

# ASSEMBLY, No. 3617

## STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED JUNE 16, 2016

**Sponsored by:**

**Assemblyman JERRY GREEN**

**District 22 (Middlesex, Somerset and Union)**

**Assemblyman DAVID P. RIBLE**

**District 30 (Monmouth and Ocean)**

**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

As introduced.



A3617 GREEN, RIBLE

2

1 AN ACT concerning the extension of certain permits and approvals  
2 affecting the physical development of property located in  
3 Superstorm Sandy-impacted counties and amending P.L.2008,  
4 c.78.

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 1. Section 3 of P.L.2008, c.78 (C.40:55D-136.3) is amended to  
10 read as follows:

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

12 "Approval" means, except as otherwise provided in section 4 of  
13 P.L.2008, c.78 (C.40:55D-136.4), any approval of a soil erosion and  
14 sediment control plan granted by a local soil conservation district  
15 under the authority conferred by R.S.4:24-22 et seq., waterfront  
16 development permit issued pursuant to R.S.12:5-1 et seq., permit  
17 issued pursuant to "The Wetlands Act of 1970," P.L.1970, c.272  
18 (C.13:9A-1 et seq.), permit issued pursuant to the "Freshwater  
19 Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et al.),  
20 approval of an application for development granted by the Delaware  
21 and Raritan Canal Commission pursuant to the "Delaware and  
22 Raritan Canal State Park Law of 1974," P.L.1974, c.118 (C.13:13A-  
23 1 et seq.), permit issued by the New Jersey Meadowlands  
24 Commission pursuant to the "Hackensack Meadowlands  
25 Reclamation and Development Act," P.L.1968, c.404 (C.13:17-1 et  
26 al.), approval of an application for development granted by the  
27 Pinelands Commission and determination of municipal and county  
28 plan conformance pursuant to the "Pinelands Protection Act,"  
29 P.L.1979, c.111 (C.13:18A-1 et seq.), permit issued and center  
30 designations pursuant to the "Coastal Area Facility Review Act,"  
31 P.L.1973, c.185 (C.13:19-1 et seq.), septic approval granted  
32 pursuant to Title 26 of the Revised Statutes, permit granted  
33 pursuant to R.S.27:7-1 et seq. or any supplement thereto, right-of-  
34 way permit issued by the Department of Transportation pursuant to  
35 paragraph (3) of subsection (h) of section 5 of P.L.1966, c.301  
36 (C.27:1A-5), approval granted by a sewerage authority pursuant to  
37 the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et  
38 seq.), approval granted by a municipal authority pursuant to the  
39 "municipal and county utilities authorities law," P.L.1957, c.183  
40 (C.40:14B-1 et seq.), an agreement with a municipality, county,  
41 municipal authority, sewerage authority, or other governmental  
42 authority for the use or reservation of sewerage capacity, approval  
43 issued by a county planning board pursuant to chapter 27 of Title 40  
44 of the Revised Statutes, preliminary and final approval granted in  
45 connection with an application for development pursuant to the

