

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2346

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED MAY 7, 2020

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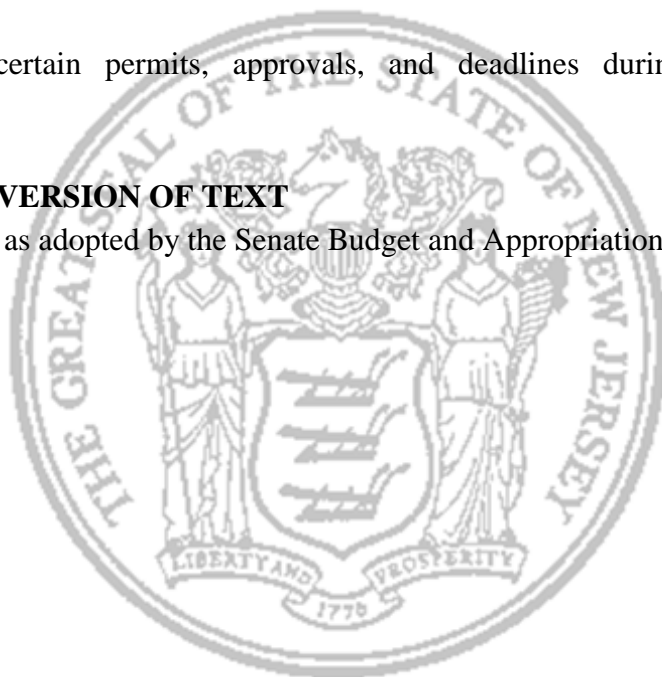
**Senators Addiego, Bateman, Cardinale, Oroho, O'Scanlon, Pennacchio,
Singer, Thompson, Diegnan, T.Kean and Cruz-Perez**

SYNOPSIS

Extends certain permits, approvals, and deadlines during COVID-19 emergency.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate Budget and Appropriations Committee.



1 AN ACT extending certain governmental permits, approvals, and
2 deadlines during the public health emergency created by the
3 COVID-19 pandemic, and supplementing Title 40 of the Revised
4 Statutes.

5

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

8

9 1. P.L. , c. (C.) (pending before the Legislature as this
10 bill) shall be known and may be cited as the "Permit Extension Act
11 of 2020."

12

13 2. The Legislature finds and declares that:

14 a. COVID-19 is a contagious, and at times fatal, respiratory
15 disease caused by the SARS-CoV-2 virus first discovered in the city
16 of Wuhan, Hubei Province, People's Republic of China, and
17 quickly spread to multiple other countries, including the United
18 States, and has severely impacted residents of the State of New
19 Jersey;

20 b. Due to the potential risk of COVID-19 to residents of New
21 Jersey, by way of Executive Order No. 103, Governor Philip D.
22 Murphy declared that a State of Emergency and a Public Health
23 Emergency exists in the State of New Jersey;

24 c. To limit the spread of COVID-19, it has become imperative
25 for governments, institutions, businesses, organizations, and people
26 throughout New Jersey to implement strict social distancing
27 measures and take other precautions to reduce the public health
28 impacts of the disease;

29 d. Due to the impacts of COVID-19 and protective measures
30 necessary to avoid its further spread, much government, business
31 and economic activity has been halted, disrupted, or delayed;

32 e. These delays have adversely impacted real estate developers
33 and redevelopers, including homebuilders, and commercial, office,
34 and industrial developers, whose projects may be held in abeyance
35 as a result of the COVID-19 pandemic. Many of these projects
36 have already received a myriad of governmental permits and
37 approvals, which are expensive and time-consuming to obtain;

38 f. Obtaining an extension of an approval pursuant to existing
39 statutory or regulatory provisions can be both costly in terms of
40 time and financial resources; moreover, the costs imposed may fall
41 on the public as well as the private sector; and

42 g. It is therefore appropriate, and the purpose of P.L. ,
43 c. (C.) (pending before the Legislature as this bill), to toll the
44 term of certain permits and approvals during the COVID-19
45 extension period in order to prevent the wholesale abandonment of
46 approved projects and activities due to the present unfavorable
47 economic conditions, thereby preventing a waste of public and

1 private resources and allowing for the quick resumption of projects
2 when it is safe to restart normal business and government activity.

3

4 3. As used in P.L. , c. (C.) (pending before the
5 Legislature as this bill):

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

1 management plan approved, and pollution discharge elimination
2 system permit pursuant to the "Water Pollution Control Act,"
3 P.L.1977, c.74 (C.58:10A-1 et seq.), certification granted pursuant
4 to "The Realty Improvement Sewerage and Facilities Act (1954),"
5 P.L.1954, c.199 (C.58:11-23 et seq.), certification or approval
6 granted pursuant to P.L.1971, c.386 (C.58:11-25.1 et al.),
7 certification issued and water quality management plan approved
8 pursuant to the "Water Quality Planning Act," P.L.1977, c.75
9 (C.58:11A-1 et seq.), approval granted pursuant to the "Safe
10 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et al.), permit
11 issued pursuant to the "Flood Hazard Area Control Act," P.L.1962,
12 c.19 (C.58:16A-50 et seq.), any municipal, county, regional, or
13 State approval or permit granted under the general authority
14 conferred by State law or rule or regulation, or any other
15 government authorization of any development application or any
16 permit related thereto whether that authorization is in the form of a
17 permit, approval, license, certification, permission, determination,
18 interpretation, exemption, variance, exception, waiver, letter of
19 interpretation, no further action letter, agreement, or any other
20 executive or administrative decision which allows a development or
21 governmental project to proceed; provided that, for all of the
22 foregoing, the approval was validly issued and the term of such
23 approval was unexpired as of March 9, 2020.

