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CHAPTER 53

An Act extending certain governmental permits, approvals, and deadlines during the public health emergency created by the COVID-19 emergency and supplementing Title 40 of the Revised Statutes.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

C.40:55D-136.7 Short title.

1. P.L.2020, c.53 (C.40:55D-136.7 et seq.) shall be known and may be cited as the "Permit Extension Act of 2020."

C.40:55D-136.8 Findings, declarations.

2. The Legislature finds and declares that:

a. COVID-19 is a contagious, and at times, fatal, respiratory disease caused by the SARS-CoV-2 virus first discovered in the city of Wuhan, Hubei Province, People's Republic of China, and quickly spread to multiple other countries, including the United States, and has severely impacted residents of the State of New Jersey;

b. Due to the potential risk of COVID-19 to residents of New Jersey, by way of Executive Order No. 103, Governor Philip D. Murphy declared that a State of Emergency and a Public Health Emergency exists in the State of New Jersey;

c. To limit the spread of COVID-19, it has become imperative for governments, institutions, businesses, organizations, and people throughout New Jersey to implement strict social distancing measures and take other precautions to reduce the public health impacts of the disease;

d. Due to the impacts of COVID-19, and protective measures necessary to avoid its further spread, much government, business, and economic activity has been halted, disrupted, or delayed;

e. These delays have adversely impacted real estate developers and redevelopers, including homebuilders and commercial, office, and industrial developers, whose projects may be held in abeyance as a result of the COVID-19 pandemic. Many of these projects have already received myriad governmental permits and approvals, which are expensive and time-consuming to obtain;

f. Obtaining an extension of an approval pursuant to existing statutory or regulatory provisions can be both costly in terms of time and financial resources; moreover, the costs imposed may fall on the public as well as the private sector; and

g. It is therefore appropriate, and the purpose of P.L.2020, c.53 (C.40:55D-136.7 et seq.), to toll the term of certain permits and approvals during the COVID-19 extension period in order to prevent the wholesale abandonment of approved projects and activities due to the present unfavorable economic conditions, thereby preventing a waste of public and private resources and allowing for the quick resumption of projects when it is safe to restart normal business and government activity.

C.40:55D-136.9 Definitions.

3. As used in P.L.2020, c.53 (C.40:55D-136.7 et seq.):

"Approval" means, except as otherwise provided in sections 4 through 11 of P.L.2020, c.53 (C.40:55D-136.10 through C.40:55D-136.17), any approval of a soil erosion and sediment control plan granted by a local soil conservation district under the authority conferred by R.S.4:24-22 et seq., waterfront development permit issued pursuant to R.S.12:5-1 et seq., permit issued pursuant to "The Wetlands Act of 1970," P.L.1970, c.272 (C.13:9A-1 et seq.), permit issued pursuant to the "Freshwater Wetlands Protection Act," P.L.1987, c.156 (C.13:9B-1 et al.), approval of an application for development granted by the Delaware and Raritan Canal Commission pursuant to the "Delaware and Raritan Canal State Park Law of 1974," P.L.1974, c.118 (C.13:13A-1 et seq.), permit issued pursuant to the "Hackensack Meadowlands Reclamation and Development Act," P.L.1968, c.404 (C.13:17-1 et al.), approval of an application for