**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 "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.),  
2 permit granted pursuant to the "State Uniform Construction Code  
3 Act," P.L.1975, c.217 (C.52:27D-119 et seq.), plan endorsement  
4 and center designations pursuant to the "State Planning Act,"  
5 P.L.1985, c.398 (C.52:18A-196 et al.), permit or certification issued  
6 pursuant to the "Water Supply Management Act," P.L.1981, c.262  
7 (C.58:1A-1 et al.), permit granted authorizing the drilling of a well  
8 pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.), certification or  
9 permit granted, exemption from a sewerage connection ban granted,  
10 wastewater management plan approved, and pollution discharge  
11 elimination system permit pursuant to the "Water Pollution Control  
12 Act," P.L.1977, c.74 (C.58:10A-1 et seq.), certification granted  
13 pursuant to "The Realty Improvement Sewerage and Facilities Act  
14 (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), certification or  
15 approval granted pursuant to P.L.1971, c.386 (C.58:11-25.1 et al.),  
16 certification issued and water quality management plan approved  
17 pursuant to the "Water Quality Planning Act," P.L.1977, c.75  
18 (C.58:11A-1 et seq.), approval granted pursuant to the "Safe  
19 Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et al.), permit  
20 issued pursuant to the "Flood Hazard Area Control Act," P.L.1962,  
21 c.19 (C.58:16A-50 et seq.), any municipal, county, regional, or  
22 State approval or permit granted under the general authority  
23 conferred by State law or rule or regulation, or any other  
24 government authorization of any development application or any  
25 permit related thereto whether that authorization is in the form of a  
26 permit, approval, license, certification, permission, determination,  
27 interpretation, exemption, variance, exception, waiver, letter of  
28 interpretation, no further action letter, agreement or any other  
29 executive or administrative decision which allows a development or  
30 governmental project to proceed.

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

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

45 "Extension area" means an area designated pursuant to P.L.1985,  
46 c.398 (C.52:18A-196 et seq.) as Planning Area 1 (Metropolitan),  
47 Planning Area 2 (Suburban), Planning Area 3 (Fringe Planning  
48 Area), Planning Area 4A (Rural Planning Area), a designated

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

30 "Extension period" means the period beginning January 1, 2007  
31 and continuing through December 31, ~~2015~~ 2016.

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

35 "Superstorm Sandy-impacted extension period" means the period  
36 beginning January 1, 2016 and continuing through December 31,  
37 2016.

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

39

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

42 4. a. (1) For any government approval in existence during the  
43 extension period, the running of the period of approval is  
44 automatically suspended for the extension period, except as  
45 otherwise provided hereunder; however, the tolling provided for  
46 herein shall not extend the government approval more than six  
47 months beyond the conclusion of the extension period.

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

13       (3) Nothing in P.L.2008, c.78 (C.40:55D-136.1 et seq.) shall  
14 shorten the duration that any approval would have had in the  
15 absence of P.L.2008, c.78, nor shall P.L.2008, c.78 prohibit the  
16 granting of such additional extensions as are provided by law when  
17 the tolling granted by P.L.2008, c.78 shall expire. Notwithstanding  
18 any previously enacted provision of P.L.2008, c.78, as amended and  
19 supplemented, the running of the period of approval of all  
20 government approvals which would have been extended pursuant to  
21 the definition of "extension area," added by P.L.2012, c.48, shall be  
22 calculated, using that definition, retroactive to the enactment of  
23 P.L.2008, c.78.

24       b. Nothing in P.L.2008, c.78 (C.40:55D-136.1 et seq.) shall be  
25 deemed to extend or purport to extend:

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

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

37       (3) any permit or approval issued within an environmentally  
38 sensitive area;

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

44       (5) any permit or approval issued by the Department of  
45 Transportation pursuant to Title 27 of the Revised Statutes or under  
46 the general authority conferred by State law, other than a right-of-  
47 way permit issued pursuant to paragraph (3) of subsection (h) of

1 section 5 of P.L.1966, c.301 (C.27:1A-5) or a permit granted  
2 pursuant to R.S.27:7-1 et seq. or any supplement thereto;

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

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

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

29 c. P.L.2008, c.78 shall not affect any administrative consent  
30 order issued by the Department of Environmental Protection in  
31 effect or issued during the extension period, nor shall it be  
32 construed to extend any approval in connection with a resource  
33 recovery facility as defined in section 2 of P.L.1985, c.38 (C.13:1E-  
34 137).

35 d. Nothing in P.L.2008, c.78 shall affect the ability of the  
36 Commissioner of Environmental Protection to revoke or modify a  
37 specific permit or approval, or extension thereof pursuant to  
38 P.L.2008, c.78, when that specific permit or approval contains  
39 language authorizing the modification or revocation of the permit or  
40 approval by the department.

