

SENATE, No. 2551

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED OCTOBER 27, 2014

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator JOSEPH M. KYRILLOS, JR.

District 13 (Monmouth)

Co-Sponsored by:

Senator Oroho

SYNOPSIS

Extends for two years expiration date of certain permits pursuant to "Permit Extension Act of 2008."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/28/2014)

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2

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 and amending P.L.2008, c.78.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 2 of P.L.2008, c.78 (C.40:55D-136.2) is amended to
9 read as follows:

10 2. The Legislature finds and declares that:

11 a. The most recent national recession has caused one of the
12 longest economic downturns since the Great Depression of the
13 1930s and has drastically affected various segments of the New
14 Jersey economy, but none as severely as the State's banking, real
15 estate and construction sectors.

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

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

28 d. The process of obtaining planning board and zoning board of
29 adjustment approvals for subdivisions, site plans, and variances can
30 be difficult, time consuming and expensive, both for private
31 applicants and government bodies.

32 e. The process of obtaining the myriad other government
33 approvals, required pursuant to legislative enactments and their
34 implementing rules and regulations, such as wetlands permits,
35 treatment works approvals, on-site wastewater disposal permits,
36 stream encroachment permits, flood hazard area permits, highway
37 access permits, and numerous waivers and variances, also can be
38 difficult and expensive; further, changes in the law can render these
39 approvals, if expired or lapsed, impossible to renew or re-obtain.

40 f. County and municipal governments obtain determinations of
41 master plan consistency, conformance, or endorsement with State or
42 regional plans, from State and regional government entities which
43 may expire or lapse without implementation due to the state of the
44 economy.

45 g. **[The current national recession]** The most recent national
46 recession has severely weakened the building industry, and many

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.

1 landowners and developers are seeing their life's work destroyed by
2 the lack of credit and dearth of buyers and tenants, due to the crisis
3 in real estate financing and the building industry, uncertainty over
4 the state of the economy, and increasing levels of unemployment in
5 the construction industry.

6 h. The construction industry and related trades are sustaining
7 severe economic losses, and the lapsing of government development
8 approvals would, if not addressed, exacerbate those losses.

9 i. Financial institutions that lent money to property owners,
10 builders, and developers are experiencing erosion of collateral and
11 depreciation of their assets as permits and approvals expire, and the
12 extension of these permits and approvals is necessary to maintain
13 the value of the collateral and the solvency of financial institutions
14 throughout the State.

15 j. Due to the current inability of builders and their purchasers
16 to obtain financing, under existing economic conditions, more and
17 more once-approved permits are expiring or lapsing and, as these
18 approvals lapse, lenders must re-appraise and thereafter
19 substantially lower real estate valuations established in conjunction
20 with approved projects, thereby requiring the reclassification of
21 numerous loans which, in turn, affects the stability of the banking
22 system and reduces the funds available for future lending, thus
23 creating more severe restrictions on credit and leading to a vicious
24 cycle of default.

25 k. As a result of the continued downturn of the economy, and
26 the continued expiration of approvals which were granted by State
27 and local governments, it is possible that thousands of government
28 actions will be undone by the passage of time.

29 l. Obtaining an extension of an approval pursuant to existing
30 statutory or regulatory provisions can be both costly in terms of
31 time and financial resources, and insufficient to cope with the
32 extent of the present financial situation; moreover, the costs
33 imposed fall on the public as well as the private sector.

34 m. It is the purpose of this act to prevent the wholesale
35 abandonment of approved projects and activities due to the present
36 unfavorable economic conditions, by tolling the term of these
37 approvals for a period of time, thereby preventing a waste of public
38 and private resources.

