

New Jersey Permit Extension Act 2020 Enacted

July 29, 2020

On July 1, 2020, Governor Murphy signed the Permit Extension Act of 2020 (the “Act”) into law after certain amendments to the Act were made. The Act brings significant relief to the New Jersey real estate market. The Act extends certain environmental and development permits as well as other government approvals (collectively, “Approvals”) that were **validly issued and in effect as of March 9, 2020** until the end of the public health emergency in New Jersey related to the COVID-19 pandemic, which the Act defines as the “COVID-19 Extension Period.” Significantly, the Act extends such Approvals for an additional six (6) months after the COVID-19 Extension Period expires. The Act also provides that the running of the period of any registration, application, or licensing requirement or timeframe applicable to a person who performs soil and fill recycling services related to road or bridge construction activities, shall be suspended as of the commencement of the COVID-19 Extension Period and shall resume on the 60th day after the conclusion of the COVID-19 Extension Period. The text of the Act is available [here](#).

Importantly, Approvals do not include, and the Act does not apply to:

- federal permits or approvals;
- permits or approvals issued under the Pinelands Protection Act if extending such a permit would violate federal law;
- any permit or approval issued within the preservation area of the Highlands Region;
- any permit or approval issued by the Department of Transportation other than a right-of-way permit;
- any permit or approval issued pursuant to the Flood Hazard Area Control Act except (a) where work has commenced on any site improvement 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;
- any coastal center designated pursuant to the Coastal Area Facility Review Act; and
- certain permits or approval within the Highlands planning area.

The Act contains other exceptions as well. Specifically, the Act:

- does not affect any administrative consent order issued by the NJDEP in effect or issued during the COVID-19 Extension Period, nor does it extend any approval in connection with a resource recovery facility;
- does not affect the ability of the Commissioner of the NJDEP to revoke or modify a specific permit or approval, or extension thereof when the Commissioner has the statutory or regulatory authority to do so;

- for any approval extended by the Act that is dependent on a sanitary sewer connection, the Act provides that such extension is contingent on the relevant treatment facility's capacity to accommodate the associated development;
- does not toll any approval issued under the Municipal Land Use Law ("MLUL") for a residential development where subsequent to the expiration of the permit but prior to the commencement of the COVID-19 Extension Period, an amendment has been adopted to the master plan and the zoning ordinance to rezone the property to industrial or commercial use; and
- does not extend the obligation of any wastewater management planning agency to submit a wastewater management pursuant to the Water Quality Planning Act and associated regulations.

The Act also modifies the MLUL to extend the time that a municipal agency has to act on development applications by:

- Extending the time period for a municipality to deem an application complete to the later of (a) 120 days after the commencement of the COVID-19 Extension Period, or (b) 60 days after a development application is submitted; and
- Extending the time period for a municipal agency to grant or deny an application for development submitted during the COVID-19 extension period to the later of (a) 120 days after commencement of the COVID-19 Extension Period; or (b) 60 days after the application for development is deemed complete.

The Act requires State agencies to place a notice in the New Jersey Register within 30 days stating that approvals have been extended or tolled. All approvals subject to the automatic tolling provisions of the Act must then be "registered with" the "department" within 30 days of such publication. Any approval not registered will be ineligible for extension. It is not clear what is required for an approval to be "registered." Further guidance is expected regarding this process. The failure to register an approval will result in the approval not being extended. Accordingly, it is essential that all applicable approvals are timely registered.

The Act takes effective immediately and is retroactive to March 9, 2020.