

40:55D-136.2

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2012 **CHAPTER:** 48

NJSA: 40:55D-136.2 (Extends expiration date of certain permits pursuant to the "Permit Extension Act of 2008")

BILL NO: A1338 (Substituted for S743)

SPONSOR(S) Greenwald and others

DATE INTRODUCED: January 10, 2012

COMMITTEE: **ASSEMBLY:** Appropriations
Housing and Local Government

SENATE: ---

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 25, 2012

SENATE: June 28, 2012

DATE OF APPROVAL: September 19, 2012

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Fourth reprint enacted)

A1338

SPONSOR'S STATEMENT: (Begins on page 8 of original bill)	Yes	
COMMITTEE STATEMENT:	ASSEMBLY: Yes	Housing 1-30-12 Approp. 3-12-12
	SENATE: No	

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	Yes	2-16-12 6-21-12
LEGISLATIVE FISCAL ESTIMATE:	Yes	4-17-12 8-3-12

S743

SPONSOR'S STATEMENT: (Begins on page 8 of original bill)	Yes	
COMMITTEE STATEMENT:	ASSEMBLY: No	
	SENATE: Yes	Econ 3-5-12 Budget 3-8-12
FLOOR AMENDMENT STATEMENT:	Yes	
LEGISLATIVE FISCAL ESTIMATE:	Yes	4-11-12 8-3-12

(continued)

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

OTHER:

LAW/RWH

P.L.2012, CHAPTER 48, *approved September 19, 2012*

Assembly, No. 1338 (*Fourth Reprint*)

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. **[There exists a state of national recession, which]** The most
12 recent national recession has caused one of the longest economic
13 downturns since the Great Depression of the 1930's and has
14 drastically affected various segments of the New Jersey economy,
15 but none as severely as the State's banking, real estate and
16 construction sectors.

17 b. The real estate finance sector of the economy is in severe
18 decline due to the sub-prime mortgage problem and the resultant
19 widening mortgage finance crisis. The extreme tightening of
20 lending standards for home buyers and other real estate borrowers
21 has reduced access to the capital markets.

22 c. As a result of the crisis in the real estate finance sector of the
23 economy, real estate developers and redevelopers, including
24 homebuilders, and commercial, office, and industrial developers,
25 have experienced an industry-wide decline, including reduced
26 demand, cancelled orders, declining sales and rentals, price
27 reductions, increased inventory, fewer buyers who qualify to
28 purchase homes, layoffs, and scaled back growth plans.

29 d. The process of obtaining planning board and zoning board of
30 adjustment approvals for subdivisions, site plans, and variances can
31 be difficult, time consuming and expensive, both for private
32 applicants and government bodies.

33 e. The process of obtaining the myriad other government
34 approvals, required pursuant to legislative enactments and their
35 implementing rules and regulations, such as wetlands permits,
36 treatment works approvals, on-site wastewater disposal permits,
37 stream encroachment permits, flood hazard area permits, highway
38 access permits, and numerous waivers and variances, also can be

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:

¹Assembly AHO committee amendments adopted January 30, 2012.

²Assembly floor amendments adopted February 16, 2012.

³Assembly AAP committee amendments adopted March 12, 2012.

⁴Assembly floor amendments adopted June 21, 2012.

- 1 difficult and expensive; further, changes in the law can render these
2 approvals, if expired or lapsed, impossible to renew or re-obtain.
- 3 f. County and municipal governments obtain determinations of
4 master plan consistency, conformance, or endorsement with State or
5 regional plans, from State and regional government entities which
6 may expire or lapse without implementation due to the state of the
7 economy.
- 8 g. The current national recession has severely weakened the
9 building industry, and many landowners and developers are seeing
10 their life's work destroyed by the lack of credit and dearth of buyers
11 and tenants, due to the crisis in real estate financing and the
12 building industry, uncertainty over the state of the economy, and
13 increasing levels of unemployment in the construction industry.
- 14 h. The construction industry and related trades are sustaining
15 severe economic losses, and the lapsing of government development
16 approvals would, if not addressed, exacerbate those losses.
- 17 i. Financial institutions that lent money to property owners,
18 builders, and developers are experiencing erosion of collateral and
19 depreciation of their assets as permits and approvals expire, and the
20 extension of these permits and approvals is necessary to maintain
21 the value of the collateral and the solvency of financial institutions
22 throughout the State.
- 23 j. Due to the current inability of builders and their purchasers
24 to obtain financing, under existing economic conditions, more and
25 more once-approved permits are expiring or lapsing and, as these
26 approvals lapse, lenders must re-appraise and thereafter
27 substantially lower real estate valuations established in conjunction
28 with approved projects, thereby requiring the reclassification of
29 numerous loans which, in turn, affects the stability of the banking
30 system and reduces the funds available for future lending, thus
31 creating more severe restrictions on credit and leading to a vicious
32 cycle of default.
- 33 k. As a result of the continued downturn of the economy, and
34 the continued expiration of approvals which were granted by State
35 and local governments, it is possible that thousands of government
36 actions will be undone by the passage of time.
- 37 l. Obtaining an extension of an approval pursuant to existing
38 statutory or regulatory provisions can be both costly in terms of
39 time and financial resources, and insufficient to cope with the
40 extent of the present financial situation; moreover, the costs
41 imposed fall on the public as well as the private sector.
- 42 m. It is the purpose of this act to prevent the wholesale
43 abandonment of approved projects and activities due to the present
44 unfavorable economic conditions, by tolling the term of these
45 approvals for a period of time, thereby preventing a waste of public
46 and private resources.
- 47 (cf: P.L.2008, c.78, s.2)

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

3 3. As used in ⁴[this act] P.L.2008, c.78 (C.40:55D-136.1 et
4 seq.)⁴ :

5 "Approval" means, except as otherwise provided in section 4 of
6 ⁴[this act] P.L.2008, c.78 (C.40:55D-136.4)⁴ , any approval of a
7 soil erosion and sediment control plan granted by a local soil
8 conservation district under the authority conferred by R.S.4:24-22
9 et seq., waterfront development permit issued pursuant to R.S.12:5-
10 1 et seq., permit issued pursuant to "The Wetlands Act of 1970,"
11 P.L.1970, c.272 (C.13:9A-1 et seq.), permit issued pursuant to the
12 "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1
13 et al.), approval of an application for development granted by the
14 Delaware and Raritan Canal Commission pursuant to the "Delaware
15 and Raritan Canal State Park Law of 1974," P.L.1974, c.118
16 (C.13:13A-1 et seq.), permit issued by the New Jersey
17 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,¹ 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,

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

23 "Development" means the division of a parcel of land into two or
24 more parcels, the construction, reconstruction, conversion,
25 structural alteration, relocation or enlargement of any building or
26 other structure or facility, or of any grading, soil removal or
27 relocation, excavation or landfill or any use or change in the use of
28 any building or other structure or land or extension of the use of
29 land.

30 "Environmentally sensitive area" means an area designated
31 pursuant to the State Development and Redevelopment Plan
32 adopted, as of the effective date of ⁴**[this act]** P.L.2008, c.78⁴ ,
33 pursuant to P.L.1985, c.398 (C.52:18A-196 et al.) as Planning Area
34 4B (Rural/Environmentally Sensitive), Planning Area 5
35 (Environmentally Sensitive), or a critical environmental site **;** the
36 Highlands Region as defined in section 3 of P.L.2004, c.120
37 (C.13:20-3) but shall not include any area designated for growth in
38 the Highlands regional master plan adopted by the Highlands Water
39 Protection and Planning Council pursuant to P.L.2004, c.120
40 (C.13:20-1 et al.); and the pinelands area designated in section 10 of
41 P.L.1979, c.111 (C.13:18A-11) but shall not include any growth
42 area designated in the comprehensive management plan prepared
43 and adopted by the Pinelands Commission pursuant to section 7 of
44 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8) **], but**
45 shall not include any ¹**[smart growth]** extension¹ area as defined in
46 this section.

1 "Extension period" means the period beginning January 1, 2007
2 and continuing through December 31, ~~2012~~ 2014.

3 "Government" means any municipal, county, regional, or State
4 government, or any agency, department, commission or other
5 instrumentality thereof.

