projects and activities' due  
16 to the present unfavorable economic conditions, by '[tolling]  
17 extending' tolling<sup>2</sup> the term of these approvals '[until such] for  
18 a period of' time '[as the economy improves]' , thereby preventing  
19 a waste of public and private resources.

20

21 3. As used in this act:

22 "Approval" means <sup>2</sup>, except as otherwise provided in section 4 of  
23 this act,<sup>2</sup> any approval of a soil erosion and sediment control plan  
24 granted by a local soil conservation district under the authority  
25 conferred by R.S.4:24-22 et seq., waterfront development permit  
26 issued pursuant to R.S.12:5-1 et seq., permit issued pursuant to  
27 "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et seq.),  
28 permit issued pursuant to the "Freshwater Wetlands Protection  
29 Act," P.L.1987, c.156 (C.13:9B-1 et seq.), approval of an  
30 application for development granted by the Delaware and Raritan  
31 Canal Commission pursuant to the "Delaware and Raritan Canal  
32 State Park Law of 1974," P.L.1974, c.118 (C.13:13A-1 et seq.),  
33 permit issued by the New Jersey Meadowlands Commission  
34 pursuant to the "Hackensack Meadowlands Reclamation and  
35 Development Act," P.L.1968, c.404 (C.13:17-1 et seq.), approval of  
36 an application for development granted by the Pinelands  
37 Commission and determination of municipal and county plan  
38 conformance pursuant to the "Pinelands Protection Act," P.L.1979,  
39 c.111 (C.13:18A-1 et seq.), permit issued and center designations  
40 pursuant to the "Coastal Area Facility Review Act," P.L.1973, c.185  
41 (C.13:19-1 et seq.), '[permit and approval issued by the Highlands  
42 Water Protection and Planning Council and the Department of  
43 Environmental Protection pursuant to the "Highlands Water  
44 Protection and Planning Act," P.L. 2004, c.120 (C.13:20-1 et al.),]'<sup>1</sup>  
45 septic approval granted pursuant to Title 26 of the Revised Statutes,  
46 permit granted pursuant to R.S.27:7-1 et seq. or any supplement  
47 thereto, 'right-of-way' permit '[granted] issued' by the

1 Department of Transportation pursuant to '[Title 27 of the Revised  
2 Statutes or under the general authority conferred by State law]  
3 paragraph (3) of subsection (h) of section 5 of P.L.1966, c.301  
4 (C.27:1A-5)<sup>1</sup>, approval granted by a sewerage authority pursuant to  
5 the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et  
6 seq.), approval granted by a municipal authority pursuant to the  
7 "municipal and county utilities authorities law," P.L.1957, c.183  
8 (C.40:14B-1 et seq.), approval issued by a county planning board  
9 pursuant to Chapter 27 of Title 40 of the Revised Statutes,  
10 preliminary and final approval granted in connection with an  
11 application for development pursuant to the "Municipal Land Use  
12 Law," P.L.1975, c.291 (C.40:55D-1 et seq.), permit granted  
13 pursuant to the "State Uniform Construction Code Act," P.L.1975,  
14 c.217 (C.52:27D-119 et seq.), plan endorsement and center  
15 designations pursuant to the "State Planning Act," P.L.1985, c.398  
16 (C.52:18A-196 et '[seq.] al.<sup>1</sup>'), permit or certification issued  
17 pursuant to the "Water Supply Management Act," P.L.1981, c.262  
18 (C.58:1A-1 et seq.), permit granted authorizing the drilling of a well  
19 pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.), certification or  
20 permit granted, exemption from a sewerage connection ban granted,  
21 wastewater management plan approved, and pollution discharge  
22 elimination system permit pursuant to the "Water Pollution Control  
23 Act," P.L.1977, c.74 (C.58:10A-1 et seq.), certification granted  
24 pursuant to "The Realty Improvement Sewerage and Facilities Act  
25 (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), certification or  
26 approval granted pursuant to P.L.1971, c.386 (C.58:11-25.1 et seq.),  
27 certification issued and water quality management plan approved  
28 pursuant to the "Water Quality Planning Act," P.L.1977, c.75  
29 (C.58:11A-1 et seq.), approval granted pursuant to the "Safe  
30 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et seq.), permit  
31 issued pursuant to the "Flood Hazard Area Control Act," P.L.1962,  
32 c.19 (C.58:16A-50 et seq.), any municipal, county, regional, or  
33 State approval or permit granted under the general authority  
34 conferred by State law or rule or regulation, or any other  
35 government authorization of any development application or any  
36 permit related thereto whether that authorization is in the form of a  
37 permit, approval, license, certification, permission, determination,  
38 interpretation, exemption, variance, exception, waiver, letter of  
39 interpretation, no further action letter, agreement or any other  
40 executive or administrative decision which allows a development or  
41 governmental project to proceed.

