

SENATE, No. 3744

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MAY 11, 2021

Sponsored by:

Senator JAMES BEACH

District 6 (Burlington and Camden)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning appeals of electronic meetings held under the
2 “Municipal Land Use Law” during a declared emergency, and
3 supplementing P.L.1975, c.291 (C.40:55D-1 et seq.).
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
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8 1. Notwithstanding any provision of law, rule, or regulation to
9 the contrary, a decision of a municipal agency based, in whole or in
10 part, on a meeting held by means of communication or other
11 electronic equipment, in a manner consistent with section 1 of
12 P.L.2020, c.11 (C.10:4-9.3), shall not be appealable on grounds
13 attributable to convening the meeting by means of communication
14 or other electronic equipment, including but not limited to, lack of a
15 physical quorum, lack of proper notice, or lack of a reasonable
16 opportunity to be heard, provided that reasonable public notice and
17 provision for public input were made under the circumstances,
18 consistent with: section 8 of P.L.2020, c.34 (C.52:27D-18.11); and
19 with guidance documents issued by the Division of Local
20 Government Services in the Department of Community Affairs and
21 published on the division’s website on or before the date of the
22 meeting.
23

24 2. This act shall take effect immediately and shall be applicable
25 to a meeting conducted by a municipal agency on or after March 9,
26 2020 and during a period declared pursuant to the laws of this State
27 as a state of emergency, public health emergency, or both, or for a
28 reasonable period of time following cessation of a declared
29 emergency, if so provided by executive order.
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32 STATEMENT

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

38 The “Municipal Land Use Law” (MLUL), P.L.1975, c.291
39 (C.40:55D-1 et seq.), requires municipal agencies (planning boards,
40 boards of adjustment, and municipal governing bodies) to meet,
41 consider, and take action on applications for development within
42 specific time constraints, however, the State’s coronavirus-related
43 emergency declarations have imposed social distancing restrictions
44 that limit or prohibit in-person public meetings. To comply with
45 these requirements and restrictions, municipal agencies may be
46 forced to quickly transition from operating by in-person meeting to
47 virtual meeting. This bill would encourage municipal agencies to
48 operate under the MLUL by virtual means during a declared

1 emergency and assure developers that a land use approval will not
2 be overturned on appeal because an application for development
3 was considered at a virtual meeting.

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