6 ~~["Smart growth"]~~ "Extension" area means an area designated
7 pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning
8 Area 1 (Metropolitan), Planning Area 2 (Suburban), Planning Area
9 3 (Fringe Planning Area), Planning Area 4A (Rural Planning Area),
10 a designated center, or a designated growth center in an endorsed
11 plan ¹until June 30, 2013, or until the State Planning Commission
12 revises and readopts New Jersey's State Strategic Plan and adopts
13 regulations to refine this definition as it pertains to Statewide
14 planning areas, whichever is later¹; a smart growth area and
15 planning area designated in a master plan adopted by the New
16 Jersey Meadowlands Commission pursuant to subsection (i) of
17 section 6 of P.L.1968, c.404 (C.13:17-6); regional growth areas,
18 villages, and towns, designated in the comprehensive management
19 plan prepared and adopted by the Pinelands Commission pursuant
20 to section 7 of the "Pinelands Protection Act," P.L.1979, c.111
21 (C.13:18A-8); the ⁴[Planning Area] planning area⁴ of the ⁴[New
22 Jersey]⁴ Highlands ⁴[pursuant to] Region as defined in section 3
23 of⁴ the "Highlands Water Protection and Planning Act," P.L.2004,
24 c.120 ⁴[(C.13:20-1 et al.)] (C.13:20-3), and any Highlands center
25 designated by the Highlands Water Protection and Planning
26 Council, established pursuant to section 4 of P.L.2004, c.120
27 (C.13:20-4)⁴; an urban enterprise zone designated pursuant to
28 P.L.1983, c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347
29 (C.52:27H-66.2 et al.); an area determined to be in need of
30 redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79
31 (C.40A:12A-5 and 40A:12A-6) and as approved by the Department
32 of Community Affairs; or similar areas designated by the
33 Department of Environmental Protection. ⁴"Extension area" shall
34 not include an area designated pursuant to the State Development
35 and Redevelopment Plan adopted, as of the effective date of
36 P.L.2008, c.78, pursuant to P.L.1985, c.398 as Planning Area 4B
37 (Rural/Environmentally Sensitive) or Planning Area 5
38 (Environmentally Sensitive), except for any area within Planning
39 Area 4B or Planning Area 5 that is a designated center, or a
40 designated growth center in an endorsed plan.⁴

41 (cf: P.L.2009, c.336, s.1)

42
43 3. Section 4 of P.L.2008, c.78 (C.40:55D-136.4) is amended to
44 read as follows:

45 4. a. For any government approval in existence during the
46 extension period, the running of the period of approval is

1 automatically suspended for the extension period, except as
2 otherwise provided hereunder; however, the tolling provided for
3 herein shall not extend the government approval more than six
4 months beyond the conclusion of the extension period. Nothing in
5 ⁴[this act] P.L.2008, c.78 (C.40:55D-136.1 et seq.)⁴ shall shorten
6 the duration that any approval would have had in the absence of
7 ⁴[this act] P.L.2008, c.78⁴, nor shall ⁴[this act] P.L.2008, c.78⁴
8 prohibit the granting of such additional extensions as are provided
9 by law when the tolling granted by ⁴[this act] P.L.2008, c.78⁴ shall
10 expire. Notwithstanding any previously enacted provision of
11 P.L.2008, c.78, as amended and supplemented, the running of the
12 period of approval of all government approvals which would have
13 been extended pursuant to the definition of ¹["smart growth]
14 "extension¹ area," added by P.L. , c. (pending before the
15 Legislature as this bill), shall be calculated, using that definition,
16 retroactive to the enactment of P.L.2008, c.78.

17 b. Nothing in ⁴[this act] P.L.2008, c.78 (C.40:55D-136.1 et
18 seq.)⁴ shall be deemed to extend or purport to extend:

19 (1) any permit or approval issued by the government of the
20 United States or any agency or instrumentality thereof, or any
21 permit or approval by whatever authority issued of which the
22 duration of effect or the date or terms of its expiration are specified
23 or determined by or pursuant to law or regulation of the federal
24 government or any of its agencies or instrumentalities;

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

30 (3) any permit or approval issued within an environmentally
31 sensitive area;

32 (4) any permit or approval within an environmentally sensitive
33 area issued pursuant to the "Highlands Water Protection and
34 Planning Act," P.L.2004, c.120 (C.13:20-1 et al.) ⁴, or any permit or
35 approval issued within the preservation area of the Highlands
36 Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3)⁴ ;

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

43 (6) any permit or approval issued pursuant to the "Flood Hazard
44 Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), except
45 ³(a)³ where work has commenced, in any phase or section of the
46 development, on any site improvement as defined in paragraph (1)

1 of subsection a. of section 41 of the "Municipal Land Use Law,"
2 P.L.1975, c.291 (C.40:55D-53) or on any buildings or structures ³or
3 (b) where the permit or approval authorizes work on real property
4 owned by the government or the federal government³ ; ⁴[or]⁴

5 (7) any coastal center designated pursuant to the "Coastal Area
6 Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), that as of
7 March 15, 2007 (a) had not submitted an application for plan
8 endorsement to the State Planning Commission, and (b) was not in
9 compliance with the provisions of the Coastal Zone Management
10 Rules at N.J.A.C.7:7E-5B.6 ⁴; or

11 (8) any permit or approval within the Highlands planning area
12 located in a municipality subject to the "Highlands Water Protection
13 and Planning Act," P.L.2004, c.120, that has adopted, as of May 1,
14 2012, in accordance with the Highlands Water Protection and
15 Planning Council conformance approval, a Highlands master plan
16 element, a Highlands land use ordinance, or an environmental
17 resource inventory, except that the provisions of this paragraph
18 shall not apply to any permit or approval within a Highlands center
19 designated by the Highlands Water Protection and Planning
20 Council, notwithstanding the adoption by the municipality of a
21 Highlands master plan element, a Highlands land use ordinance, or
22 an environmental resource inventory⁴ .

23 c. ⁴[This act] P.L.2008, c.78⁴ shall not affect any
24 administrative consent order issued by the Department of
25 Environmental Protection in effect or issued during the extension
26 period, nor shall it be construed to extend any approval in
27 connection with a resource recovery facility as defined in section 2
28 of P.L.1985, c.38 (C.13:1E-137).

29 d. Nothing in ⁴[this act] P.L.2008, c.78⁴ shall affect the ability
30 of the Commissioner of Environmental Protection to revoke or
31 modify a specific permit or approval, or extension thereof pursuant
32 to ⁴[this act] P.L.2008, c.78⁴ , when that specific permit or
33 approval contains language authorizing the modification or
34 revocation of the permit or approval by the department.

35 e. In the event that any approval tolled pursuant to ⁴[this act]
36 P.L.2008, c.78⁴ is based upon the connection to a sanitary sewer
37 system, the approval's extension shall be contingent upon the
38 availability of sufficient capacity, on the part of the treatment
39 facility, to accommodate the development whose approval has been
40 extended. If sufficient capacity is not available, those permit
41 holders whose approvals have been extended shall have priority
42 with regard to the further allocation of gallonage over those
43 approval holders who have not received approval of a hookup prior
44 to the date of enactment of ⁴[this act] P.L.2008, c.78⁴ . Priority
45 regarding the distribution of further gallonage to any permit holder
46 who has received the extension of an approval pursuant to ⁴[this

1 act] P.L.2008, c.78⁴ shall be allocated in order of the granting of
2 the original approval of the connection.

3 f. ⁴["This act] P.L.2008, c.78⁴ shall not toll any approval
4 issued under the "Municipal Land Use Law," P.L.1975, c.291
5 (C.40:55D-1 et seq.) in connection with an application for
6 development involving a residential use where, subsequent to the
7 expiration of the permit but prior to January 1, 2007, an amendment
8 has been adopted to the master plan and the zoning ordinance to
9 rezone the property to industrial or commercial use when the permit
10 was issued for residential use.

11 g. Nothing in ⁴[this act] P.L.2008, c.78⁴ shall be construed or
12 implemented in such a way as to modify any requirement of law
13 that is necessary to retain federal delegation to, or assumption by,
14 the State of the authority to implement a federal law or program.

15 h. Nothing in ⁴[this act] P.L.2008, c.78⁴ shall be deemed to
16 extend the obligation of any wastewater management planning
17 agency to submit a wastewater management plan or plan update, or
18 the obligation of a municipality to submit a wastewater
19 management plan or plan update, pursuant to the "Water Quality
20 Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.) and the Water
21 Quality Management Planning rules, N.J.A.C.7:15-1.1 et seq.,
22 adopted by the Department of Environmental Protection, effective
23 July 7, 2008.

24 i. All underlying municipal, county, and State permits or
25 approvals ¹within the extension area as defined in section 3 of
26 P.L.2008, c.78 (C.40:55D-136.3), as amended, ¹ are extended in the
27 Pinelands Area as designated pursuant to the "Pinelands Protection
28 Act," ³[pursuant to] ³ P.L.1979, c.111 (C.13:18A-1 et seq.).
29 (cf: P.L.2008, c.78, s.4)

30

31 4. Section 5 of P.L.2008, c.78 (C.40:55D-136.5) is amended to
32 read as follows:

33 5. State agencies shall, within 30 days after the effective date
34 ["of this act] of P.L.2008, c.78 (C.40:55D-136.1 et seq.), and within
35 30 days after the effective date of any subsequent amendment and
36 supplement thereto, place a notice in the New Jersey Register
37 tolling all approvals in conformance with this act.

38 (cf: P.L.2008, c.78, s.5)

39

40 5. Section 6 of P.L.2008, c.78 (C.40:55D-136.6) is amended to
41 read as follows:

42 6. The provisions of this act shall be liberally construed to
43 effectuate the purposes of this act, and any subsequent amendment
44 and supplement thereto.

45 (cf: P.L.2008, c.78, s.6)

46

47 6. This act shall take effect immediately.

1

2

3

Extends expiration date of certain permits pursuant to the

4

“Permit Extension Act of 2008.”