24 "COVID-19" means the coronavirus disease 2019, as announced
25 by the World Health Organization on February 11, 2020, and first
26 identified in Wuhan, China.

27 "COVID-19 extension period" means the period beginning
28 March 9, 2020 and continuing for as long as a public health
29 emergency pursuant to the "Emergency Health Powers Act,"
30 P.L.2005, c.222 (C.26:13-1 et seq.), or a state of emergency,
31 pursuant to P.L.1942, c.251 (C.App.A.9-33 et seq.), or both, that
32 has been declared by the Governor in response to COVID-19, is in
33 effect.

34 "Development" means the division of a parcel of land into two or
35 more parcels, the construction, reconstruction, conversion,
36 structural alteration, relocation, or enlargement of any building or
37 other structure or facility, or of any grading, soil removal or
38 relocation, excavation or landfill, or any use or change in the use of
39 any building or other structure or land or extension of the use of
40 land.

41 "Government" means any municipal, county, regional, or State
42 government, or any agency, department, commission, or other
43 instrumentality thereof.

44

45 4. For any government approval in existence on March 9, 2020,
46 the running of the period of approval is automatically suspended for
47 the COVID-19 extension period, however, the tolling provided for
48 herein shall not extend the government approval more than six

1 months beyond the conclusion of the COVID-19 extension period,
2 except that for any construction project suspended pursuant to
3 either the Governor's Executive Order No. 122 or any other
4 government order, the tolling period shall be 12 months beyond the
5 conclusion of the COVID-19 extension period. Nothing in this
6 section shall be construed to reduce the time period of any approval
7 in existence as of March 9, 2020.

8
9 5. Nothing in P.L. , c. (C.) (pending before the
10 Legislature as this bill) shall be deemed to extend or purport to
11 extend:

12 a. any permit or approval issued by the government of the
13 United States or any agency or instrumentality thereof, or any
14 permit or approval by whatever authority issued of which the
15 duration of effect or the date or terms of its expiration are specified
16 or determined by or pursuant to law or regulation of the federal
17 government or any of its agencies or instrumentalities;

18 b. any permit or approval issued pursuant to the "Pinelands
19 Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.) if the
20 extension would result in a violation of federal law, or any State
21 rule or regulation requiring approval by the Secretary of the Interior
22 pursuant to Pub.L.95-625 (16 U.S.C. s.471i);

23 c. any permit or approval issued by the Department of
24 Transportation pursuant to Title 27 of the Revised Statutes or under
25 the general authority conferred by State law, other than a right-of-
26 way permit issued pursuant to paragraph (3) of subsection (h) of
27 section 5 of P.L.1966, c.301 (C.27:1A-5) or a permit granted
28 pursuant to R.S.27:7-1 et seq. or any supplement thereto;

29 d. any permit or approval issued pursuant to the "Flood Hazard
30 Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), more than
31 six months beyond the conclusion of the COVID-19 extension
32 period, or, in the case of any construction project suspended
33 pursuant to either the Governor's Executive Order No. 122 or any
34 other government order, any such permit or approval issued more
35 than 12 months beyond the conclusion of the COVID-19 extension
36 period;

37 e. any coastal center designated pursuant to the "Coastal Area
38 Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), that as of
39 March 9, 2020 (a) had not submitted an application for plan
40 endorsement to the State Planning Commission, and (b) was not in
41 compliance with the provisions of the Coastal Zone Management
42 Rules in N.J.A.C.7:7E-5B.6; or

43 f. any permit or approval within the Highlands planning area
44 located in a municipality subject to the "Highlands Water Protection
45 and Planning Act," P.L.2004, c.120, that has adopted, as of March 9
46 2020, in accordance with the Highlands Water Protection and
47 Planning Council conformance approval, a Highlands master plan
48 element, a Highlands land use ordinance, or an environmental

1 resource inventory, except that the provisions of this subsection
2 shall not apply to any permit or approval within a Highlands center
3 designated by the Highlands Water Protection and Planning
4 Council, notwithstanding the adoption by the municipality of a
5 Highlands master plan element, a Highlands land use ordinance, or
6 an environmental resource inventory.

7
8 6. Nothing in P.L. , c. (C.) (pending before the
9 Legislature as this bill) shall be deemed to affect any administrative
10 consent order issued by the Department of Environmental
11 Protection in effect or issued during the COVID-19 extension
12 period, nor shall it be construed to extend any approval in
13 connection with a resource recovery facility as defined in section 2
14 of P.L.1985, c.38 (C.13:1E-137).