development granted by the Pinelands Commission and determination of municipal and county plan conformance pursuant to the "Pinelands Protection Act," P.L.1979, c.111 (C.13:18A-1 et seq.), permit issued and center designations pursuant to the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.), septic approval granted pursuant to Title 26 of the Revised Statutes, permit granted pursuant to R.S.27:7-1 et seq. or any supplement thereto, right-of-way permit issued by the Department of Transportation pursuant to paragraph (3) of subsection (h) of section 5 of P.L.1966, c.301 (C.27:1A-5), approval granted by a sewerage authority pursuant to the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-1 et seq.), approval granted by a municipal authority pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.), an agreement with a municipality, county, municipal authority, sewerage authority, or other governmental authority for the use or reservation of sewerage capacity, approval issued by a county planning board pursuant to chapter 27 of Title 40 of the Revised Statutes, preliminary and final approval granted in connection with an application for development pursuant to the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1 et seq.), permit granted pursuant to the "State Uniform Construction Code Act," P.L.1975, c.217 (C.52:27D-119 et seq.), plan endorsement and center designations pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.), permit or certification issued pursuant to the "Water Supply Management Act," P.L.1981, c.262 (C.58:1A-1 et al.), permit granted authorizing the drilling of a well pursuant to P.L.1947, c.377 (C.58:4A-5 et seq.), certification or permit granted, exemption from a sewerage connection ban granted, wastewater management plan approved, and pollution discharge elimination system permit pursuant to the "Water Pollution Control Act," P.L.1977, c.74 (C.58:10A-1 et seq.), certification granted pursuant to "The Realty Improvement Sewerage and Facilities Act (1954)," P.L.1954, c.199 (C.58:11-23 et seq.), certification or approval granted pursuant to P.L.1971, c.386 (C.58:11-25.1 et al.), certification issued and water quality management plan approved pursuant to the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.), approval granted pursuant to the "Safe Drinking Water Act," P.L.1977, c.224 (C.58:12A-1 et al.), permit issued pursuant to the "Flood Hazard Area Control Act," P.L.1962, c.19 (C.58:16A-50 et seq.), any municipal, county, regional, or State approval or permit granted under the general authority conferred by State law or rule or regulation, or any other government authorization of any development application or any permit related thereto whether that authorization is in the form of a permit, approval, license, certification, permission, determination, interpretation, exemption, variance, exception, waiver, letter of interpretation, no further action letter, agreement or any other executive or administrative decision which allows a development or governmental project to proceed; provided that, for all of the foregoing, the approval was validly issued, and the term of such approval was unexpired as of March 9, 2020.

"COVID-19" means the coronavirus disease 2019, as announced by the World Health Organization on February 11, 2020, and first identified in Wuhan, China.

"COVID-19 extension period" means the period beginning March 9, 2020 and continuing for as long as a public health emergency, pursuant to the "Emergency Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.), that has been declared by the Governor in response to COVID-19, is in effect.

"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.

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

C.40:55D-136.10 Running of period of approval suspended, exceptions.

4. a. For any government approval in existence on March 9, 2020, the running of the period of approval is automatically suspended for the COVID-19 extension period, except as otherwise provided hereunder; however, the tolling provided for herein shall extend the government approval at least six months beyond the conclusion of the COVID-19 extension period

b. Nothing in P.L.2020, c.53 (C.40:55D-136.7 et seq.) shall be construed to reduce the time period of any approval in existence as of March 9, 2020.

c. Nothing in P.L.2020, c.53 (C.40:55D-136.7 et seq.) shall be construed to extend the time period of any government approval that expired before March 9, 2020.

d. Nothing in P.L.2020, c.53 (C.40:55D-136.7 et seq.) 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 (C.13:18A-1 et seq.) 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 the preservation area of the Highlands Region as defined in section 3 of P.L.2004, c.120 (C.13:20-3);

(4) 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;

(5) 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;

(6) any coastal center designated pursuant to the "Coastal Area Facility Review Act," P.L.1973, c.185 (C.13:19-1 et seq.); or

(7) 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, 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.40:55D-136.11 Administrative consent order not affected.

5. P.L.2020, c.53 (C.40:55D-136.7 et seq.) shall not affect any administrative consent order issued by the Department of Environmental Protection in effect or issued during the COVID-19 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).

C.40:55D-136.12 Commissioner's authority unaffected.

6. Nothing in P.L.2020, c.53 (C.40:55D-136.7 et seq.) 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.2020, c.53 (C.40:55D-136.7 et seq.), when that specific permit or approval or the commissioner's underlying statutory or regulatory authority contains language authorizing the modification or revocation of the permit or approval by the department.

C.40:55D-136.13 Extension contingent upon sufficient capacity for sanitary sewer system.