ASSEMBLY, No. 1338

STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblyman ALEX DECROCE

District 26 (Essex, Morris and Passaic)

Assemblyman JERRY GREEN

District 22 (Middlesex, Somerset and Union)

Assemblyman MATTHEW W. MILAM

District 1 (Atlantic, Cape May and Cumberland)

Assemblyman PAUL D. MORIARTY

District 4 (Camden and Gloucester)

Co-Sponsored by:

Assemblyman Fuentes, Assemblywoman Riley, Assemblymen Singleton, Coutinho, Amodeo, Rible, Coughlin, Bramnick, Assemblywoman McHose, Assemblymen Chiusano, Wilson, Diegnan, Assemblywoman Lampitt, Assemblymen Johnson, Albano, DeAngelo and Assemblywoman N.Munoz

SYNOPSIS

Extends expiration date of certain permits pursuant to the "Permit Extension Act of 2008."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 1/31/2012)

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. **[There exists a state of national recession, which]** The most
12 recent national recession has caused one of the longest economic
13 downturns since the Great Depression of the 1930's and has
14 drastically affected various segments of the New Jersey economy,
15 but none as severely as the State's banking, real estate and
16 construction sectors.

17 b. The real estate finance sector of the economy is in severe
18 decline due to the sub-prime mortgage problem and the resultant
19 widening mortgage finance crisis. The extreme tightening of
20 lending standards for home buyers and other real estate borrowers
21 has reduced access to the capital markets.

22 c. As a result of the crisis in the real estate finance sector of the
23 economy, real estate developers and redevelopers, including
24 homebuilders, and commercial, office, and industrial developers,
25 have experienced an industry-wide decline, including reduced
26 demand, cancelled orders, declining sales and rentals, price
27 reductions, increased inventory, fewer buyers who qualify to
28 purchase homes, layoffs, and scaled back growth plans.

29 d. The process of obtaining planning board and zoning board of
30 adjustment approvals for subdivisions, site plans, and variances can
31 be difficult, time consuming and expensive, both for private
32 applicants and government bodies.

33 e. The process of obtaining the myriad other government
34 approvals, required pursuant to legislative enactments and their
35 implementing rules and regulations, such as wetlands permits,
36 treatment works approvals, on-site wastewater disposal permits,
37 stream encroachment permits, flood hazard area permits, highway
38 access permits, and numerous waivers and variances, also can be
39 difficult and expensive; further, changes in the law can render these
40 approvals, if expired or lapsed, impossible to renew or re-obtain.

41 f. County and municipal governments obtain determinations of
42 master plan consistency, conformance, or endorsement with State or
43 regional plans, from State and regional government entities which
44 may expire or lapse without implementation due to the state of the
45 economy.

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.

1 g. The current national recession has severely weakened the
2 building industry, and many landowners and developers are seeing
3 their life's work destroyed by the lack of credit and dearth of buyers
4 and tenants, due to the crisis in real estate financing and the
5 building industry, uncertainty over the state of the economy, and
6 increasing levels of unemployment in 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.2008, c.78, s.2)

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 this act:

45 "Approval" means, except as otherwise provided in section 4 of
46 this act, any approval of a soil erosion and sediment control plan
47 granted by a local soil conservation district under the authority

1 conferred by R.S.4:24-22 et seq., waterfront development permit
2 issued pursuant to R.S.12:5-1 et seq., permit issued pursuant to
3 "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et seq.),
4 permit issued pursuant to the "Freshwater Wetlands Protection
5 Act," P.L.1987, c.156 (C.13:9B-1 et al.), approval of an application
6 for development granted by the Delaware and Raritan Canal
7 Commission pursuant to the "Delaware and Raritan Canal State
8 Park Law of 1974," P.L.1974, c.118 (C.13:13A-1 et seq.), permit
9 issued by the New Jersey Meadowlands Commission pursuant to
10 the "Hackensack Meadowlands Reclamation and Development
11 Act," P.L.1968, c.404 (C.13:17-1 et al.), approval of an application
12 for development granted by the Pinelands Commission and
13 determination of municipal and county plan conformance pursuant
14 to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et
15 seq.), permit issued and center designations pursuant to the "Coastal
16 Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.),
17 septic approval granted pursuant to Title 26 of the Revised Statutes,
18 permit granted pursuant to R.S.27:7-1 et seq. or any supplement
19 thereto, right-of-way permit issued by the Department of
20 Transportation pursuant to paragraph (3) of subsection (h) of
21 section 5 of P.L.1966, c.301 (C.27:1A-5), approval granted by a
22 sewerage authority pursuant to the "sewerage authorities law,"
23 P.L.1946, c.138 (C.40:14A-1 et seq.), approval granted by a
24 municipal authority pursuant to the "municipal and county utilities
25 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), approval
26 issued by a county planning board pursuant to chapter 27 of Title 40
27 of the Revised Statutes, preliminary and final approval granted in
28 connection with an application for development pursuant to the
29 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.),
30 permit granted pursuant to the "State Uniform Construction Code
31 Act," P.L.1975, c.217 (C.52:27D-119 et seq.), plan endorsement
32 and center designations pursuant to the "State Planning Act,"
33 P.L.1985, c.398 (C.52:18A-196 et al.), permit or certification issued
34 pursuant to the "Water Supply Management Act," P.L.1981, c.262
35 (C.58:1A-1 et al.), permit granted authorizing the drilling of a well
36 pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.), certification or
37 permit granted, exemption from a sewerage connection ban granted,
38 wastewater management plan approved, and pollution discharge
39 elimination system permit pursuant to the "Water Pollution Control
40 Act," P.L.1977, c.74 (C.58:10A-1 et seq.), certification granted
41 pursuant to "The Realty Improvement Sewerage and Facilities Act
42 (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), certification or
43 approval granted pursuant to P.L.1971, c.386 (C.58:11-25.1 et al.),
44 certification issued and water quality management plan approved
45 pursuant to the "Water Quality Planning Act," P.L.1977, c.75
46 (C.58:11A-1 et seq.), approval granted pursuant to the "Safe
47 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et al.), permit

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

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

19 "Environmentally sensitive area" means an area designated
20 pursuant to the State Development and Redevelopment Plan
21 adopted, as of the effective date of this act, pursuant to P.L.1985,
22 c.398 (C.52:18A-196 et al.) as Planning Area 4B
23 (Rural/Environmentally Sensitive), Planning Area 5
24 (Environmentally Sensitive), or a critical environmental site [; the
25 Highlands Region as defined in section 3 of P.L.2004, c.120
26 (C.13:20-3) but shall not include any area designated for growth in
27 the Highlands regional master plan adopted by the Highlands Water
28 Protection and Planning Council pursuant to P.L.2004, c.120
29 (C.13:20-1 et al.); and the pinelands area designated in section 10 of
30 P.L.1979, c.111 (C.13:18A-11) but shall not include any growth
31 area designated in the comprehensive management plan prepared
32 and adopted by the Pinelands Commission pursuant to section 7 of
33 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8)] , but
34 shall not include any smart growth area as defined in this section.

35 "Extension period" means the period beginning January 1, 2007
36 and continuing through December 31, [2012] 2014.

37 "Government" means any municipal, county, regional, or State
38 government, or any agency, department, commission or other
39 instrumentality thereof.

40 "Smart growth area" means an area designated pursuant to
41 P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1
42 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3
43 (Fringe Planning Area), Planning Area 4A (Rural Planning Area), a
44 designated center, or a designated growth center in an endorsed
45 plan; a smart growth area and planning area designated in a master
46 plan adopted by the New Jersey Meadowlands Commission
47 pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-

1 6); regional growth areas, villages, and towns, designated in the
2 comprehensive management plan prepared and adopted by the
3 Pinelands Commission pursuant to section 7 of the "Pinelands
4 Protection Act," P.L.1979, c.111 (C.13:18A-8); the Planning Area
5 of the New Jersey Highlands pursuant to the "Highlands Water
6 Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.); an
7 urban enterprise zone designated pursuant to P.L.1983, c.303
8 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an
9 area determined to be in need of redevelopment pursuant to sections
10 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) and as
11 approved by the Department of Community Affairs; or similar areas
12 designated by the Department of Environmental Protection.
13 (cf: P.L.2009, c.336, s.1)

14
15 3. Section 4 of P.L.2008, c.78 (C.40:55D-136.4) is amended to
16 read as follows:

17 4. a. For any government approval in existence during the
18 extension period, the running of the period of approval is
19 automatically suspended for the extension period, except as
20 otherwise provided hereunder; however, the tolling provided for
21 herein shall not extend the government approval more than six
22 months beyond the conclusion of the extension period. Nothing in
23 this act shall shorten the duration that any approval would have had
24 in the absence of this act, nor shall this act prohibit the granting of
25 such additional extensions as are provided by law when the tolling
26 granted by this act shall expire. Notwithstanding any previously
27 enacted provision of P.L.2008, c.78, as amended and supplemented,
28 the running of the period of approval of all government approvals
29 which would have been extended pursuant to the definition of
30 "smart growth area," added by P.L. , c. (pending before the
31 Legislature as this bill), shall be calculated, using that definition,
32 retroactive to the enactment of P.L.2008, c.78.

