

[First Reprint]

# ASSEMBLY, No. 3815

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED OCTOBER 16, 2014

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**SYNOPSIS**

Extends for one year expiration date of certain permits pursuant to "Permit Extension Act of 2008."

**CURRENT VERSION OF TEXT**

As reported by the Assembly Appropriations Committee on December 15, 2014, with amendments.

(Sponsorship Updated As Of: 12/19/2014)

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

**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>Assembly AAP committee amendments adopted December 15, 2014.**

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

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

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

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

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

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

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

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

41

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

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

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

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

1 pursuant to the "Safe Drinking Water Act," P.L.1977,  
2 c.224 (C.58:12A-1 et al.), permit issued pursuant to the "Flood  
3 Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.),  
4 any municipal, county, regional, or State approval or permit granted  
5 under the general authority conferred by State law or rule or  
6 regulation, or any other government authorization of any  
7 development application or any permit related thereto whether that  
8 authorization is in the form of a permit, approval, license,  
9 certification, permission, determination, interpretation, exemption,  
10 variance, exception, waiver, letter of interpretation, no further  
11 action letter, agreement or any other executive or administrative  
12 decision which allows a development or governmental project to  
13 proceed.

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

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

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

1 P.L.2001, c.347 (C.52:27H-66.2 et al.); an area determined to be in  
2 need of redevelopment pursuant to sections 5 and 6 of P.L.1992,  
3 c.79 (C.40A:12A-5 and 40A:12A-6) and as approved by the  
4 Department of Community Affairs; or similar areas designated by  
5 the Department of Environmental Protection. "Extension area"  
6 shall not include an area designated pursuant to the State  
7 Development and Redevelopment Plan adopted, as of the effective  
8 date of P.L.2008, c.78, pursuant to P.L.1985, c.398 as Planning  
9 Area 4B (Rural/Environmentally Sensitive) or Planning Area 5  
10 (Environmentally Sensitive), except for any area within Planning  
11 Area 4B or Planning Area 5 that is a designated center, or a  
12 designated growth center in an endorsed plan.

13 "Extension period" means the period beginning January 1, 2007  
14 and continuing through December 31, ~~2014~~ <sup>1</sup>~~2016~~ 2015<sup>1</sup>.

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

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

19

20 3. This act shall take effect immediately.