

[First Reprint]  
**ASSEMBLY, No. 3617**

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**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

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INTRODUCED JUNE 16, 2016

**Sponsored by:**

**Assemblyman JERRY GREEN**  
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**District 30 (Monmouth and Ocean)**  
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**Senator JOSEPH M. KYRILLOS, JR.**  
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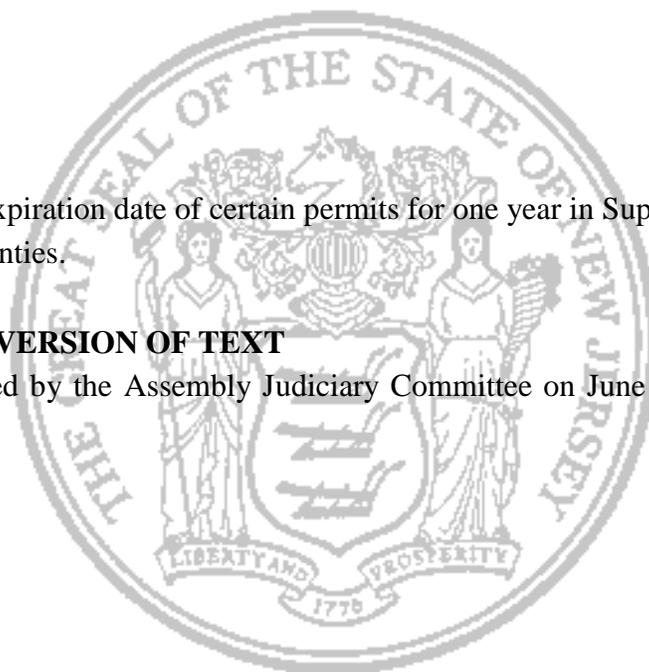
**Assemblyman O'Scanlon, Assemblywoman Downey, Assemblyman Coughlin, Senators A.R.Bucco, Holzapfel and Singer**

**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.



**(Sponsorship Updated As Of: 7/1/2016)**

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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AJU committee amendments adopted June 20, 2016.

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 <sup>1</sup>(C.40:55D-  
41 136.1 et seq.)<sup>1</sup>, pursuant to P.L.1985, c.398 (C.52:18A-196 et al.) as  
42 Planning Area 4B (Rural/Environmentally Sensitive), Planning  
43 Area 5 (Environmentally Sensitive), or a critical environmental site,  
44 but 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~~ <sup>1</sup>2015; provided,  
32 however, that the period in Superstorm Sandy-impacted counties  
33 shall continue through December 31, <sup>1</sup> 2016.

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

37 <sup>1</sup>"Superstorm Sandy-impacted counties" means Atlantic, Bergen,  
38 Cape May, Essex, Hudson, Middlesex, Monmouth, Ocean, and  
39 Union counties, as identified by the United States Department of  
40 Housing and Urban Development. <sup>1</sup>

41 "Superstorm Sandy-impacted extension period" means the period  
42 beginning January 1, 2016 and continuing through December 31,  
43 2016.

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

45

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

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

7 (2) For any government approval in existence <sup>1</sup>on December 31,  
8 2015<sup>1</sup> concerning lands located entirely within one or more of the  
9 <sup>1</sup>[nine most]<sup>1</sup> Superstorm Sandy-impacted counties, <sup>1</sup>[as identified  
10 by the United States Department of Housing and Urban  
11 Development] as defined in section 3 of P.L.2008, c.78 (C.40:55D-  
12 136.3)<sup>1</sup>, the running of the period of approval is automatically  
13 suspended for the Superstorm Sandy-impacted extension period,  
14 except as otherwise provided hereunder; however, the tolling  
15 provided for herein shall not extend the government approval more  
16 than six months beyond the conclusion of the Superstorm Sandy  
17 impacted extension period. <sup>1</sup>[The nine most Superstorm Sandy  
18 impacted counties are Atlantic, Bergen, Cape May, Essex, Hudson,  
19 Middlesex, Monmouth, Ocean, and Union counties.]<sup>1</sup>