33 b. Nothing in this act shall be deemed to extend or purport to
34 extend:

35 (1) any permit or approval issued by the government of the
36 United States or any agency or instrumentality thereof, or any
37 permit or approval by whatever authority issued of which the
38 duration of effect or the date or terms of its expiration are specified
39 or determined by or pursuant to law or regulation of the federal
40 government or any of its agencies or instrumentalities;

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

46 (3) any permit or approval issued within an environmentally
47 sensitive area;

- 1 (4) any permit or approval within an environmentally sensitive
2 area issued pursuant to the "Highlands Water Protection and
3 Planning Act," P.L.2004, c.120 (C.13:20-1 et al.);
- 4 (5) any permit or approval issued by the Department of
5 Transportation pursuant to Title 27 of the Revised Statutes or under
6 the general authority conferred by State law, other than a right-of-
7 way permit issued pursuant to paragraph (3) of subsection (h) of
8 section 5 of P.L.1966, c.301 (C.27:1A-5) or a permit granted
9 pursuant to R.S.27:7-1 et seq. or any supplement thereto;
- 10 (6) any permit or approval issued pursuant to the "Flood Hazard
11 Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), except
12 where work has commenced, in any phase or section of the
13 development, on any site improvement as defined in paragraph (1)
14 of subsection a. of section 41 of the "Municipal Land Use Law,"
15 P.L.1975, c.291 (C.40:55D-53) or on any buildings or structures; or
- 16 (7) any coastal center designated pursuant to the "Coastal Area
17 Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), that as of
18 March 15, 2007 (a) had not submitted an application for plan
19 endorsement to the State Planning Commission, and (b) was not in
20 compliance with the provisions of the Coastal Zone Management
21 Rules at N.J.A.C.7:7E-5B.6.
- 22 c. This act shall not affect any administrative consent order
23 issued by the Department of Environmental Protection in effect or
24 issued during the extension period, nor shall it be construed to
25 extend any approval in connection with a resource recovery facility
26 as defined in section 2 of P.L.1985, c.38 (C.13:1E-137).
- 27 d. Nothing in this act shall affect the ability of the
28 Commissioner of Environmental Protection to revoke or modify a
29 specific permit or approval, or extension thereof pursuant to this
30 act, when that specific permit or approval contains language
31 authorizing the modification or revocation of the permit or approval
32 by the department.
- 33 e. In the event that any approval tolled pursuant to this act is
34 based upon the connection to a sanitary sewer system, the
35 approval's extension shall be contingent upon the availability of
36 sufficient capacity, on the part of the treatment facility, to
37 accommodate the development whose approval has been extended.
38 If sufficient capacity is not available, those permit holders whose
39 approvals have been extended shall have priority with regard to the
40 further allocation of gallonage over those approval holders who
41 have not received approval of a hookup prior to the date of
42 enactment of this act. Priority regarding the distribution of further
43 gallonage to any permit holder who has received the extension of an
44 approval pursuant to this act shall be allocated in order of the
45 granting of the original approval of the connection.
- 46 f. This act shall not toll any approval issued under the
47 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.)

1 in connection with an application for development involving a
2 residential use where, subsequent to the expiration of the permit but
3 prior to January 1, 2007, an amendment has been adopted to the
4 master plan and the zoning ordinance to rezone the property to
5 industrial or commercial use when the permit was issued for
6 residential use.

7 g. Nothing in this act shall be construed or implemented in
8 such a way as to modify any requirement of law that is necessary to
9 retain federal delegation to, or assumption by, the State of the
10 authority to implement a federal law or program.

11 h. Nothing in this act shall be deemed to extend the obligation
12 of any wastewater management planning agency to submit a
13 wastewater management plan or plan update, or the obligation of a
14 municipality to submit a wastewater management plan or plan
15 update, pursuant to the "Water Quality Planning Act," P.L.1977,
16 c.75 (C.58:11A-1 et seq.) and the Water Quality Management
17 Planning rules, N.J.A.C.7:15-1.1 et seq., adopted by the Department
18 of Environmental Protection, effective July 7, 2008.

19 i. All underlying municipal, county, and State permits or
20 approvals are extended in the Pinelands Area as designated pursuant
21 to the "Pinelands Protection Act," pursuant to P.L.1979, c.111
22 (C.13:18A-1 et seq.).

23 (cf: P.L.2008, c.78, s.4)

24
25 4. Section 5 of P.L.2008, c.78 (C.40:55D-136.5) is amended to
26 read as follows:

27 5. State agencies shall, within 30 days after the effective date
28 **[of this act]** of P.L.2008, c.78 (C.40:55D-136.1 et seq.), and within
29 30 days after the effective date of any subsequent amendment and
30 supplement thereto, place a notice in the New Jersey Register
31 tolling all approvals in conformance with this act.

32 (cf: P.L.2008, c.78, s.5)

33
34 5. Section 6 of P.L.2008, c.78 (C.40:55D-136.6) is amended to
35 read as follows:

36 6. The provisions of this act shall be liberally construed to
37 effectuate the purposes of this act, and any subsequent amendment
38 and supplement thereto.

39 (cf: P.L.2008, c.78, s.6)

40
41 6. This act shall take effect immediately.

42

43

44

STATEMENT

45

46 Under the provisions of this bill, the "extension period," as
47 defined in the "Permit Extension Act of 2008," P.L.2008, c.78

A1338 GREENWALD, DECROCE

1 (C.40:55D-136.1 et seq.), would be extended until December 31,
2 2014, rather than December 31, 2012, as provided in current law.

3 Thus, under this bill, government approvals, as defined and
4 extended by the "Permit Extension Act of 2008," would continue to
5 be valid until December 31, 2014. In accordance with the tolling
6 provision provided in the "Permit Extension Act of 2008," no
7 approval would be extended beyond six months after the conclusion
8 of the extension period, or until June 30, 2015 under this bill.

9 The bill also clarifies that the original intent of P.L.2008, c.78
10 was to extend the running period of government approvals to
11 include smart growth areas, as defined in the bill.

ASSEMBLY HOUSING AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1338

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 30, 2012

The Assembly Housing and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 1338.

As amended by the committee, the amendments clarify the areas that are affected by the extension of permits through December 31, 2014, by designating the areas previously defined under the bill as “smart growth” areas, as “extension” areas. The amendments also include language to make clear that the definition of “extension area” pursuant to the provisions of this bill shall remain in effect until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey’s State Strategic Plan and adopts regulations to refine this definition as it pertains to Statewide planning areas, whichever is later. As amended, the bill also modifies the definition of permit “approval” to specifically include agreements with municipalities, counties, municipal authorities, sewerage authorities, or other governmental authorities for the use or reservation of sewerage capacity.

This bill was pre-filed for introduction in the 2012-2013 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS

The committee amendments to the bill:

- amend the definition of permit “approval” to specifically include agreements with municipalities, counties, municipal authorities, sewerage authorities, or other governmental authorities for the use or reservation of sewerage capacity.
- clarify the areas that are affected by the extension of permits through December 31, 2014, by designating the areas previously defined as “smart growth” areas, as “extension” areas.
- include language to make clear that the definition of “extension area” pursuant to the provisions of this bill shall remain in

effect until June 30, 2013, or until the State Planning Commission revises and readopts New Jersey's State Strategic Plan and adopts regulations to refine this definition as it pertains to statewide planning areas, whichever is later.

STATEMENT TO
[First Reprint]
ASSEMBLY, No. 1338

with Assembly Floor Amendments
(Proposed by Assemblyman GREENWALD)

ADOPTED: FEBRUARY 16, 2012

These amendments clarify that only the underlying municipal, county, and State permits or approvals within the “extension area,” as defined in N.J.S.A.40:55D-136.3 as amended in this bill, are to be extended under the provisions of this bill.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint] **ASSEMBLY, No. 1338**

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 12, 2012

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1338 (2R), with committee amendments.

As amended, this bill extends until December 31, 2014, rather than December 31, 2012 as provided under current law, the “extension period,” as defined in the “Permit Extension Act of 2008,” P.L.2008, c.78 (C.40:55D-136.1 et seq.). Under this bill, certain approvals, as defined by the “Permit Extension Act of 2008” and in effect on January 1, 2007, will continue to be valid at least until December 31, 2014. The bill also expands the geographical areas (referred to as "extension areas") in which approvals are extended, and includes additional types of approvals qualifying for the extension.

In accordance with the tolling provision provided in the “Permit Extension Act of 2008,” the validity of an approval in effect on January 1, 2007 will be extended beyond the conclusion of the extension period by the length of the unexpired validity period, but not more than six months (i.e., until not later than June 30, 2015). The bill provides that the running period of government approvals pursuant to P.L.2008, c.78 shall include “extension areas,” as defined in the bill, and that the running period of approvals in the extension areas “shall be calculated, using that definition, retroactive to the enactment of P.L.2008, c.78” (i.e., September 6, 2008).

