

HOUSE BILL 921

C2, L6, P3

EMERGENCY BILL

9lr2134

By: **Delegates Barnes, Pena-Melnyk, Frush, Ali, Beidle, Benson, Cane, Carr, Dumais, Healey, Holmes, Hubbard, Hucker, Glenn, Lafferty, Levy, O'Donnell, Shewell, Stein, and Weir**

Introduced and read first time: February 12, 2009

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Construction Permits – Expiration Dates**

3 FOR the purpose of requiring the running of the period of approval for certain permits
4 issued by the State to be tolled for a certain period; requiring the running of the
5 period of approval for certain permits issued by a county or municipality to be
6 tolled for a certain period; making certain conforming changes; defining certain
7 terms; declaring the intent of the General Assembly; making this Act an
8 emergency measure; providing for the termination of this Act; and generally
9 relating to the expiration of construction and development permits.

10 BY repealing and reenacting, with amendments,
11 Article – State Government
12 Section 11–103(a)
13 Annotated Code of Maryland
14 (2004 Replacement Volume and 2008 Supplement)

15 BY adding to
16 Article – State Government
17 Section 11–201 and 11–202 to be under the new subtitle “Subtitle 2. Permit
18 Extensions”
19 Annotated Code of Maryland
20 (2004 Replacement Volume and 2008 Supplement)

21 BY adding to
22 Article 24 – Political Subdivisions – Miscellaneous Provisions
23 Section 23–101 and 23–102 to be under the new title “Title 23. Construction and
24 Development Permits”
25 Annotated Code of Maryland
26 (2005 Replacement Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Preamble

2 WHEREAS, There exists a state of national recession, which has drastically
3 affected various segments of the Maryland economy, but none as severely as the
4 State's banking, real estate, and construction sectors; and

5 WHEREAS, The real estate finance sector of the economy is in severe decline
6 due to the subprime mortgage problem and the resultant widening mortgage finance
7 crisis; and

8 WHEREAS, The extreme tightening of lending standards for home buyers and
9 other real estate borrowers has reduced access to the capital markets; and

10 WHEREAS, As a result of the crisis in the real estate finance sector of the
11 economy, real estate developers, homebuilders, and commercial, office, and industrial
12 developers have experienced an industry-wide decline, including reduced demand,
13 canceled orders, declining sales, rental price reductions, increased inventory, fewer
14 buyers who qualify to purchase homes, layoffs, and scaled back growth plans; and

15 WHEREAS, The process of obtaining planning board and zoning board
16 approvals for subdivisions, site plans, and variances can be difficult, time consuming,
17 and expensive both for private applicants and government bodies; and

18 WHEREAS, The process of obtaining other government approvals required
19 pursuant to legislative enactments and their implementing rules and regulations can
20 also be difficult and expensive; and

21 WHEREAS, Permits and approvals can be impossible to renew or reobtain if
22 expired or lapsed; and

23 WHEREAS, County and municipal governments obtain determinations of
24 master plan consistency, conformance, or endorsement with State or regional plans,
25 from State and regional government entities that may expire or lapse without
26 implementation due to the state of the economy; and

27 WHEREAS, The current national recession has severely weakened the building
28 industry, and many landowners and developers are seeing their life's work destroyed
29 by the lack of credit and dearth of buyers and tenants due to the crisis in real estate
30 financing and the building industry, uncertainty over the state of the economy, and
31 increasing levels of unemployment in the construction industry; and

32 WHEREAS, The construction industry and related trades are sustaining severe
33 economic losses, and the lapsing of government development approvals would, if not
34 addressed, exacerbate those losses; and

35 WHEREAS, Financial institutions that lend money to property owners,
36 builders, and developers are experiencing erosion of collateral and depreciation of

1 their assets as permits and approvals expire, and the extension of these permits and
2 approvals is necessary to maintain the value of the collateral and the solvency of
3 financial institutions throughout the State; and

4 WHEREAS, Due to the current inability of builders and their purchasers to
5 obtain financing, under existing economic conditions, more and more once-approved
6 permits are expiring or lapsing and, as these approvals lapse, lenders must reappraise
7 and thereafter substantially lower real estate valuations established in conjunction
8 with approved projects, thereby requiring the reclassification of numerous loans
9 which, in turn, affects the stability of the banking system and reduces the funds
10 available for future lending, thus creating more severe restrictions on credit and
11 leading to a vicious cycle of default; and