42 "Development" means the division of a parcel of land into two or  
43 more parcels, the construction, reconstruction, conversion,  
44 structural alteration, relocation or enlargement of any building or  
45 other structure or facility, or of any grading, soil removal or  
46 relocation, excavation or landfill or any use or change in the use of  
47 any building or other structure or land or extension of the use of  
48 land.

1 "Environmentally sensitive area" means an area designated  
2 pursuant to the State Development and Redevelopment Plan,  
3 adopted, as of the effective date of this act, pursuant to P.L.1985,  
4 c.398 (C.52:18A-196 et al.) as Planning Area 4B  
5 (Rural/Environmentally Sensitive), Planning Area 5  
6 (Environmentally Sensitive), or a critical environmental site; the  
7 Highlands Region as defined in section 3 of P.L.2004, c.120  
8 (C.13:20-3) but shall not include any area designated for growth in  
9 the Highlands regional master plan adopted by the Highlands Water  
10 Protection and Planning Council pursuant to P.L.2004, c.120  
11 (C.13:20-1 et al.); and the pinelands area designated in section 10 of  
12 P.L.1979, c.111 (C.13:18A-11) but shall not include any growth  
13 area designated in the comprehensive management plan prepared  
14 and adopted by the Pinelands Commission pursuant to section 7 of  
15 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8).<sup>1</sup>

16 ["Economic emergency"] "Extension period"<sup>1</sup> means the period  
17 beginning <sup>1</sup>[January 1, 2006] January 1, 2007<sup>1</sup> and continuing  
18 through <sup>1</sup>[to December 31, 2012] <sup>2</sup>[December 31, 2010<sup>1</sup>] July 1,  
19 2010<sup>2</sup>.

20 "Government" means any municipal, county, regional, or State  
21 government, or any agency, department, commission or other  
22 instrumentality thereof.

23

24 4. a. For any government approval <sup>1</sup>[in existence during the  
25 economic emergency, the running of the period of approval is  
26 automatically suspended for the period of the economic emergency]  
27 <sup>2</sup>[which expired or is scheduled to expire during the extension  
28 period, that approval is automatically extended until December 31,  
29 2010<sup>1</sup>] in existence during the extension period, the running of the  
30 period of approval is automatically suspended for the extension  
31 period<sup>2</sup>, except as otherwise provided hereunder <sup>1</sup>[; however, the  
32 tolling provided for herein shall not extend the government  
33 approval more than two years beyond the period of the economic  
34 emergency]<sup>1 2</sup>; however, the tolling provided for herein shall not  
35 extend the government approval more than six months beyond the  
36 conclusion of the extension period<sup>2</sup>. Nothing in this act shall  
37 <sup>1</sup>shorten the duration that any approval would have had in the  
38 absence of this act, nor shall this act<sup>1</sup> prohibit the granting of such  
39 additional extensions as are provided by law when the <sup>1</sup>[tolling]<sup>2</sup>  
40 <sup>2</sup>[extensions<sup>1</sup>] tolling<sup>2</sup> granted by this act shall expire.

41 b. Nothing in this act shall be deemed to extend or purport to  
42 extend <sup>1</sup>;

43 (1)<sup>1</sup> any permit <sup>1</sup>or approval<sup>1</sup> issued by the government of the  
44 United States or any agency or instrumentality thereof, or to any  
45 permit <sup>1</sup>or approval<sup>1</sup> by whatever authority issued of which the  
46 duration of effect or the date or terms of its expiration are specified

1 or determined by or pursuant to law or regulation of the federal  
2 government or any of its agencies or instrumentalities <sup>1</sup>[.

3 c. Nothing in this act shall be deemed to extend ] ;

4 (2)<sup>1</sup> any permit or approval issued pursuant to the "Pinelands  
5 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.) if the  
6 extension would result in a violation of federal law, or any State  
7 rule or regulation requiring approval by the Secretary of the Interior  
8 pursuant to Pub.L.95-625 (16 U.S.C. s.471(i)) <sup>1</sup>[. ] ;

9 (3) any permit or approval issued within an environmentally  
10 sensitive area;

11 (4) any permit or approval within an environmentally sensitive  
12 area issued pursuant to the "Highlands Water Protection and  
13 Planning Act," P.L.2004, c.120 (C.13:20-1 et al.);