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates an indeterminate loss of State and local revenue as a result of the extension of the "extension period" for certain approvals authorized by this bill, the expansion of the geographical areas in which approvals are extended by the bill, and the inclusion of additional types of approvals that would be extended by the bill. Unfortunately, specific estimates cannot be quantified because the OLS is unable to obtain reliable information regarding the number of approvals that would be extended by the bill. The bill extends the validity of certain approvals issued by State and local government units beginning January 1, 2007 to December 31, 2014, rather than December 31, 2012, as provided in

current law. The OLS contends that, absent this bill, many approvals would have been applied for by December 31, 2012 (or June 30, 2013 as allowed by the tolling provision), thereby generating additional State and local permit fee revenues. The OLS notes that some benefits to the State and local economies could be realized from the preservation of existing approvals for property owners and developers, and the avoidance of presumably costly permit review fees that otherwise would have been paid by the business community.

COMMITTEE AMENDMENTS:

The amendments clarify language regarding the exception from a class of extension exclusions for permits or approvals issued pursuant to the "Flood Hazard Area Control Act" authorizing work on real property owned by the government or federal government.

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

ASSEMBLY, No. 1338

STATE OF NEW JERSEY 215th LEGISLATURE

DATED: APRIL 17, 2012

SUMMARY

- Synopsis:** Extends expiration date of certain permits pursuant to the “Permit Extension Act of 2008.”
- Type of Impact:** Potential loss of permit fee revenue to the General Fund and local government.
- Agencies Affected:** Department of Environmental Protection, Department of Community Affairs, Department of Transportation, State commissions, counties, and municipalities authorized to approve certain State or local permits.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Revenue	Indeterminate loss – See comments below		
Local Revenue	Indeterminate loss – See comments below		

- The Office of Legislative Services (OLS) estimates an indeterminate loss of State and local revenue as a result of the extension of the “extension period” for certain approvals authorized by this bill, the expansion of geographical areas in which approvals are extended by the bill, and the inclusion of additional types of approvals that would be extended by the bill.
- Some benefits to the State and local economies could be realized from the preservation of existing approvals for property owners and developers, and the avoidance of presumably costly permit review fees that otherwise would have been paid by the business community.
- The bill extends the validity of certain approvals issued by State and local government units beginning January 1, 2007 to December 31, 2014, rather than December 31, 2012, as provided in current law.
- In accordance with the tolling provision provided in the “Permit Extension Act of 2008,” no approval would be extended beyond the six months after the conclusion of the extension period, or until June 30, 2015.

BILL DESCRIPTION

Assembly Bill No. 1338 (3R) of 2012 would extend until December 31, 2014, rather than December 31, 2012 as provided under current law, the “extension period,” as defined in the “Permit Extension Act of 2008,” P.L.2008, c.78 (C.40:55D-136.1 et seq.). Thus, under the bill, certain approvals, as defined by the “Permit Extension Act of 2008” and in effect on January 1, 2007, would continue to be valid at least until December 31, 2014. The bill also expands the geographical areas (referred to as "extension areas") in which approvals are extended, and includes additional types of approvals qualifying for the extension.

In accordance with the tolling provision provided in the “Permit Extension Act of 2008,” the validity of an approval in effect on January 1, 2007 would be extended beyond the conclusion of the extension period by the length of the unexpired validity period, but not more than six months (i.e., until not later than June 30, 2015). The bill provides that the running period of government approvals pursuant to P.L.2008, c.78 shall include “extension areas,” as defined in the bill, and that the running period of approvals in the extension areas “shall be calculated, using that definition, retroactive to the enactment of P.L.2008, c.78” (i.e., September 6, 2008).

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates an indeterminate loss of State and local revenue as a result of the extension of the "extension period" for certain approvals authorized by this bill, the expansion of the geographical areas in which approvals are extended by the bill, and the inclusion of additional types of approvals that would be extended by the bill. Unfortunately, specific estimates cannot be quantified because the OLS is unable to obtain reliable information regarding the number of approvals that would be extended by the bill. The bill extends the validity of certain approvals issued by State and local government units beginning January 1, 2007 to December 31, 2014, rather than December 31, 2012, as provided in current law. The OLS contends that, absent this bill, many approvals would have been applied for by December 31, 2012 (or June 30, 2013 as allowed by the tolling provision), thereby generating additional State and local permit fee revenues. The OLS notes that some benefits to the State and local economies could be realized from the preservation of existing approvals for property owners and developers, and the avoidance of presumably costly permit review fees that otherwise would have been paid by the business community.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Joseph A. Hroncich
Associate Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

STATEMENT TO
[Third Reprint]
ASSEMBLY, No. 1338

with Assembly Floor Amendments
(Proposed by Assemblyman GREENWALD)

ADOPTED: JUNE 21, 2012

These floor amendments:

(1) amend the definition of “extension area” to include any Highlands center designated by the Highlands Water Protection and Planning Council;

(2) amend the definition of “extension area” to specify that it does not include any area designated under the State Plan as a Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive), except for any area within Planning Area 4B or Planning Area 5 that is a designated center, or a designated growth center in an endorsed plan;

(3) specify that nothing in P.L.2008, c.78 shall be deemed to extend or purport to extend any permit or approval within the Highlands preservation area;

(4) specify that nothing in P.L.2008, c.78 shall be deemed to extend or purport to extend any permit or approval within the Highlands planning area located in a municipality subject to the "Highlands Water Protection and Planning Act," P.L.2004, c.120, that has adopted, as of May 1, 2012, in accordance with the Highlands Water Protection and Planning Council conformance approval, a Highlands master plan element, a Highlands land use ordinance, or an environmental resource inventory, and further specify that this exclusion does not apply to any permit or approval within a Highlands center designated by the Highlands Water Protection and Planning Council, notwithstanding the adoption by the municipality of a Highlands master plan element, a Highlands land use ordinance, or an environmental resource inventory; and

(5) make technical corrections to update statutory references.

LEGISLATIVE FISCAL ESTIMATE

[Fourth Reprint]

ASSEMBLY, No. 1338

STATE OF NEW JERSEY 215th LEGISLATURE

DATED: AUGUST 3, 2012

SUMMARY

- Synopsis:** Extends expiration date of certain permits pursuant to the “Permit Extension Act of 2008.”
- Type of Impact:** Potential loss of permit fee revenue to the General Fund and local government.
- Agencies Affected:** Department of Environmental Protection, Department of Community Affairs, Department of Transportation, State commissions, counties, and municipalities authorized to approve certain State or local permits.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Revenue	Indeterminate loss – See comments below		
Local Revenue	Indeterminate loss – See comments below		

- The Office of Legislative Services (OLS) estimates an indeterminate loss of State and local revenue as a result of the extension of the “extension period” for certain approvals authorized by this bill, the expansion of geographical areas in which approvals are extended by the bill, and the inclusion of additional types of approvals that would be extended by the bill.
- Some benefits to the State and local economies could be realized from the preservation of existing approvals for property owners and developers, and the avoidance of presumably costly permit review fees that otherwise would have been paid by the business community.
- The bill extends the validity of certain approvals issued by State and local government units beginning January 1, 2007 to December 31, 2014, rather than December 31, 2012, as provided in current law.
- In accordance with the tolling provision provided in the “Permit Extension Act of 2008,” no approval would be extended beyond the six months after the conclusion of the extension period, or until June 30, 2015.

BILL DESCRIPTION

Assembly Bill No. 1338 (4R) of 2012 would extend until December 31, 2014, rather than December 31, 2012 as provided under current law, the “extension period,” as defined in the “Permit Extension Act of 2008,” P.L.2008, c.78 (C.40:55D-136.1 et seq.). Thus, under the bill, certain approvals, as defined by the “Permit Extension Act of 2008” and in effect on January 1, 2007, would continue to be valid at least until December 31, 2014. The bill also expands the geographical areas (referred to as "extension areas") in which approvals are extended, and includes additional types of approvals qualifying for the extension.

In accordance with the tolling provision in the “Permit Extension Act of 2008,” the validity of an approval in effect on January 1, 2007 would be extended beyond the conclusion of the extension period by the length of the unexpired validity period, but not more than six months (i.e., until not later than June 30, 2015). The bill provides that the running period of government approvals pursuant to P.L.2008, c.78 would include “extension areas,” as defined in the bill, and that the running period of approvals in the extension areas “shall be calculated, using that definition, retroactive to the enactment of P.L.2008, c.78” (i.e., September 6, 2008).

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates an indeterminate loss of State and local revenue as a result of the extension of the "extension period" for certain approvals authorized by this bill, the expansion of the geographical areas in which approvals are extended by the bill, and the inclusion of additional types of approvals that would be extended by the bill. Unfortunately, specific estimates cannot be quantified because the OLS is unable to obtain reliable information regarding the number of approvals that would be extended by the bill. The bill extends the validity of certain approvals issued by State and local government units beginning January 1, 2007 to December 31, 2014, rather than December 31, 2012, as provided in current law. The OLS contends that, absent this bill, many approvals would have been applied for by December 31, 2012 (or June 30, 2013 as allowed by the tolling provision), thereby generating additional State and local permit fee revenues. The OLS notes that some benefits to the State and local economies could be realized from the preservation of existing approvals for property owners and developers, and the avoidance of presumably costly permit review fees that otherwise would have been paid by the business community.

Section: Environment, Agriculture, Energy and Natural Resources

Analyst: Joseph A. Hroncich
Associate Fiscal Analyst

Approved: David J. Rosen
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 743

STATE OF NEW JERSEY 215th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2012 SESSION

Sponsored by:

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

SYNOPSIS

Extends expiration date of certain permits pursuant to the “Permit Extension Act of 2008.”

