

# Real Estate & Construction Law Monitor

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## **New Jersey Signs Act to Extend the Permit Extension Act of 2008 to December 31, 2012**

On September 6, 2008, in response to unprecedented economic and financial crisis and as an attempt to protect development permits that were scheduled to expire, then New Jersey Governor John Corzine signed P.L. 2008, c. 78 (N.J.S.A. 40:55D-136.1 et seq.), legislation known as the Permit Extension Act of 2008 (the "Permit Extension Act"). The Permit Extension Act extended the terms of certain governmental development permits and approvals to July 1, 2010, with up to a six-month phase-in period until January 1, 2011. Governor Corzine, as one of his last acts as Governor, signed legislation (Chapter 336, Assembly No. 4347) extending the end of the tolling period under the Permit Extension Act from July 1, 2010 to December 31, 2012.

The primary goal of the Permit Extension Act is to promote development once the economy has strengthened and prevent the abandonment of approved projects and activities. The Permit Extension Act tolls the running of governmental development permits and approvals obtained during the period from January 1, 2007 through July 1, 2010, with up to a six-month phase-in period until January 1, 2011, thus amounting to a maximum four-year permit extension period.

The Permit Extension Act is a compromise between developers and community activists, including environmentalists. As such, it excludes the following categories from eligibility for extension:

1. Permits and approvals issued by the US government or any permit or approval with a duration or fixed expiration date determined by a federal law or regulation;
2. Approvals in "environmentally sensitive areas";
3. Permits or approvals issued pursuant to the "Pinelands Protection Act" if the extension would result in a violation of federal law or any state rule or regulation requiring approval of the Secretary of the Interior;
4. New Jersey Department of Transportation permits, other than right-of-way permits;
5. Flood Hazard Area Control Act permits, except where work has already commenced; and
6. Coastal centers pursuant to the "Coastal Area Facility Review Act" where (a) an application for plan endorsement was not submitted to the State Planning Commission as of March 15, 2007, and (b) was not in compliance with the Coastal Zoning Management Rules.

The Permit Extension Act does not prohibit the granting of additional permit extensions otherwise provided for under law when its tolling period expires. In addition, the Permit

Extension Act does not affect any administrative consent orders issued by the New Jersey Department of Environmental Protection and in effect during the extension period, nor does it extend any approval in connection with a resource recovery facility.

Should you have any questions with regard to the applicability of the Permit Extension Act to any existing project, permits, or approvals, please contact an attorney knowledgeable with New Jersey laws and the Permit Extension Act.

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