

HOUSE BILL 921

C2, L6, P3

EMERGENCY BILL

9lr2134
CF SB 958

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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 27, 2009

CHAPTER _____

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; requiring a certain person who was issued a certain
7 permit by the State, a county, or a municipality that will expire during a certain
8 time period to pay any applicable renewal fees; requiring the Department of
9 Planning to report to certain persons on certain matters; authorizing the State,
10 a county, or a municipality to cancel a certain permit under certain
11 circumstances; making certain conforming changes; defining certain terms;
12 declaring the intent of the General Assembly; providing for the application of
13 this Act; making this Act an emergency measure; providing for the termination
14 of this Act; and generally relating to the expiration of construction and
15 development permits.

16 BY repealing and reenacting, with amendments,
17 Article – State Government
18 Section 11–103(a)
19 Annotated Code of Maryland
20 (2004 Replacement Volume and 2008 Supplement)

21 BY adding to
22 Article – State Government

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



Section 11–201 and 11–202 to be under the new subtitle “Subtitle 2. Permit Extensions”
Annotated Code of Maryland
(2004 Replacement Volume and 2008 Supplement)

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

Preamble

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

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

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

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

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

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

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

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

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

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

9 WHEREAS, Financial institutions that lend money to property owners,
10 builders, and developers are experiencing erosion of collateral and depreciation of
11 their assets as permits and approvals expire, and the extension of these permits and
12 approvals is necessary to maintain the value of the collateral and the solvency of
13 financial institutions throughout the State; and

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

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

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

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

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

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

1 11-103.

2 (a) EXCEPT AS PROVIDED UNDER SUBTITLE 2 OF THIS TITLE, THIS
3 TITLE:

4 (1) ~~[This] EXCEPT AS PROVIDED UNDER SUBTITLE 2 OF THIS TITLE,~~
5 ~~THIS title~~ applies only to a development project and only through the completion of a
6 final action under § 11-520 of this title; AND

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

9 **SUBTITLE 2. PERMIT EXTENSIONS.**

10 **11-201.**

11 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
12 INDICATED.

13 (B) “PERMIT” INCLUDES A DEVELOPMENT PERMIT, AS DEFINED UNDER
14 § 11-101(D) OF THIS TITLE.

15 **11-202.**

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

18 (B) THIS SUBTITLE DOES NOT APPLY TO:

19 (1) ANY PERMIT OR APPROVAL ISSUED BY THE UNITED STATES
20 GOVERNMENT OR ANY FEDERAL AGENCY;

21 (2) ANY PERMIT OR APPROVAL ISSUED JOINTLY BY THE UNITED
22 STATES GOVERNMENT AND A COUNTY OR A MUNICIPALITY;

23 (3) ANY PERMIT OR APPROVAL ISSUED JOINTLY BY ANY FEDERAL
24 AGENCY AND A COUNTY OR A MUNICIPALITY;

25 (4) ANY PERMIT OR APPROVAL THAT HAS AN EXPIRATION DATE
26 ESTABLISHED UNDER A LAW OR REGULATION OF THE FEDERAL GOVERNMENT;
27 OR

28 (5) ANY PERMIT, LICENSE, OR APPROVAL ISSUED UNDER TITLE 4,
29 SUBTITLE 1 OR SUBTITLE 2 OF THE ENVIRONMENT ARTICLE.

1 (C) THE RUNNING OF THE PERIOD OF APPROVAL FOR ANY PERMIT
2 ISSUED BY A COUNTY OR MUNICIPALITY SHALL BE TOLLED BEGINNING ON
3 JANUARY 1, 2008, AND ENDING ON ~~DECEMBER 31, 2012~~ JUNE 30, 2010.

4 (D) NOTWITHSTANDING SUBSECTION (C) OF THIS SECTION, A PERSON
5 WHO WAS ISSUED A PERMIT BY A COUNTY OR MUNICIPALITY THAT WILL EXPIRE
6 DURING THE PERIOD BEGINNING ON JANUARY 1, 2008, AND ENDING ON JUNE
7 30, 2010, IS REQUIRED TO PAY ANY APPLICABLE RENEWAL FEES.

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

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

10 **23-101.**

11 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS
12 INDICATED.

13 (B) “PERMIT” INCLUDES A DEVELOPMENT PERMIT, AS DEFINED UNDER
14 § 11-101(D) OF THE STATE GOVERNMENT ARTICLE.

15 **23-102.**

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

18 (B) THIS TITLE DOES NOT APPLY TO:

19 (1) ANY PERMIT OR APPROVAL ISSUED BY THE UNITED STATES
20 GOVERNMENT OR ANY FEDERAL AGENCY;

21 (2) ANY PERMIT OR APPROVAL ISSUED JOINTLY BY THE UNITED
22 STATES GOVERNMENT AND A COUNTY OR A MUNICIPALITY;

23 (3) ANY PERMIT OR APPROVAL ISSUED JOINTLY BY ANY FEDERAL
24 AGENCY AND A COUNTY OR A MUNICIPALITY;

25 (4) ANY PERMIT OR APPROVAL THAT HAS AN EXPIRATION DATE
26 ESTABLISHED UNDER A LAW OR REGULATION OF THE FEDERAL GOVERNMENT;
27 OR

28 (5) ANY PERMIT, LICENSE, OR APPROVAL ISSUED UNDER THE
29 FOLLOWING PROVISIONS OF THE ENVIRONMENT ARTICLE:

30 (I) TITLE 4, SUBTITLE 1 OR SUBTITLE 2;

(II) TITLE 5, SUBTITLE 5; OR

(III) TITLE 9.

(C) THE RUNNING OF THE PERIOD OF APPROVAL FOR ANY PERMIT ISSUED BY THE STATE SHALL BE TOLLED BEGINNING ON JANUARY 1, 2008, AND ENDING ON ~~DECEMBER 31, 2012~~ JUNE 30, 2010.

(D) NOTWITHSTANDING SUBSECTION (C) OF THIS SECTION, A PERSON WHO WAS ISSUED A PERMIT BY THE STATE THAT WILL EXPIRE DURING THE PERIOD BEGINNING ON JANUARY 1, 2008, AND ENDING ON JUNE 30, 2010, IS REQUIRED TO PAY ANY APPLICABLE RENEWAL FEES.

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

SECTION ~~3~~ 2. AND BE IT FURTHER ENACTED, That nothing in this Act shall affect the authority of the State or any county or municipality to revoke or modify a permit. The State or any county or municipality may cancel a permit affected by the provisions of this Act if the State or the county or municipality determines that the permit presents a threat to the public health, safety, or welfare of its citizens.

SECTION ~~4~~ 3. AND BE IT FURTHER ENACTED, That, except as otherwise provided in this Act, this Act shall be construed to apply retroactively and shall be applied to and interpreted to affect any permit for construction or development issued by the State or any county or municipality on or after January 1, 2008, and on or before June 30, 2010.

SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December 31, 2009, the Maryland Department of Planning shall report to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the impact of this Act, whether the toll period should be extended, and what other alternatives might be available to the State and local jurisdictions in light of the current economic downturn.

SECTION 5. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted. It shall remain effective through ~~December 31, 2012~~ June 30, 2010, and, at the end of ~~December 31, 2012~~ June 30, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.