20 (3) Nothing in P.L.2008, c.78 (C.40:55D-136.1 et seq.) shall  
21 shorten the duration that any approval would have had in the  
22 absence of P.L.2008, c.78 <sup>1</sup>(C.40:55D-136.1 et seq.)<sup>1</sup>, nor shall  
23 P.L.2008, c.78 <sup>1</sup>(C.40:55D-136.1 et seq.)<sup>1</sup> prohibit the granting of  
24 such additional extensions as are provided by law when the tolling  
25 granted by P.L.2008, c.78 <sup>1</sup>(C.40:55D-136.1 et seq.)<sup>1</sup> shall expire.  
26 Notwithstanding any previously enacted provision of P.L.2008, c.78  
27 <sup>1</sup>(C.40:55D-136.1 et seq.)<sup>1</sup>, as amended and supplemented, the  
28 running of the period of approval of all government approvals  
29 which would have been extended pursuant to the definition of  
30 "extension area," added by P.L.2012, c.48, shall be calculated,  
31 using that definition, retroactive to the enactment of P.L.2008, c.78  
32 <sup>1</sup>(C.40:55D-136.1 et seq.)<sup>1</sup>.

33 b. Nothing in P.L.2008, c.78 (C.40:55D-136.1 et seq.) shall be  
34 deemed to extend or purport to 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.), or any permit or  
4 approval issued within the preservation area of the Highlands  
5 Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3);

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

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

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

26 (8) any permit or approval within the Highlands planning area  
27 located in a municipality subject to the "Highlands Water Protection  
28 and Planning Act," P.L.2004, c.120, that has adopted, as of May 1,  
29 2012, in accordance with the Highlands Water Protection and  
30 Planning Council conformance approval, a Highlands master plan  
31 element, a Highlands land use ordinance, or an environmental  
32 resource inventory, except that the provisions of this paragraph  
33 shall not apply to any permit or approval within a Highlands center  
34 designated by the Highlands Water Protection and Planning  
35 Council, notwithstanding the adoption by the municipality of a  
36 Highlands master plan element, a Highlands land use ordinance, or  
37 an environmental resource inventory.

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

44 d. Nothing in P.L.2008, c.78 <sup>1</sup>(C.40:55D-136.1 et seq.)<sup>1</sup> shall  
45 affect the ability of the Commissioner of Environmental Protection  
46 to revoke or modify a specific permit or approval, or extension  
47 thereof pursuant to P.L.2008, c.78 <sup>1</sup>(C.40:55D-136.1 et seq.)<sup>1</sup>, when  
48 that specific permit or approval contains language authorizing the

1 modification or revocation of the permit or approval by the  
2 department.

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

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

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

31 h. Nothing in P.L.2008, c.78 <sup>1</sup>(C.40:55D-136.1 et seq.)<sup>1</sup> shall  
32 be deemed to extend the obligation of any wastewater management  
33 planning agency to submit a wastewater management plan or plan  
34 update, or the obligation of a municipality to submit a wastewater  
35 management plan or plan update, pursuant to the "Water Quality  
36 Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.) and the Water  
37 Quality Management Planning rules, N.J.A.C.7:15-1.1 et seq.,  
38 adopted by the Department of Environmental Protection, effective  
39 July 7, 2008.

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

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

46

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

1       5. State agencies shall, within 30 days after the effective date  
2 of P.L.2008, c.78 (C.40:55D-136.1 et seq.), and within 30 days after  
3 the effective date of any subsequent amendment and supplement  
4 thereto, place a notice in the New Jersey Register tolling **all**  
5 approvals in the **nine most** Superstorm Sandy-impacted  
6 counties, as **identified by the U.S. Department of Housing and**  
7 **Urban Development** defined in section 3 of P.L.2008, c.78  
8 (C.40:55D-136.3)<sup>1</sup> in conformance with **this act** P.L.2008, c.78  
9 (C.40:55D-136.1 et seq.)<sup>1</sup>.  
10 (cf: P.L.2012, c.48, s.4)

11  
12       4. This act shall take effect immediately and be retroactive to  
13 January 1, 2016.