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SYNOPSIS
Extends expiration date of certain permits for one year in Superstorm Sandy-impacted counties.

CURRENT VERSION OF TEXT
As reported by the Assembly Judiciary Committee on June 20, 2016, with amendments.
AN ACT concerning the extension of certain permits and approvals affecting the physical development of property located in Superstorm Sandy-impacted counties and amending P.L.2008, c.78.

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

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

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


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 AJU committee amendments adopted June 20, 2016.

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

"Environmentally sensitive area" means an area designated pursuant to the State Development and Redevelopment Plan adopted, as of the effective date of P.L.2008, c.78 [C.40:55D-136.1 et seq.], pursuant to P.L.1985, c.398 (C.52:18A-196 et al.) as Planning Area 4B (Rural/Environmentally Sensitive), Planning Area 5 (Environmentally Sensitive), or a critical environmental site, but shall not include any extension area as defined in this section.

"Extension area" means an area designated pursuant to P.L.1985, c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan), Planning Area 2 (Suburban), Planning Area 3 (Fringe Planning Area), Planning Area 4A (Rural Planning Area), a designated...
center, or a designated growth center in an endorsed plan 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; a smart growth area and planning area designated in a master plan adopted by the New Jersey Meadowlands Commission pursuant to subsection (i) of section 6 of P.L.1968, c.404 (C.13:17-6); regional growth areas, villages, and towns, designated in the comprehensive management plan prepared and adopted by the Pinelands Commission pursuant to section 7 of the "Pinelands Protection Act,” P.L.1979, c.111 (C.13:18A-8); the planning area of the Highlands Region as defined in section 3 of the "Highlands Water Protection and Planning Act,” P.L.2004, c.120 (C.13:20-3), and any Highlands center designated by the Highlands Water Protection and Planning Council, established pursuant to section 4 of P.L.2004, c.120 (C.13:20-4); an urban enterprise zone designated pursuant to P.L.1983, c.303 (C.52:27H-60 et seq.) or P.L.2001, c.347 (C.52:27H-66.2 et al.); an area determined to be in need of redevelopment pursuant to sections 5 and 6 of P.L.1992, c.79 (C.40A:12A-5 and 40A:12A-6) and as approved by the Department of Community Affairs; or similar areas designated by the Department of Environmental Protection. "Extension area" shall not include an area designated pursuant to the State Development and Redevelopment Plan adopted, as of the effective date of P.L.2008, c.78, pursuant to P.L.1985, c.398 as 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.

"Extension period” means the period beginning January 1, 2007 and continuing through December 31, 2015; provided, however, that the period in Superstorm Sandy-impacted counties shall continue through December 31, 2016.

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

1“Superstorm Sandy-impacted counties” means Atlantic, Bergen, Cape May, Essex, Hudson, Middlesex, Monmouth, Ocean, and Union counties, as identified by the United States Department of Housing and Urban Development.1

2“Superstorm Sandy-impacted extension period” means the period beginning January 1, 2016 and continuing through December 31, 2016.

(cf: P.L.2014, c.84, s.2)

2. Section 4 of P.L.2008, c.78 (C.40:55D-136.4) is amended to read as follows:
4. a. (1) For any government approval in existence during the extension period, the running of the period of approval is automatically suspended for the extension period, except as otherwise provided hereunder; however, the tolling provided for herein shall not extend the government approval more than six months beyond the conclusion of the extension period.

(2) For any government approval in existence on December 31, 2015 concerning lands located entirely within one or more of the nine Superstorm Sandy-impacted counties, as identified by the United States Department of Housing and Urban Development, the running of the period of approval is automatically suspended for the Superstorm Sandy-impacted extension period, except as otherwise provided hereunder; however, the tolling provided for herein shall not extend the government approval more than six months beyond the conclusion of the Superstorm Sandy-impacted extension period. The nine most Superstorm Sandy-impacted counties are Atlantic, Bergen, Cape May, Essex, Hudson, Middlesex, Monmouth, Ocean, and Union counties.