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



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. **【There exists a state of national recession, which】** The most
12 recent national recession has caused one of the longest economic
13 downturns since the Great Depression of the 1930's and has
14 drastically affected various segments of the New Jersey economy,
15 but none as severely as the State's banking, real estate and
16 construction sectors.

17 b. The real estate finance sector of the economy is in severe
18 decline due to the sub-prime mortgage problem and the resultant
19 widening mortgage finance crisis. The extreme tightening of
20 lending standards for home buyers and other real estate borrowers
21 has reduced access to the capital markets.

22 c. As a result of the crisis in the real estate finance sector of the
23 economy, real estate developers and redevelopers, including
24 homebuilders, and commercial, office, and industrial developers,
25 have experienced an industry-wide decline, including reduced
26 demand, cancelled orders, declining sales and rentals, price
27 reductions, increased inventory, fewer buyers who qualify to
28 purchase homes, layoffs, and scaled back growth plans.

29 d. The process of obtaining planning board and zoning board of
30 adjustment approvals for subdivisions, site plans, and variances can
31 be difficult, time consuming and expensive, both for private
32 applicants and government bodies.

33 e. The process of obtaining the myriad other government
34 approvals, required pursuant to legislative enactments and their
35 implementing rules and regulations, such as wetlands permits,
36 treatment works approvals, on-site wastewater disposal permits,
37 stream encroachment permits, flood hazard area permits, highway
38 access permits, and numerous waivers and variances, also can be
39 difficult and expensive; further, changes in the law can render these
40 approvals, if expired or lapsed, impossible to renew or re-obtain.

41 f. County and municipal governments obtain determinations of
42 master plan consistency, conformance, or endorsement with State or
43 regional plans, from State and regional government entities which
44 may expire or lapse without implementation due to the state of the
45 economy.

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.

1 g. The current national recession has severely weakened the
2 building industry, and many landowners and developers are seeing
3 their life's work destroyed by the lack of credit and dearth of buyers
4 and tenants, due to the crisis in real estate financing and the
5 building industry, uncertainty over the state of the economy, and
6 increasing levels of unemployment in 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.2008, c.78, s.2)

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 this act:

45 "Approval" means, except as otherwise provided in section 4 of
46 this act, any approval of a soil erosion and sediment control plan
47 granted by a local soil conservation district under the authority

1 conferred by R.S.4:24-22 et seq., waterfront development permit
2 issued pursuant to R.S.12:5-1 et seq., permit issued pursuant to
3 "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et seq.),
4 permit issued pursuant to the "Freshwater Wetlands Protection
5 Act," P.L.1987, c.156 (C.13:9B-1 et al.), approval of an application
6 for development granted by the Delaware and Raritan Canal
7 Commission pursuant to the "Delaware and Raritan Canal State
8 Park Law of 1974," P.L.1974, c.118 (C.13:13A-1 et seq.), permit
9 issued by the New Jersey Meadowlands Commission pursuant to
10 the "Hackensack Meadowlands Reclamation and Development
11 Act," P.L.1968, c.404 (C.13:17-1 et al.), approval of an application
12 for development granted by the Pinelands Commission and
13 determination of municipal and county plan conformance pursuant
14 to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et
15 seq.), permit issued and center designations pursuant to the "Coastal
16 Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.),
17 septic approval granted pursuant to Title 26 of the Revised Statutes,
18 permit granted pursuant to R.S.27:7-1 et seq. or any supplement
19 thereto, right-of-way permit issued by the Department of
20 Transportation pursuant to paragraph (3) of subsection (h) of
21 section 5 of P.L.1966, c.301 (C.27:1A-5), approval granted by a
22 sewerage authority pursuant to the "sewerage authorities law,"
23 P.L.1946, c.138 (C.40:14A-1 et seq.), approval granted by a
24 municipal authority pursuant to the "municipal and county utilities
25 authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), approval
26 issued by a county planning board pursuant to chapter 27 of Title 40
27 of the Revised Statutes, preliminary and final approval granted in
28 connection with an application for development pursuant to the
29 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.),
30 permit granted pursuant to the "State Uniform Construction Code
31 Act," P.L.1975, c.217 (C.52:27D-119 et seq.), plan endorsement
32 and center designations pursuant to the "State Planning Act,"
33 P.L.1985, c.398 (C.52:18A-196 et al.), permit or certification issued
34 pursuant to the "Water Supply Management Act," P.L.1981, c.262
35 (C.58:1A-1 et al.), permit granted authorizing the drilling of a well
36 pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.), certification or
37 permit granted, exemption from a sewerage connection ban granted,
38 wastewater management plan approved, and pollution discharge
39 elimination system permit pursuant to the "Water Pollution Control
40 Act," P.L.1977, c.74 (C.58:10A-1 et seq.), certification granted
41 pursuant to "The Realty Improvement Sewerage and Facilities Act
42 (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), certification or
43 approval granted pursuant to P.L.1971, c.386 (C.58:11-25.1 et al.),
44 certification issued and water quality management plan approved
45 pursuant to the "Water Quality Planning Act," P.L.1977, c.75
46 (C.58:11A-1 et seq.), approval granted pursuant to the "Safe
47 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et al.), permit

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

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

19 "Environmentally sensitive area" means an area designated
20 pursuant to the State Development and Redevelopment Plan
21 adopted, as of the effective date of this act, pursuant to P.L.1985,
22 c.398 (C.52:18A-196 et al.) as Planning Area 4B
23 (Rural/Environmentally Sensitive), Planning Area 5
24 (Environmentally Sensitive), or a critical environmental site **;** the
25 Highlands Region as defined in section 3 of P.L.2004, c.120
26 (C.13:20-3) but shall not include any area designated for growth in
27 the Highlands regional master plan adopted by the Highlands Water
28 Protection and Planning Council pursuant to P.L.2004, c.120
29 (C.13:20-1 et al.); and the pinelands area designated in section 10 of
30 P.L.1979, c.111 (C.13:18A-11) but shall not include any growth
31 area designated in the comprehensive management plan prepared
32 and adopted by the Pinelands Commission pursuant to section 7 of
33 the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-8) **], but**
34 shall not include any smart growth area as defined in this section.

35 "Extension period" means the period beginning January 1, 2007
36 and continuing through December 31, **[2012] 2014.**

37 "Government" means any municipal, county, regional, or State
38 government, or any agency, department, commission or other
39 instrumentality thereof.

40 "Smart growth area" means an area designated pursuant to
41 P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1
42 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3
43 (Fringe Planning Area), Planning Area 4A (Rural Planning Area), a
44 designated center, or a designated growth center in an endorsed
45 plan; a smart growth area and planning area designated in a master
46 plan adopted by the New Jersey Meadowlands Commission
47 pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-

1 6); regional growth areas, villages, and towns, designated in the
2 comprehensive management plan prepared and adopted by the
3 Pinelands Commission pursuant to section 7 of the "Pinelands
4 Protection Act," P.L.1979, c.111 (C.13:18A-8); the Planning Area
5 of the New Jersey Highlands pursuant to the "Highlands Water
6 Protection and Planning Act," P.L.2004, c.120 (C.13:20-1 et al.); an
7 urban enterprise zone designated pursuant to P.L.1983, c.303
8 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an
9 area determined to be in need of redevelopment pursuant to sections
10 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) and as
11 approved by the Department of Community Affairs; or similar areas
12 designated by the Department of Environmental Protection.
13 (cf: P.L.2009, c.336, s.1)

14
15 3. Section 4 of P.L.2008, c.78 (C.40:55D-136.4) is amended to
16 read as follows:

17 4. a. For any government approval in existence during the
18 extension period, the running of the period of approval is
19 automatically suspended for the extension period, except as
20 otherwise provided hereunder; however, the tolling provided for
21 herein shall not extend the government approval more than six
22 months beyond the conclusion of the extension period. Nothing in
23 this act shall shorten the duration that any approval would have had
24 in the absence of this act, nor shall this act prohibit the granting of
25 such additional extensions as are provided by law when the tolling
26 granted by this act shall expire. Notwithstanding any previously
27 enacted provision of P.L.2008, c.78, as amended and supplemented,
28 the running of the period of approval of all government approvals
29 which would have been extended pursuant to the definition of
30 "smart growth area," added by P.L. , c. (pending before the
31 Legislature as this bill), shall be calculated, using that definition,
32 retroactive to the enactment of P.L.2008, c.78.

