

SENATE, No. 391

STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Senator JOSEPH PENNACCHIO

District 26 (Morris and Passaic)

SYNOPSIS

Exempts expansion or reconstruction, within 125% of existing footprint, of municipal and county buildings and certain emergency services buildings from “Highlands Water Protection and Planning Act.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



S391 PENNACCHIO

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1 AN ACT concerning certain development in the Highlands Region,
2 and amending P.L.2004, c.120.

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

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7 1. Section 30 of P.L.2004, c.120 (C.13:20-28) is amended to
8 read:

9 30. a. The following are exempt from the provisions of **[this**
10 **act]** P.L.2004, c.120 (C.13:20-1 et al.), the regional master plan,
11 any rules or regulations adopted by the Department of
12 Environmental Protection pursuant to **[this act]** P.L.2004, c.120
13 (C.13:20-1 et al.), or any amendments to a master plan,
14 development regulations, or other regulations adopted by a local
15 government unit to specifically conform them with the regional
16 master plan:

17 (1) the construction of a single family dwelling, for an
18 individual's own use or the use of an immediate family member, on
19 a lot owned by the individual on the date of enactment of **[this act]**
20 P.L.2004, c.120 (C.13:20-1 et al.) or on a lot for which the
21 individual has on or before May 17, 2004 entered into a binding
22 contract of sale to purchase that lot;

23 (2) the construction of a single family dwelling on a lot in
24 existence on the date of enactment of **[this act]** P.L.2004, c.120
25 (C.13:20-1 et al.), provided that the construction does not result in
26 the ultimate disturbance of one acre or more of land or a cumulative
27 increase in impervious surface by one-quarter acre or more;

28 (3) a major Highlands development that received on or before
29 March 29, 2004:

30 (a) one of the following approvals pursuant to the "Municipal
31 Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.):

32 (i) preliminary or final site plan approval;

33 (ii) final municipal building or construction permit;

34 (iii) minor subdivision approval where no subsequent site plan
35 approval is required;

36 (iv) final subdivision approval where no subsequent site plan
37 approval is required; or

38 (v) preliminary subdivision approval where no subsequent site
39 plan approval is required; and

40 (b) at least one of the following permits from the Department of
41 Environmental Protection, if applicable to the proposed major
42 Highlands development:

43 (i) a permit or certification pursuant to the "Water Supply
44 Management Act," P.L.1981, c.262 (C.58:1A-1 et seq.);

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 (ii) a water extension permit or other approval or authorization
2 pursuant to the "Safe Drinking Water Act," P.L.1977, c.224
3 (C.58:12A-1 et seq.);

4 (iii) a certification or other approval or authorization issued
5 pursuant to the "The Realty Improvement Sewerage and Facilities
6 Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.); or

7 (iv) a treatment works approval pursuant to the "Water Pollution
8 Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.); or

9 (c) one of the following permits from the Department of
10 Environmental Protection, if applicable to the proposed major
11 Highlands development, and if the proposed major Highlands
12 development does not require one of the permits listed in
13 subparagraphs (i) through (iv) of subparagraph (b) of this
14 paragraph:

15 (i) a permit or other approval or authorization issued pursuant
16 to the "Freshwater Wetlands Protection Act," P.L.1987, c.156
17 (C.13:9B-1 et seq.); or

18 (ii) a permit or other approval or authorization issued pursuant
19 to the "Flood Hazard Area Control Act," P.L.1962, c.19
20 (C.58:16A-50 et seq.).

21 The exemption provided in this paragraph shall apply only to the
22 land area and the scope of the major Highlands development
23 addressed by the qualifying approvals pursuant to subparagraphs (a)
24 and (b), or (c) if applicable, of this paragraph, shall expire if any of
25 those qualifying approvals expire, and shall expire if construction
26 beyond site preparation does not commence within three years after
27 the date of enactment of **【this act】** P.L.2004, c.120
28 (C.13:20-1 et al.);

29 (4) the reconstruction of any building or structure for any
30 reason within 125 **【%】** percent of the footprint of the lawfully
31 existing impervious surfaces on the site, provided that the
32 reconstruction does not increase the lawfully existing impervious
33 surface by one-quarter acre or more. This exemption shall not
34 apply to the reconstruction of any agricultural or horticultural
35 building or structure for a non-agricultural or non-horticultural use;

36 (5) any improvement to a single family dwelling in existence on
37 the date of enactment of **【this act】** P.L.2004, c.120
38 (C.13:20-1 et al.), including but not limited to an addition, garage,
39 shed, driveway, porch, deck, patio, swimming pool, or septic
40 system;

41 (6) any improvement, for non-residential purposes, to a place of
42 worship owned by a nonprofit entity, society or association, or
43 association organized primarily for religious purposes, or a public
44 or private school, or a hospital, in existence on the date of
45 enactment of **【this act】** P.L.2004, c.120 (C.13:20-1 et al.), including
46 but not limited to new structures, an addition to an existing building
47 or structure, a site improvement, or a sanitary facility;

S391 PENNACCHIO

1 (7) an activity conducted in accordance with an approved
2 woodland management plan pursuant to section 3 of P.L.1964, c.48
3 (C.54:4-23.3) or a forest stewardship plan approved pursuant to
4 section 3 of P.L.2009, c.256 (C.13:1L-31), or the normal harvesting
5 of forest products in accordance with a forest management plan or
6 forest stewardship plan approved by the State Forester;

7 (8) the construction or extension of trails with non-impervious
8 surfaces on publicly owned lands or on privately owned lands
9 where a conservation or recreational use easement has been
10 established;

11 (9) the routine maintenance and operations, rehabilitation,
12 preservation, reconstruction, or repair of transportation or
13 infrastructure systems by a State entity or local government unit,
14 provided that the activity is consistent with the goals and purposes
15 of **【this act】** P.L.2004, c.120 (C.13:20-1 et al.) and does not result
16 in the construction of any new through-capacity travel lanes;