(3) Nothing in P.L.2008, c.78 shall shorten the duration that any approval would have had in the absence of P.L.2008, c.78, nor shall P.L.2008, c.78 prohibit the granting of such additional extensions as are provided by law when the tolling granted by P.L.2008, c.78 shall expire. Notwithstanding any previously enacted provision of P.L.2008, c.78, as amended and supplemented, the running of the period of approval of all government approvals which would have been extended pursuant to the definition of "extension area," added by P.L.2012, c.48, shall be calculated, using that definition, retroactive to the enactment of P.L.2008, c.78.

b. Nothing in P.L.2008, c.78 shall be deemed to extend or purport to extend:

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

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

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

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

(6) any permit or approval issued pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), except (a) where work has commenced, in any phase or section of the development, on any site improvement as defined in paragraph (1) of subsection a. of section 41 of the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-53) or on any buildings or structures or (b) where the permit or approval authorizes work on real property owned by the government or the federal government;

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

(8) 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, except that the provisions of this paragraph shall 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.

c. P.L.2008, c.78 \^[2](C.40:55D-136.1 et seq.)\(^1\) shall not affect any administrative consent order issued by the Department of Environmental Protection in effect or issued during the extension period, nor shall it be construed to extend any approval in connection with a resource recovery facility as defined in section 2 of P.L.1985, c.38 (C.13:1E-137).

d. Nothing in P.L.2008, c.78 \^[2](C.40:55D-136.1 et seq.)\(^1\) shall affect the ability of the Commissioner of Environmental Protection to revoke or modify a specific permit or approval, or extension thereof pursuant to P.L.2008, c.78 \^[2](C.40:55D-136.1 et seq.)\(^1\), when that specific permit or approval contains language authorizing the
modification or revocation of the permit or approval by the department.

e. In the event that any approval tolled pursuant to P.L.2008, c.78 1(C.40:55D-136.1 et seq.)1 is based upon the connection to a sanitary sewer system, the approval’s extension shall be contingent upon the availability of sufficient capacity, on the part of the treatment facility, to accommodate the development whose approval has been extended. If sufficient capacity is not available, those permit holders whose approvals have been extended shall have priority with regard to the further allocation of gallonage over those approval holders who have not received approval of a hookup prior to the date of enactment of P.L.2008, c.78 1(C.40:55D-136.1 et seq.)1. Priority regarding the distribution of further gallonage to any permit holder who has received the extension of an approval pursuant to P.L.2008, c.78 1(C.40:55D-136.1 et seq.)1 shall be allocated in order of the granting of the original approval of the connection.

f. P.L.2008, c.78 1(C.40:55D-136.1 et seq.)1 shall not toll any approval issued under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.) in connection with an application for development involving a residential use where, subsequent to the expiration of the permit but prior to January 1, 2007, an amendment has been adopted to the master plan and the zoning ordinance to rezone the property to industrial or commercial use when the permit was issued for residential use.

g. Nothing in P.L.2008, c.78 1(C.40:55D-136.1 et seq.)1 shall be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the State of the authority to implement a federal law or program.


i. All underlying municipal, county, and State permits or approvals within the extension area as defined in section 3 of P.L.2008, c.78 (C.40:55D-136.3), as amended, are extended in the Pinelands Area as designated pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.). (cf: P.L.2012, c.48, s.3)

3. Section 5 of P.L.2008, c.78 (C.40:55D-136.5) is amended to read as follows:
5. State agencies shall, within 30 days after the effective date of P.L.2008, c.78 (C.40:55D-136.1 et seq.), and within 30 days after the effective date of any subsequent amendment and supplement thereto, place a notice in the New Jersey Register tolling all approvals in the nine most Superstorm Sandy-impacted counties, as identified by the U.S. Department of Housing and Urban Development defined in section 3 of P.L.2008, c.78 (C.40:55D-136.3) in conformance with this act P.L.2008, c.78 (C.40:55D-136.1 et seq.).

4. This act shall take effect immediately and be retroactive to January 1, 2016.