41 e. In the event that any approval tolled pursuant to P.L.2008,  
42 c.78 is based upon the connection to a sanitary sewer system, the  
43 approval's extension shall be contingent upon the availability of  
44 sufficient capacity, on the part of the treatment facility, to  
45 accommodate the development whose approval has been extended.  
46 If sufficient capacity is not available, those permit holders whose  
47 approvals have been extended shall have priority with regard to the  
48 further allocation of gallonage over those approval holders who

1 have not received approval of a hookup prior to the date of  
2 enactment of P.L.2008, c.78. Priority regarding the distribution of  
3 further gallonage to any permit holder who has received the  
4 extension of an approval pursuant to P.L.2008, c.78 shall be  
5 allocated in order of the granting of the original approval of the  
6 connection.

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

15 g. Nothing in P.L.2008, c.78 shall be construed or implemented  
16 in such a way as to modify any requirement of law that is necessary  
17 to retain federal delegation to, or assumption by, the State of the  
18 authority to implement a federal law or program.

19 h. Nothing in P.L.2008, c.78 shall be deemed to extend the  
20 obligation of any wastewater management planning agency to  
21 submit a wastewater management plan or plan update, or the  
22 obligation of a municipality to submit a wastewater management  
23 plan or plan update, pursuant to the "Water Quality Planning Act,"  
24 P.L.1977, c.75 (C.58:11A-1 et seq.) and the Water Quality  
25 Management Planning rules, N.J.A.C.7:15-1.1 et seq., adopted by  
26 the Department of Environmental Protection, effective July 7, 2008.

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

32 (cf: P.L.2012, c.48, s.3)

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

36 5. State agencies shall, within 30 days after the effective date  
37 of P.L.2008, c.78 (C.40:55D-136.1 et seq.), and within 30 days after  
38 the effective date of any subsequent amendment and supplement  
39 thereto, place a notice in the New Jersey Register tolling **[all]**  
40 approvals in the nine most Superstorm Sandy-impacted counties, as  
41 identified by the U.S. Department of Housing and Urban  
42 Development in conformance with this act.

43 (cf: P.L.2012, c.48, s.4)

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

STATEMENT

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This bill would further extend the "Permit Extension Act of 2008," P.L.2008, c.78 (C.40:55D-136.1 et seq.), for an additional one year in the nine most Superstorm Sandy-impacted counties as identified by the U.S. Department of Housing and Urban Development. The nine most Superstorm Sandy-impacted counties are Atlantic, Bergen, Cape May, Essex, Hudson, Middlesex, Monmouth, Ocean, and Union counties.

The "Permit Extension Act of 2008" originally suspended the running of certain government approvals until July 1, 2010. P.L.2009, c.336 extended the end date of the "extension period" to December 31, 2012, P.L.2012, c.48 extended the end date of the "extension period" to December 31, 2014 and P.L.2014, c.84 further extended the end date of the "extension period" to December 31, 2015. This bill would further extend the end date to December 31, 2016 in the nine most Superstorm Sandy-impacted counties. In accordance with the tolling provision provided in the "Permit Extension Act of 2008," no approval would be extended beyond six months after the conclusion of the extension period, or until June 30, 2017.

As a result of the most recent recession, once-approved permits are in danger of expiring or lapsing because gaining a permit extension is difficult and costly and developers do not have the resources to obtain extensions. The effects of Superstorm Sandy exacerbated this problem as areas in this State attempt to recover from the devastation caused by the storm. As permit approvals lapse, lenders must re-appraise and thereafter substantially lower real estate valuations established in conjunction with approved projects, thereby requiring the reclassification of numerous loans. This in turn affects the stability of the banking system and reduces the funds available for future lending, thus creating more severe restrictions on credit and leading to a vicious cycle of default.

Accordingly, this bill would extend permits which have been granted by State, regional, county, and municipal agencies for an additional one year in the nine most Superstorm Sandy-impacted counties in order to prevent a waste of public and private resources.