33 b. Nothing in this act shall be deemed to extend or purport to
34 extend:

35 (1) any permit or approval issued by the government of the
36 United States or any agency or instrumentality thereof, or any
37 permit or approval by whatever authority issued of which the
38 duration of effect or the date or terms of its expiration are specified
39 or determined by or pursuant to law or regulation of the federal
40 government or any of its agencies or instrumentalities;

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

46 (3) any permit or approval issued within an environmentally
47 sensitive area;

- 1 (4) any permit or approval within an environmentally sensitive
2 area issued pursuant to the "Highlands Water Protection and
3 Planning Act," P.L.2004, c.120 (C.13:20-1 et al.);
- 4 (5) any permit or approval issued by the Department of
5 Transportation pursuant to Title 27 of the Revised Statutes or under
6 the general authority conferred by State law, other than a right-of-
7 way permit issued pursuant to paragraph (3) of subsection (h) of
8 section 5 of P.L.1966, c.301 (C.27:1A-5) or a permit granted
9 pursuant to R.S.27:7-1 et seq. or any supplement thereto;
- 10 (6) any permit or approval issued pursuant to the "Flood Hazard
11 Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), except
12 where work has commenced, in any phase or section of the
13 development, on any site improvement as defined in paragraph (1)
14 of subsection a. of section 41 of the "Municipal Land Use Law,"
15 P.L.1975, c.291 (C.40:55D-53) or on any buildings or structures; or
- 16 (7) any coastal center designated pursuant to the "Coastal Area
17 Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), that as of
18 March 15, 2007 (a) had not submitted an application for plan
19 endorsement to the State Planning Commission, and (b) was not in
20 compliance with the provisions of the Coastal Zone Management
21 Rules at N.J.A.C.7:7E-5B.6.
- 22 c. This act shall not affect any administrative consent order
23 issued by the Department of Environmental Protection in effect or
24 issued during the extension period, nor shall it be construed to
25 extend any approval in connection with a resource recovery facility
26 as defined in section 2 of P.L.1985, c.38 (C.13:1E-137).
- 27 d. Nothing in this act shall affect the ability of the
28 Commissioner of Environmental Protection to revoke or modify a
29 specific permit or approval, or extension thereof pursuant to this
30 act, when that specific permit or approval contains language
31 authorizing the modification or revocation of the permit or approval
32 by the department.
- 33 e. In the event that any approval tolled pursuant to this act is
34 based upon the connection to a sanitary sewer system, the
35 approval's extension shall be contingent upon the availability of
36 sufficient capacity, on the part of the treatment facility, to
37 accommodate the development whose approval has been extended.
38 If sufficient capacity is not available, those permit holders whose
39 approvals have been extended shall have priority with regard to the
40 further allocation of gallonage over those approval holders who
41 have not received approval of a hookup prior to the date of
42 enactment of this act. Priority regarding the distribution of further
43 gallonage to any permit holder who has received the extension of an
44 approval pursuant to this act shall be allocated in order of the
45 granting of the original approval of the connection.
- 46 f. This act shall not toll any approval issued under the
47 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.)

1 in connection with an application for development involving a
2 residential use where, subsequent to the expiration of the permit but
3 prior to January 1, 2007, an amendment has been adopted to the
4 master plan and the zoning ordinance to rezone the property to
5 industrial or commercial use when the permit was issued for
6 residential use.

7 g. Nothing in this act shall be construed or implemented in
8 such a way as to modify any requirement of law that is necessary to
9 retain federal delegation to, or assumption by, the State of the
10 authority to implement a federal law or program.

11 h. Nothing in this act shall be deemed to extend the obligation
12 of any wastewater management planning agency to submit a
13 wastewater management plan or plan update, or the obligation of a
14 municipality to submit a wastewater management plan or plan
15 update, pursuant to the "Water Quality Planning Act," P.L.1977,
16 c.75 (C.58:11A-1 et seq.) and the Water Quality Management
17 Planning rules, N.J.A.C.7:15-1.1 et seq., adopted by the Department
18 of Environmental Protection, effective July 7, 2008.

19 i. All underlying municipal, county, and State permits or
20 approvals are extended in the Pinelands Area as designated pursuant
21 to the "Pinelands Protection Act," pursuant to P.L.1979, c.111
22 (C.13:18A-1 et seq.).

23 (cf: P.L.2008, c.78, s.4)

24
25 4. Section 5 of P.L.2008, c.78 (C.40:55D-136.5) is amended to
26 read as follows:

27 5. State agencies shall, within 30 days after the effective date
28 **【of this act】** of P.L.2008, c.78 (C.40:55D-136.1 et seq.), and within
29 30 days after the effective date of any subsequent amendment and
30 supplement thereto, place a notice in the New Jersey Register
31 tolling all approvals in conformance with this act.

32 (cf: P.L.2008, c.75, s.5)

33
34 5. Section 6 of P.L.2008, c.78 (C.40:55D-136.6) is amended to
35 read as follows:

36 6. The provisions of this act shall be liberally construed to
37 effectuate the purposes of this act, and any subsequent amendment
38 and supplement thereto.

39 (cf: P.L.2008, c.75, s.6)

40
41 6. This act shall take effect immediately.

42

43

44

STATEMENT

45

46 Under the provisions of this bill, the "extension period," as
47 defined in the "Permit Extension Act of 2008," P.L.2008, c.78

S743 SARLO, OROHO

1 (C.40:55D-136.1 et seq.), would be extended until December 31,
2 2014, rather than December 31, 2012, as provided in current law.

3 Thus, under this bill, government approvals, as defined and
4 extended by the "Permit Extension Act of 2008," would continue to
5 be valid until December 31, 2014. In accordance with the tolling
6 provision provided in the "Permit Extension Act of 2008," no
7 approval would be extended beyond six months after the conclusion
8 of the extension period, or until June 30, 2015 under this bill.

9 The bill also clarifies that the original intent of P.L.2008, c.78
10 was to extend the running period of government approvals to
11 include smart growth areas, as defined in the bill.

SENATE ECONOMIC GROWTH COMMITTEE

STATEMENT TO

SENATE, No. 743

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 5, 2012

The Senate Economic Growth Committee reports without recommendation Senate Bill No. 743 with committee amendments.

Under the provisions of this bill, as amended, the “extension period,” as defined in the “Permit Extension Act of 2008,” P.L.2008, c.78 (C.40:55D-136.1 et seq.), would be extended until December 31, 2014, rather than December 31, 2012, as provided in current law.

Thus, under this amended bill, certain government approvals, as defined by the “Permit Extension Act of 2008” and in effect on January 1, 2007, would continue to be valid at least until December 31, 2014.

In accordance with the tolling provision provided in the “Permit Extension Act of 2008,” the validity of a permit in effect on January 1, 2007 would be extended beyond the conclusion of the extension period by the length of the unexpired validity period, but not more than six months (i.e., until not later than June 30, 2015). The amended bill provides that the running period of government approvals pursuant to P.L.2008, c.78 shall include “extension areas,” as defined in the bill, and that the running period of government approvals in the extension areas “shall be calculated, using that definition, retroactive to the enactment of P.L.2008, c.78” (i.e., September 6, 2008).

The amended bill includes language to make clear that as it pertains to Statewide planning areas, the definition of “extension area” shall remain in effect until June 30, 2013, or until such later time as the State Planning Commission revises and readopts New Jersey’s State Strategic Plan and adopts regulations to refine this definition. The amended bill also modifies the definition of permit “approval” to specifically include agreements with municipalities, counties, municipal authorities, sewerage authorities, or other governmental authorities for the use or reservation of sewerage capacity.

The committee amendments to the bill: 1) extend the definition of permit “approval” to specifically include the approval of local entities’ sewerage capacity reservation agreements; 2) redesignate the “smart growth areas,” within which permits would become eligible under the bill for extension, as “extension areas”; 3) incorporate the language

limiting duration of the applicability of the provision including statewide planning areas in the definition of “extension areas”; 4) provide that underlying municipal, county, and State permits or approvals within the “extension area,” are extended in the Pinelands Area, as designated pursuant to the “Pinelands Protection Act”; and 5) provide that the permits or approvals issued under the “Flood Hazard Area Control Act” where work has commenced on real property owned by a government entity would also continue to be valid at least until December 31, 2014.

This bill was pre-filed for introduction in the 2012-2013 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 743

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 8, 2012

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 743 (1R), with committee amendments.

As amended, the bill would extend until December 31, 2014, rather than December 31, 2012 as provided under current law, the “extension period,” as defined in the “Permit Extension Act of 2008,” P.L.2008, c.78 (C.40:55D-136.1 et seq.). Thus, under this amended bill, certain approvals, as defined by the “Permit Extension Act of 2008” and in effect on January 1, 2007, would continue to be valid at least until December 31, 2014. The bill also expands the geographical areas (referred to as "extension areas") in which approvals are extended, and includes additional types of approvals qualifying for the extension.

In accordance with the tolling provision provided in the “Permit Extension Act of 2008,” the validity of an approval in effect on January 1, 2007 would be extended beyond the conclusion of the extension period by the length of the unexpired validity period, but not more than six months (i.e., until not later than June 30, 2015). The amended bill provides that the running period of government approvals pursuant to P.L.2008, c.78 shall include “extension areas,” as defined in the bill, and that the running period of approvals in the extension areas “shall be calculated, using that definition, retroactive to the enactment of P.L.2008, c.78” (i.e., September 6, 2008).

