SYNOPSIS
Prohibits appeal of land use decision related to holding meeting electronically.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning appeals of electronic meetings held under the “Municipal Land Use Law” during a declared emergency, and supplementing P.L.1975, c.291 (C.40:55D-1 et seq.).

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

1. Notwithstanding any provision of law, rule, or regulation to the contrary, a decision of a municipal agency based, in whole or in part, on a meeting held by means of communication or other electronic equipment, in a manner consistent with section 1 of P.L.2020, c.11 (C.10:4-9.3), shall not be appealable on grounds attributable to convening the meeting by means of communication or other electronic equipment, including but not limited to, lack of a physical quorum, lack of proper notice, or lack of a reasonable opportunity to be heard, provided that reasonable public notice and provision for public input were made under the circumstances, consistent with: section 8 of P.L.2020, c.34 (C.52:27D-18.11); and with guidance documents issued by the Division of Local Government Services in the Department of Community Affairs and published on the division’s website on or before the date of the meeting.

2. This act shall take effect immediately and shall be applicable to a meeting conducted by a municipal agency on or after March 9, 2020 and during a period declared pursuant to the laws of this State as a state of emergency, public health emergency, or both, or for a reasonable period of time following cessation of a declared emergency, if so provided by executive order.

STATEMENT

This bill would prohibit the appeal of a municipal land use decision on the basis of a deviation from some requirement of law because a meeting was held by virtual or remote means during a declared emergency.

The “Municipal Land Use Law” (MLUL), P.L.1975, c.291 (C.40:55D-1 et seq.), requires municipal agencies (planning boards, boards of adjustment, and municipal governing bodies) to meet, consider, and take action on applications for development within specific time constraints, however, the State’s coronavirus-related emergency declarations have imposed social distancing restrictions that limit or prohibit in-person public meetings. To comply with these requirements and restrictions, municipal agencies may be forced to quickly transition from operating by in-person meeting to virtual meeting. This bill would encourage municipal agencies to operate under the MLUL by virtual means during a declared emergency.
emergency and assure developers that a land use approval will not
be overturned on appeal because an application for development
was considered at a virtual meeting.

Under the bill, a decision of a municipal agency under the
MLUL that is based, in whole or in part, on a virtual meeting, could
not be appealed on grounds attributable to convening the meeting
by virtual means. These grounds would include, but not be limited
to, the lack of a physical quorum, lack of proper notice, or lack of a
reasonable opportunity to be heard, provided that reasonable public
notice and provision for public input were made under the
circumstances. This bill is consistent with two recent enactments,
section 1 of P.L.2020, c.11 (C.10:4-9.3), and section 8 of P.L.2020,
c.34 (C.52:27D-18.11), neither of which specifically reference the
MLUL or decisions made thereunder. The bill also requires a
municipal agency to hold a virtual meeting consistent with guidance
documents issued by the Division of Local Government Services
(DLGS) in the Department of Community Affairs and published on
the DLGS website on or before the date of the meeting.