17 (10) the construction of transportation safety projects and
18 bicycle and pedestrian facilities by a State entity or local
19 government unit, provided that the activity does not result in the
20 construction of any new through-capacity travel lanes;

21 (11) the routine maintenance and operations, rehabilitation,
22 preservation, reconstruction, repair, or upgrade of public utility
23 lines, rights of way, or systems, by a public utility, provided that the
24 activity is consistent with the goals and purposes of **【this act】**
25 P.L.2004, c.120 (C.13:20-1 et al.);

26 (12) the reactivation of rail lines and rail beds existing on the
27 date of enactment of **【this act】** P.L.2004, c.120 (C.13:20-1 et al.);

28 (13) the construction of a public infrastructure project approved
29 by public referendum prior to January 1, 2005 or a capital project
30 approved by public referendum prior to January 1, 2005;

31 (14) the mining, quarrying, or production of ready mix
32 concrete, bituminous concrete, or Class B recycling materials
33 occurring or which are permitted to occur on any mine, mine site, or
34 construction materials facility existing on June 7, 2004;

35 (15) the remediation of any contaminated site pursuant to
36 P.L.1993, c.139 (C.58:10B-1 et seq.);

37 (16) any lands of a federal military installation existing on the
38 date of enactment of **【this act】** P.L.2004, c.120 (C.13:20-1 et al.)
39 that lie within the Highlands Region; **【and】**

40 (17) a major Highlands development located within an area
41 designated as Planning Area 1 (Metropolitan), or Planning Area 2
42 (Suburban), as designated pursuant to P.L.1985, c.398
43 (C.52:18A-196 et seq.) as of March 29, 2004, that on or before
44 March 29, 2004 has been the subject of a settlement agreement and
45 stipulation of dismissal filed in the Superior Court, or a builder's
46 remedy issued by the Superior Court, to satisfy the constitutional
47 requirement to provide for the fulfillment of the fair share

1 obligation of the municipality in which the development is located.
2 The exemption provided pursuant to this paragraph shall expire if
3 construction beyond site preparation does not commence within
4 three years after receiving all final approvals required pursuant to
5 the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et
6 seq.); and

7 (18) the expansion or reconstruction within 125 percent of the
8 footprint of the lawfully existing impervious surfaces on the site,
9 provided that the expansion or reconstruction does not increase the
10 lawfully existing impervious surface on the site by one-quarter acre
11 or more, of (a) a building owned by a municipality or county and
12 used for the purposes of municipal or county government, (b) a
13 court house, or (c) a building used for the purposes of a volunteer
14 fire department, incorporated volunteer fire company, or volunteer
15 first aid, emergency, rescue, or ambulance squad.

16 b. The exemptions provided in subsection a. of this section
17 shall not be construed to alter or obviate the requirements of any
18 other applicable State or local laws, rules, regulations, development
19 regulations, or ordinances.

20 c. Nothing in **【this act】** P.L.2004, c.120 (C.13:20-1 et al.) shall
21 be construed to alter the funding allocation formulas established
22 pursuant to the "Garden State Preservation Trust Act," P.L.1999,
23 c.152 (C.13:8C-1 et seq.).

24 d. Nothing in **【this act】** P.L.2004, c.120 (C.13:20-1 et al.) shall
25 be construed to repeal, reduce, or otherwise modify the obligation
26 of counties, municipalities, and other municipal and public agencies
27 of the State to pay property taxes on lands used for the purpose and
28 for the protection of a public water supply, without regard to any
29 buildings or other improvements thereon, pursuant to R.S.54:4-3.3.
30 (cf: P.L.2009, c.256, s.11)

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32 2. This act shall take effect immediately.

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STATEMENT

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37 This bill would exempt the expansion or reconstruction, under
38 certain circumstances, of municipal and county buildings and
39 buildings used by certain emergency service organizations from the
40 "Highlands Water Protection and Planning Act."

41 Specifically, the bill amends the "Highlands Water Protection
42 and Planning Act" to add a new exemption for the expansion or
43 reconstruction within 125 percent of the footprint of the lawfully
44 existing impervious surfaces on the site, provided that the
45 expansion or reconstruction does not increase the lawfully existing
46 impervious surface on the site by one-quarter acre or more, of: a
47 building owned by a municipality or county and used for the
48 purposes of municipal or county government; a court house; or a

S391 PENNACCHIO

1 building used for the purposes of a volunteer fire department,
2 incorporated volunteer fire company, or volunteer first aid,
3 emergency, rescue, or ambulance squad. This expansion or
4 reconstruction would be exempt from the provisions of the
5 “Highlands Water Protection and Planning Act,” the regional
6 master plan adopted pursuant thereto, any rules or regulations
7 adopted by the Department of Environmental Protection pursuant
8 thereto, or any amendments to a master plan, development
9 regulations, or other regulations adopted by a local government unit
10 to specifically conform them with the Highlands regional master
11 plan.

12 The exemption in this bill is mirrored on an existing exemption
13 in the act that allows the reconstruction of any building or structure
14 for any reason within 125 percent of the footprint of the lawfully
15 existing impervious surfaces on the site, provided that the
16 reconstruction or expansion does not increase the lawfully existing
17 impervious surface on the site by one-quarter acre or more. This
18 bill would specifically exempt the limited expansion or
19 reconstruction of buildings owned by a municipality or county
20 (such as a municipal or county office building or a building housing
21 a police department or fire department), court houses, and buildings
22 used by volunteer fire departments, incorporated volunteer fire
23 companies, or volunteer first aid, emergency, rescue, or ambulance
24 squads.