7. In the event that any approval tolled pursuant to P.L.2020, c.53 (C.40:55D-136.7 et seq.) 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 March 9, 2020. Priority regarding the distribution of further gallonage to any permit holder who has received the extension of an approval pursuant to P.L.2020, c.53 (C.40:55D-136.7 et seq.) shall be allocated in order of the granting of the original approval of the connection.

C.40:55D-136.14 Applications for development, certain, unaffected.

8. P.L.2020, c.53 (C.40:55D-136.7 et seq.) 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 March 9, 2020, 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.

C.40:55D-136.15 Construction of act.

9. Nothing in P.L.2020, c.53 (C.40:55D-136.7 et seq.) 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.

C.40:55D-136.16 Wastewater management plans unaffected.

10. Nothing in P.L.2020, c.53 (C.40:55D-136.7 et seq.) shall be deemed to extend the obligation of any wastewater management planning agency to submit a wastewater management plan or plan update, or the obligation of a municipality to submit a wastewater management plan or plan update, pursuant to the "Water Quality Planning Act," P.L.1977, c.75 (C.58:11A-1 et seq.) and the Water Quality Management Planning rules, N.J.A.C.7:15-1.1 et seq.

C.40:55D-136.17 Pinelands permits extended.

11. All underlying municipal, county, and State permits or approvals within the 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), are extended

C.40:55D-136.18 Notice in New Jersey Register.

12. a. State agencies shall, within 30 days after the effective date of P.L.2020, c.53 (C.40:55D-136.7 et seq.), place a notice in the New Jersey Register tolling approvals in conformance with P.L.2020, c.53 (C.40:55D-136.7 et seq.).

b. Any government approval subject to the automatic suspension of the running period of such approval for the COVID-19 extension period shall be registered with the department within 30 days of the notice in the New Jersey register.

c. The running period of any approval not registered pursuant to this section shall not be suspended for the COVID-19 extension period.

d. The department shall publish on its website a list of government approvals for which the running of the period of such approvals are suspended for the COVID-19 extension period within 14 days of receipt of the government approval registration pursuant to this section.

C.40:55D-136.19 Soil, fill recycling services, certain, running of period suspended.

13. The running of the period of any registration, application, or licensing requirement or timeframe imposed pursuant to P.L.2019, c.397 (C.13:1E-127.1 et al.), applicable to a person who performs soil and fill recycling services related to road or bridge construction activities, shall be suspended as of March 9, 2020 and the calculation of any registration, application filing, and licensing dates and the requirements related thereto, shall resume on the 60th day after the conclusion of the COVID-19 extension period.

C.40:55D-136.20 Extension for certain applications to municipal agency.

14. Notwithstanding any provision of P.L.1975, c.291 (C.40:55D-1 et seq.) to the contrary,

a. The 45-day period for an application for development to a municipal agency to be certified as complete pursuant to section 5 of P.L.1984, c.20 (C.40:55D-10.3) shall be extended to either 120 days after March 9, 2020, or 60 days after the date the application for development is submitted to the municipal agency, whichever date is later, for any application:

(1) awaiting certification as a complete application by a municipal agency as of March 9, 2020; or

(2) submitted by an applicant during the COVID-19 extension period.

b. The time periods for a municipal agency to either grant or deny any other application for development required under P.L.1975, c.291 (C.40:55D-1 et seq.) shall be extended by 120 days for any application:

(1) awaiting certification as a complete application by a municipal agency as of March 9, 2020; or

(2) pending before a municipal agency as of March 9, 2020.

c. The time periods for a municipal agency to either grant or deny any other application for development required under P.L.1975, c.291 (C.40:55D-1) shall be extended to either 120 days after March 9, 2020, or 60 days after the application for development is certified as complete by the municipal agency, whichever date is later, for any application submitted by an applicant during the COVID-19 extension period.

15. This act shall take effect immediately and shall be retroactive to March 9, 2020.

Approved July 1, 2020.

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