

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 4881

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 17, 2021

The Assembly State and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 4881.

As amended by the committee, 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 the declared emergency attributable to the COVID-19 pandemic.

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 COVID-19 emergency declarations have imposed social distancing restrictions that limit or prohibit in-person public meetings. To comply with these requirements and restrictions, municipal agencies have been forced to quickly transition from operating by in-person meeting to virtual meeting. This bill recognizes the difficulty of that transition and protects land use approvals granted during the COVID-19 emergency from appeals on grounds based upon the virtual meeting if the meeting was noticed and conducted consistently with State standards.

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 under certain circumstances. These grounds would include, but not be limited to, the lack of a physical quorum, lack of proper notice, the conduct of the meeting itself, or lack of a reasonable opportunity to be heard, provided that reasonable public notice and provision for public input were made under the circumstances. In order for an approval to be protected from appeal under the bill, the notice of the meeting, and the conduct of the meeting, must have been consistent with this bill, and with guidance documents issued by, or rules or regulation promulgated by, the Department of Community Affairs (DCA) and published on the

department's Internet website on the date the applicant requested the list pursuant to subsection c. of section 7.1 of P.L.1975, c.291 (C. 40:55D-12). The bill would also require all notices required by the MLUL to include directions for remote access by the public as provided to the applicant by the municipal agency.

COMMITTEE AMENDMENTS:

The committee amendments would limit applicability of the bill to the period of time during which the COVID-19 emergency declarations are in force, and for a reasonable time thereafter, if so provided by executive order. Committee amendments also provide that notice of and conduct of a municipal land use meeting must be consistent with DCA guidance provided at the time the applicant requests a list of property owners entitled to notice under the MLUL.