COMMITTEE AMENDMENTS:

The amendments clarify language regarding the exception from a class of extension exclusions for permits or approvals issued pursuant to the "Flood Hazard Area Control Act" authorizing work on real property owned by the government or federal government.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates an indeterminate loss of State and local revenue as a result of the extension of the "extension period" for certain approvals authorized by this bill, the expansion of the geographical areas in which approvals are extended by the bill, and the inclusion of additional types of approvals that would be extended by the bill. Unfortunately, specific estimates cannot be quantified because the OLS is unable to obtain reliable information regarding the number of approvals that would be extended by the bill. The bill extends the validity of certain approvals issued by State and local government units beginning January 1, 2007 to December 31, 2014, rather than December 31, 2012, as provided in current law. The OLS contends that, absent this bill, many approvals would have been applied for by December 31, 2012 (or June 30, 2013 as allowed by the tolling provision), thereby generating additional State and local permit fee revenues. The OLS notes that some benefits to the State and local economies could be realized from the preservation of existing approvals for property owners and developers, and the avoidance of presumably costly permit review fees that otherwise would have been paid by the business community.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 743

STATE OF NEW JERSEY 215th LEGISLATURE

DATED: APRIL 11, 2012

SUMMARY

- Synopsis:** Extends expiration date of certain permits pursuant to the “Permit Extension Act of 2008.”
- Type of Impact:** Potential loss of permit fee revenue to the General Fund and local government.
- Agencies Affected:** Department of Environmental Protection, Department of Community Affairs, Department of Transportation, State commissions, counties, and municipalities authorized to approve certain State or local permits.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Revenue	Indeterminate loss – See comments below		
Local Revenue	Indeterminate loss – See comments below		

- The Office of Legislative Services (OLS) estimates an indeterminate loss of State and local revenue as a result of the extension of the “extension period” for certain approvals authorized by this bill, the expansion of geographical areas in which approvals are extended by the bill, and the inclusion of additional types of approvals that would be extended by the bill.
- Some benefits to the State and local economies could be realized from the preservation of existing approvals for property owners and developers, and the avoidance of presumably costly permit review fees that otherwise would have been paid by the business community.
- The bill extends the validity of certain approvals issued by State and local government units beginning January 1, 2007 to December 31, 2014, rather than December 31, 2012, as provided in current law.
- In accordance with the tolling provision provided in the “Permit Extension Act of 2008,” no approval would be extended beyond the six months after the conclusion of the extension period, or until June 30, 2015.

BILL DESCRIPTION

Senate Bill No. 743 (2R) of 2012 would extend until December 31, 2014, rather than December 31, 2012 as provided under current law, the “extension period,” as defined in the “Permit Extension Act of 2008,” P.L.2008, c.78 (C.40:55D-136.1 et seq.). Thus, under the bill, certain approvals, as defined by the “Permit Extension Act of 2008” and in effect on January 1, 2007, would continue to be valid at least until December 31, 2014. The bill also expands the geographical areas (referred to as "extension areas") in which approvals are extended, and includes additional types of approvals qualifying for the extension.

In accordance with the tolling provision provided in the “Permit Extension Act of 2008,” the validity of an approval in effect on January 1, 2007 would be extended beyond the conclusion of the extension period by the length of the unexpired validity period, but not more than six months (i.e., until not later than June 30, 2015). The bill provides that the running period of government approvals pursuant to P.L.2008, c.78 shall include “extension areas,” as defined in the bill, and that the running period of approvals in the extension areas “shall be calculated, using that definition, retroactive to the enactment of P.L.2008, c.78” (i.e., September 6, 2008).

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates an indeterminate loss of State and local revenue as a result of the extension of the "extension period" for certain approvals authorized by this bill, the expansion of the geographical areas in which approvals are extended by the bill, and the inclusion of additional types of approvals that would be extended by the bill. Unfortunately, specific estimates cannot be quantified because the OLS is unable to obtain reliable information regarding the number of approvals that would be extended by the bill. The bill extends the validity of certain approvals issued by State and local government units beginning January 1, 2007 to December 31, 2014, rather than December 31, 2012, as provided in current law. The OLS contends that, absent this bill, many approvals would have been applied for by December 31, 2012 (or June 30, 2013 as allowed by the tolling provision), thereby generating additional State and local permit fee revenues. The OLS notes that some benefits to the State and local economies could be realized from the preservation of existing approvals for property owners and developers, and the avoidance of presumably costly permit review fees that otherwise would have been paid by the business community.

Section: Environment, Agriculture, Energy and Natural Resources

Analyst: Joseph A. Hroncich
Associate Fiscal Analyst

Approved: David J. Rosen
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

STATEMENT TO
[Second Reprint]
SENATE, No. 743

with Senate Floor Amendments
(Proposed by Senator SARLO)

ADOPTED: JUNE 21, 2012

These floor amendments:

(1) amend the definition of “extension area” to include any Highlands center designated by the Highlands Water Protection and Planning Council;

(2) amend the definition of “extension area” to specify that it does not include any area designated under the State Plan as a Planning Area 4B (Rural/Environmentally Sensitive) or Planning Area 5 (Environmentally Sensitive), except for any area within Planning Area 4B or Planning Area 5 that is a designated center, or a designated growth center in an endorsed plan;

(3) specify that nothing in P.L.2008, c.78 shall be deemed to extend or purport to extend any permit or approval within the Highlands preservation area;

(4) specify that nothing in P.L.2008, c.78 shall be deemed to extend or purport to extend any permit or approval within the Highlands planning area located in a municipality subject to the "Highlands Water Protection and Planning Act," P.L.2004, c.120, that has adopted, as of May 1, 2012, in accordance with the Highlands Water Protection and Planning Council conformance approval, a Highlands master plan element, a Highlands land use ordinance, or an environmental resource inventory, and further specify that this exclusion does not apply to any permit or approval within a Highlands center designated by the Highlands Water Protection and Planning Council, notwithstanding the adoption by the municipality of a Highlands master plan element, a Highlands land use ordinance, or an environmental resource inventory; and

(5) make technical corrections to update statutory references.

LEGISLATIVE FISCAL ESTIMATE

[Third Reprint]

SENATE, No. 743

STATE OF NEW JERSEY 215th LEGISLATURE

DATED: AUGUST 3, 2012

SUMMARY

- Synopsis:** Extends expiration date of certain permits pursuant to the “Permit Extension Act of 2008.”
- Type of Impact:** Potential loss of permit fee revenue to the General Fund and local government.
- Agencies Affected:** Department of Environmental Protection, Department of Community Affairs, Department of Transportation, State commissions, counties, and municipalities authorized to approve certain State or local permits.

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Revenue	Indeterminate loss – See comments below		
Local Revenue	Indeterminate loss – See comments below		

- The Office of Legislative Services (OLS) estimates an indeterminate loss of State and local revenue as a result of the extension of the “extension period” for certain approvals authorized by this bill, the expansion of geographical areas in which approvals are extended by the bill, and the inclusion of additional types of approvals that would be extended by the bill.
- Some benefits to the State and local economies could be realized from the preservation of existing approvals for property owners and developers, and the avoidance of presumably costly permit review fees that otherwise would have been paid by the business community.
- The bill extends the validity of certain approvals issued by State and local government units beginning January 1, 2007 to December 31, 2014, rather than December 31, 2012, as provided in current law.
- In accordance with the tolling provision provided in the “Permit Extension Act of 2008,” no approval would be extended beyond the six months after the conclusion of the extension period, or until June 30, 2015.

BILL DESCRIPTION

Senate Bill No. 743 (3R) of 2012 would extend until December 31, 2014, rather than December 31, 2012 as provided under current law, the “extension period,” as defined in the “Permit Extension Act of 2008,” P.L.2008, c.78 (C.40:55D-136.1 et seq.). Thus, under the bill, certain approvals, as defined by the “Permit Extension Act of 2008” and in effect on January 1, 2007, would continue to be valid at least until December 31, 2014. The bill also expands the geographical areas (referred to as "extension areas") in which approvals are extended, and includes additional types of approvals qualifying for the extension.

In accordance with the tolling provision in the “Permit Extension Act of 2008,” the validity of an approval in effect on January 1, 2007 would be extended beyond the conclusion of the extension period by the length of the unexpired validity period, but not more than six months (i.e., until not later than June 30, 2015). The bill provides that the running period of government approvals pursuant to P.L.2008, c.78 would include “extension areas,” as defined in the bill, and that the running period of approvals in the extension areas “shall be calculated, using that definition, retroactive to the enactment of P.L.2008, c.78” (i.e., September 6, 2008).

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates an indeterminate loss of State and local revenue as a result of the extension of the "extension period" for certain approvals authorized by this bill, the expansion of the geographical areas in which approvals are extended by the bill, and the inclusion of additional types of approvals that would be extended by the bill. Unfortunately, specific estimates cannot be quantified because the OLS is unable to obtain reliable information regarding the number of approvals that would be extended by the bill. The bill extends the validity of certain approvals issued by State and local government units beginning January 1, 2007 to December 31, 2014, rather than December 31, 2012, as provided in current law. The OLS contends that, absent this bill, many approvals would have been applied for by December 31, 2012 (or June 30, 2013 as allowed by the tolling provision), thereby generating additional State and local permit fee revenues. The OLS notes that some benefits to the State and local economies could be realized from the preservation of existing approvals for property owners and developers, and the avoidance of presumably costly permit review fees that otherwise would have been paid by the business community.

Section: Environment, Agriculture, Energy and Natural Resources

*Analyst: Joseph A. Hroncich
Associate Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

FE to S743 [3R]

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This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).