39 (cf: P.L.2012, c.48, s.1)

40

41 2. Section 3 of P.L.2008, c.78 (C.40:55D-136.3) is amended to
42 read as follows:

43 3. As used in P.L.2008, c.78 (C.40:55D-136.1 et seq.):

44 "Approval" means, except as otherwise provided in section 4 of
45 P.L.2008, c.78 (C.40:55D-136.4), any approval of a soil erosion and
46 sediment control plan granted by a local soil conservation district
47 under the authority conferred by R.S.4:24-22 et seq., waterfront
48 development permit issued pursuant to R.S.12:5-1 et seq., permit

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1 issued pursuant to "The Wetlands Act of 1970," P.L.1970,
2 c.272 (C.13:9A-1 et seq.), permit issued pursuant to the "Freshwater
3 Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et al.),
4 approval of an application for development granted by the Delaware
5 and Raritan Canal Commission pursuant to the "Delaware and
6 Raritan Canal State Park Law of 1974," P.L.1974, c.118 (C.13:13A-
7 1 et seq.), permit issued by the New Jersey Meadowlands
8 Commission pursuant to the "Hackensack Meadowlands
9 Reclamation and Development Act," P.L.1968, c.404 (C.13:17-1 et
10 al.), approval of an application for development granted by the
11 Pinelands Commission and determination of municipal and county
12 plan conformance pursuant to the "Pinelands Protection Act,"
13 P.L.1979, c.111 (C.13:18A-1 et seq.), permit issued and center
14 designations pursuant to the "Coastal Area Facility Review Act,"
15 P.L.1973, c.185 (C.13:19-1 et seq.), septic approval granted
16 pursuant to Title 26 of the Revised Statutes, permit granted
17 pursuant to R.S.27:7-1 et seq. or any supplement thereto, right-of-
18 way permit issued by the Department of Transportation pursuant to
19 paragraph (3) of subsection (h) of section 5 of P.L.1966,
20 c.301 (C.27:1A-5), approval granted by a sewerage authority
21 pursuant to the "sewerage authorities law," P.L.1946,
22 c.138 (C.40:14A-1 et seq.), approval granted by a municipal
23 authority pursuant to the "municipal and county utilities authorities
24 law," P.L.1957, c.183 (C.40:14B-1 et seq.), an agreement with a
25 municipality, county, municipal authority, sewerage authority, or
26 other governmental authority for the use or reservation of sewerage
27 capacity, approval issued by a county planning board pursuant to
28 chapter 27 of Title 40 of the Revised Statutes, preliminary and final
29 approval granted in connection with an application for development
30 pursuant to the "Municipal Land Use Law," P.L.1975,
31 c.291 (C.40:55D-1 et seq.), permit granted pursuant to the "State
32 Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119
33 et seq.), plan endorsement and center designations pursuant to the
34 "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), permit
35 or certification issued pursuant to the "Water Supply Management
36 Act," P.L.1981, c.262 (C.58:1A-1 et al.), permit granted authorizing
37 the drilling of a well pursuant to P.L.1947, c.377 (C.58:4A-5 et
38 seq.), certification or permit granted, exemption from a sewerage
39 connection ban granted, wastewater management plan approved,
40 and pollution discharge elimination system permit pursuant to the
41 "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.),
42 certification granted pursuant to "The Realty Improvement
43 Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23
44 et seq.), certification or approval granted pursuant to P.L.1971,
45 c.386 (C.58:11-25.1 et al.), certification issued and water quality
46 management plan approved pursuant to the "Water Quality Planning
47 Act," P.L.1977, c.75 (C.58:11A-1 et seq.), approval granted
48 pursuant to the "Safe Drinking Water Act," P.L.1977,

1 c.224 (C.58:12A-1 et al.), permit issued pursuant to the "Flood
2 Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.),
3 any municipal, county, regional, or State approval or permit granted
4 under the general authority conferred by State law or rule or
5 regulation, or any other government authorization of any
6 development application or any permit related thereto whether that
7 authorization is in the form of a permit, approval, license,
8 certification, permission, determination, interpretation, exemption,
9 variance, exception, waiver, letter of interpretation, no further
10 action letter, agreement or any other executive or administrative
11 decision which allows a development or governmental project to
12 proceed.

13 "Development" means the division of a parcel of land into two or
14 more parcels, the construction, reconstruction, conversion,
15 structural alteration, relocation or enlargement of any building or
16 other structure or facility, or of any grading, soil removal or
17 relocation, excavation or landfill or any use or change in the use of
18 any building or other structure or land or extension of the use of
19 land.