14 (5) any permit or approval issued by the Department of  
15 Transportation pursuant to Title 27 of the Revised Statutes or under  
16 the general authority conferred by State law, other than a right-of-  
17 way permit issued pursuant to paragraph (3) of subsection (h) of  
18 section 5 of P.L.1966, c.301 (C.27:1A-5) or a permit granted  
19 pursuant to R.S.27:7-1 et seq. or any supplement thereto; <sup>2</sup>[or]<sup>2</sup>

20 (6) any permit or approval issued pursuant to the "Flood Hazard  
21 Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), except  
22 where work has commenced, in any phase or section of the  
23 development, on any site improvement as defined in paragraph (1)  
24 of subsection a. of section 41 of the "Municipal Land Use Law,"  
25 P.L.1975, c.291, (C.40:55D-53) or on any buildings or structures <sup>2</sup>;  
26 or

27 (7) any coastal center designated pursuant to the "Coastal Area  
28 Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), that as of  
29 March 15, 2007 (a) had not submitted an application for plan  
30 endorsement to the State Planning Commission, and (b) was not in  
31 compliance with the provisions of the Coastal Zone Management  
32 Rules at N.J.A.C.7:7E-5B.6<sup>2</sup> .<sup>1</sup>

33 <sup>1</sup>[d.] c.<sup>1</sup> This act shall not affect any administrative consent  
34 order issued by the Department of Environmental Protection in  
35 effect or issued during the <sup>1</sup>extension<sup>1</sup> period <sup>1</sup>[of the economic  
36 emergency]<sup>1</sup> , nor shall it be construed to extend any approval in  
37 connection with a resource recovery facility as defined in section 2  
38 of P.L.1985, c.38 (C.13:1E-137).

39 <sup>1</sup>d. Nothing in this act shall affect the ability of the  
40 Commissioner of Environmental Protection to revoke or modify a  
41 specific permit or approval, or extension thereof pursuant to this  
42 act, when that specific permit or approval contains language  
43 authorizing the modification or revocation of the permit or approval  
44 by the department.<sup>1</sup>

45 e. In the event that any approval <sup>1</sup>[tolled] <sup>2</sup>[extended<sup>1</sup>] tolled<sup>2</sup>  
46 pursuant to this act is based upon the connection to a sanitary sewer  
47 system, the approval's extension shall be contingent upon the

1 availability of sufficient capacity, on the part of the treatment  
2 facility, to accommodate the development whose approval has been  
3 extended. If sufficient capacity is not available, those permit  
4 holders whose approvals have been extended shall have priority  
5 with regard to the further allocation of gallonage over those  
6 approval holders who have not received approval of a hookup prior  
7 to the 'date of' enactment of this act. Priority regarding the  
8 distribution of further gallonage to any permit holder who has  
9 received the extension of an approval pursuant to this act shall be  
10 allocated in order of the granting of the original approval of the  
11 connection.

12 f. This act shall not <sup>1</sup>[toll] <sup>2</sup>[extend<sup>1</sup>] toll<sup>2</sup> any approval issued  
13 under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1  
14 et seq.) in connection with an application for development  
15 involving a residential use where, subsequent to the expiration of  
16 the permit but prior to January 1, <sup>1</sup>[2005] 2007<sup>1</sup>, an amendment  
17 has been adopted to the master plan and the zoning ordinance to  
18 rezone the property to industrial or commercial use when the permit  
19 was issued for residential use.

20 <sup>1</sup>g. Nothing in this act shall be construed or implemented in such  
21 a way as to modify any requirement of law that is necessary to  
22 retain federal delegation to, or assumption by, the State of the  
23 authority to implement a federal law or program.

24 h. Nothing in this act shall be deemed to extend the obligation of  
25 any wastewater management planning agency to submit a  
26 wastewater management plan or plan update, or the obligation of a  
27 municipality to submit a wastewater management plan or plan  
28 update, pursuant to the "Water Quality Planning Act," P.L.1977,  
29 c.75 (C.58:11A-1 et seq.) and the Water Quality Management  
30 Planning rules, N.J.A.C.7:15-1.1 et seq., adopted by the Department  
31 of Environmental Protection, effective July 7, 2008.<sup>1</sup>

32  
33 5. State agencies shall, within 30 days after the effective date  
34 of this act, place a notice in the New Jersey Register <sup>1</sup>[tolling]  
35 <sup>2</sup>[extending<sup>1</sup>] tolling<sup>2</sup> all approvals in conformance with this act.

36  
37 6. The provisions of this act shall be liberally construed to  
38 effectuate the purposes of this act.

39  
40 7. This act shall take effect immediately.