15
16 7. Nothing in P.L. , c. (C.) (pending before the
17 Legislature as this bill) shall be deemed to affect the ability of the
18 Commissioner of Environmental Protection to revoke or modify a
19 specific permit or approval, or extension thereof, when that specific
20 permit or approval, or the commissioner's underlying statutory or
21 regulatory authority, contains language authorizing the modification
22 or revocation of the permit or approval by the Department of
23 Environmental Protection.

24
25 8. In the event that any approval tolled pursuant to P.L. ,
26 c. (C.) (pending before the Legislature as this bill) is based
27 upon the connection to a sanitary sewer system, the approval's
28 extension shall be contingent upon the availability of sufficient
29 capacity, on the part of the treatment facility, to accommodate the
30 development for which the approval has been extended. If
31 sufficient capacity is not available, those permit holders whose
32 approvals have been extended shall have priority with regard to the
33 further allocation of gallonage over those approval holders who
34 have not received approval of a hookup prior to March 9, 2020.
35 Priority regarding the distribution of further gallonage to any permit
36 holder who has received the extension of an approval pursuant to
37 P.L. , c. (C.) (pending before the Legislature as this bill)
38 shall be allocated in order of the granting of the original approval of
39 the connection.

40
41 9. P.L. , c. (C.) (pending before the Legislature as this
42 bill) shall not toll any approval issued under the "Municipal Land
43 Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) in connection with
44 an application for development involving a residential use where,
45 subsequent to the expiration of the permit but prior to January 1,
46 2007, an amendment has been adopted to the master plan and the
47 zoning ordinance to rezone the property to industrial or commercial
48 use when the permit was issued for residential use.

1 10. Nothing in P.L. , c. (C.) (pending before the
2 Legislature as this bill) shall be deemed to, or implemented in such
3 a way as to, modify any requirement of law that is necessary to
4 retain federal delegation to, or assumption by, the State of the
5 authority to implement a federal law or program.

6
7 11. Nothing in P.L. , c. (C.) (pending before the
8 Legislature as this bill) shall be deemed to extend the obligation of
9 any wastewater management planning agency to submit a
10 wastewater management plan or plan update, or the obligation of a
11 municipality to submit a wastewater management plan or plan
12 update, pursuant to the "Water Quality Planning Act," P.L.1977,
13 c.75 (C.58:11A-1 et seq.) and the Water Quality Management
14 Planning rules, N.J.A.C.7:15-1.1 et seq.

15
16 12. All underlying government permits or approvals within
17 regional growth areas, villages, and towns, designated in the
18 comprehensive management plan prepared and adopted by the
19 Pinelands Commission pursuant to section 7 of the "Pinelands
20 Protection Act," P.L.1979, c.111 (C.13:18A-8), are extended for the
21 COVID-19 extension period in the pinelands area as designated
22 pursuant to the "Pinelands Protection Act," P.L.1979, c.111
23 (C.13:18A-1 et seq.).

24
25 13. Any registration, application, or licensing requirement or
26 timeframe imposed pursuant to P.L.2019, c.397 (C.13:1E-127.1 et
27 al.), applicable to a person who performs soil and fill recycling
28 services related to road or bridge construction activities, shall be
29 suspended as of March 9, 2020 and the calculation of any
30 registration, application filing, and licensing dates and the
31 requirements related thereto, shall resume on the 60th day after the
32 conclusion of the COVID-19 extension period.

33
34 14. Notwithstanding any provision of P.L.1975, c.291
35 (C.40:55D-1 et seq.) to the contrary,

36 a. The 45-day period for an application for development to a
37 municipal agency to be certified as complete pursuant to section 5
38 of P.L.1984, c.20 (C.40:55D-10.3) shall be extended to either 90
39 days after March 9, 2020, or 60 days after the date the application
40 for development is submitted to the municipal agency, whichever
41 date is later, for any application:

42 (1) awaiting certification as a complete application by a
43 municipal agency as of March 9, 2020; or

44 (2) submitted by an applicant during the COVID-19 extension
45 period.

46 b. The time periods required under P.L.1975, c.291 (C.40:55D-
47 1 et seq.) for any municipal agency to either grant or deny any

1 application for development shall be extended by 60 days for any
2 application:

3 (1) awaiting certification as a complete application by a
4 municipal agency as of March 9, 2020; or

5 (2) pending before a municipal agency as of March 9, 2020; or

6 (3) submitted by an applicant during the COVID-19 extension
7 period.

8

9 15. State agencies shall, within 30 days of the effective date of
10 P.L. , c. (C.) (pending before the Legislature as this bill),
11 place a notice in the New Jersey Register tolling approvals in
12 conformance with P.L. , c. (C.) (pending before the
13 Legislature as this bill).

14

15 16. This act shall take effect immediately and shall be
16 retroactive to March 9, 2020.