20 "Environmentally sensitive area" means an area designated
21 pursuant to the State Development and Redevelopment Plan
22 adopted, as of the effective date of P.L.2008, c.78, pursuant to
23 P.L.1985, c.398 (C.52:18A-196 et al.) as Planning Area 4B
24 (Rural/Environmentally Sensitive), Planning Area 5
25 (Environmentally Sensitive), or a critical environmental site, but
26 shall not include any extension area as defined in this section.

27 "Extension area" means an area designated pursuant to P.L.1985,
28 c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan),
29 Planning Area 2 (Suburban), Planning Area 3 (Fringe Planning
30 Area), Planning Area 4A (Rural Planning Area), a designated
31 center, or a designated growth center in an endorsed plan until June
32 30, 2013, or until the State Planning Commission revises and
33 readopts New Jersey's State Strategic Plan and adopts regulations to
34 refine this definition as it pertains to Statewide planning areas,
35 whichever is later; a smart growth area and planning area
36 designated in a master plan adopted by the New Jersey
37 Meadowlands Commission pursuant to subsection (i) of section 6 of
38 P.L.1968, c.404 (C.13:17-6); regional growth areas, villages, and
39 towns, designated in the comprehensive management plan prepared
40 and adopted by the Pinelands Commission pursuant to section 7 of
41 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8); the
42 planning area of the Highlands Region as defined in section 3 of the
43 "Highlands Water Protection and Planning Act," P.L.2004,
44 c.120 (C.13:20-3), and any Highlands center designated by the
45 Highlands Water Protection and Planning Council, established
46 pursuant to section 4 of P.L.2004, c.120 (C.13:20-4); an urban
47 enterprise zone designated pursuant to P.L.1983, c.303 (C.52:27H-
48 60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an area

1 determined to be in need of redevelopment pursuant to sections 5
2 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) and as
3 approved by the Department of Community Affairs; or similar areas
4 designated by the Department of Environmental Protection.
5 "Extension area" shall not include an area designated pursuant to
6 the State Development and Redevelopment Plan adopted, as of the
7 effective date of P.L.2008, c.78, pursuant to P.L.1985, c.398 as
8 Planning Area 4B (Rural/Environmentally Sensitive) or Planning
9 Area 5 (Environmentally Sensitive), except for any area within
10 Planning Area 4B or Planning Area 5 that is a designated center, or
11 a designated growth center in an endorsed plan.

12 "Extension period" means the period beginning January 1, 2007
13 and continuing through December 31, ~~2014~~ 2016.

14 "Government" means any municipal, county, regional, or State
15 government, or any agency, department, commission or other
16 instrumentality thereof.

17 (cf: P.L.2012, c.48, s.2)

18

19 3. This act shall take effect immediately.

20

21

22 STATEMENT

23

24 This bill would extend the "Permit Extension Act of 2008,"
25 P.L.2008, c.78 (C.40:55D-136.1 et seq.), for two years.

26 The "Permit Extension Act of 2008" originally suspended the
27 running of certain government approvals until July 1, 2010.
28 P.L.2012, c.48 extended the end date of the "extension period" to
29 December 31, 2014. This bill would further extend the end date to
30 December 31, 2016. In accordance with the tolling provision
31 provided in the "Permit Extension Act of 2008," no approval would
32 be extended beyond six months after the conclusion of the extension
33 period, or until June 30, 2017 under this bill.

34 As a result of the most recent recession, once-approved permits
35 are in danger of expiring or lapsing because gaining permit
36 extensions is difficult and costly and developers do not have the
37 resources to obtain extensions. As permit approvals lapse, lenders
38 must re-appraise and thereafter substantially lower real estate
39 valuations established in conjunction with approved projects,
40 thereby requiring the reclassification of numerous loans. This in
41 turn affects the stability of the banking system and reduces the
42 funds available for future lending, thus creating more severe
43 restrictions on credit and leading to a vicious cycle of default.

44 Accordingly, this bill would extend permits which have been
45 granted by State, regional, county, and municipal agencies for an
46 additional two years in order to prevent a waste of public and
47 private resources.