12 WHEREAS, As a result of the continued downturn of the economy, and the
13 continued expiration of approvals which were granted by State and local governments,
14 it is possible that thousands of government actions will be undone by the passage of
15 time; and

16 WHEREAS, Obtaining an extension of an approval pursuant to existing
17 statutory or regulatory provisions can be costly in terms of time and financial
18 resources, with the costs falling on the public as well as the private sector; and

19 WHEREAS, Obtaining an extension of an approval pursuant to existing
20 statutory or regulatory provisions may be insufficient to cope with the extent of the
21 present financial situation; and

22 WHEREAS, It is the purpose of this Act to prevent the wholesale abandonment
23 of approved projects and activities due to the present unfavorable economic conditions,
24 by tolling the term of these approvals for a period of time, thereby preventing a waste
25 of public and private resources; now, therefore,

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That the Laws of Maryland read as follows:

28 **Article – State Government**

29 11–103.

30 (a) (1) [This] **EXCEPT AS PROVIDED UNDER SUBTITLE 2 OF THIS**
31 **TITLE, THIS** title applies only to a development project and only through the
32 completion of a final action under § 11–520 of this title.

33 (2) This title does not apply to an application for a renewal,
34 amendment, or extension of a development permit.

35 **SUBTITLE 2. PERMIT EXTENSIONS.**

1 **11-201.**

2 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
3 INDICATED.

4 (B) "PERMIT" INCLUDES A DEVELOPMENT PERMIT, AS DEFINED UNDER
5 § 11-101(D) OF THIS TITLE.

6 **11-202.**

7 (A) THIS SUBTITLE APPLIES TO A PERMIT ISSUED BY A COUNTY OR
8 MUNICIPALITY FOR A PROPOSED CONSTRUCTION OR DEVELOPMENT.

9 (B) THE RUNNING OF THE PERIOD OF APPROVAL FOR ANY PERMIT
10 ISSUED BY A COUNTY OR MUNICIPALITY SHALL BE TOLLED BEGINNING ON
11 JANUARY 1, 2008, AND ENDING ON DECEMBER 31, 2012.

12 **Article 24 – Political Subdivisions – Miscellaneous Provisions**

13 **TITLE 23. CONSTRUCTION AND DEVELOPMENT PERMITS.**

14 **23-101.**

15 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
16 INDICATED.

17 (B) "PERMIT" INCLUDES A DEVELOPMENT PERMIT, AS DEFINED UNDER
18 § 11-101(D) OF THE STATE GOVERNMENT ARTICLE.

19 **23-102.**

20 (A) THIS TITLE APPLIES TO A PERMIT ISSUED BY THE STATE FOR A
21 PROPOSED CONSTRUCTION OR DEVELOPMENT.

22 (B) THE RUNNING OF THE PERIOD OF APPROVAL FOR ANY PERMIT
23 ISSUED BY THE STATE SHALL BE TOLLED BEGINNING ON JANUARY 1, 2008, AND
24 ENDING ON DECEMBER 31, 2012.

25 SECTION 2. AND BE IT FURTHER ENACTED, That nothing in this Act shall
26 be interpreted to affect any permit or approval issued by the government of the United
27 States or any federal agency, or any permit or approval that has an expiration date
28 established pursuant to law or regulation of the federal government.

1 SECTION 3. AND BE IT FURTHER ENACTED, That nothing in this Act shall
2 affect the authority of the State or any county or municipality to revoke or modify a
3 permit.

4 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall be
5 construed to apply retroactively and shall be applied to and interpreted to affect any
6 permit for construction or development issued by the State or any county or
7 municipality on or after January 1, 2008.

8 SECTION 5. AND BE IT FURTHER ENACTED, That this Act is an emergency
9 measure, is necessary for the immediate preservation of the public health or safety,
10 has been passed by a yea and nay vote supported by three-fifths of all the members
11 elected to each of the two Houses of the General Assembly, and shall take effect from
12 the date it is enacted. It shall remain effective through December 31, 2012, and, at the
13 end of December 31, 2012, with no further action required by the General Assembly,
14 this Act shall be abrogated and of no further force and effect.