

CHAPTER 335

(House Bill 921)

AN ACT concerning

Construction Permits – Expiration Dates

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

BY repealing and reenacting, with amendments,

Article – State Government

Section 11–103(a)

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

BY adding to

Article – State Government

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

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

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

WHEREAS, Financial institutions that lend money to property owners, builders, and developers are experiencing erosion of collateral and depreciation of their assets as permits and approvals expire, and the extension of these permits and

approvals is necessary to maintain the value of the collateral and the solvency of financial institutions throughout the State; and

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

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

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

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

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

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

Article – State Government

11–103.

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

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

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

SUBTITLE 2. PERMIT EXTENSIONS.

11-201.

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

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

11-202.

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

(B) THIS SUBTITLE DOES NOT APPLY TO:

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

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

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

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

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

(C) THE RUNNING OF THE PERIOD OF APPROVAL FOR ANY PERMIT ISSUED BY A COUNTY OR MUNICIPALITY 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 A COUNTY OR MUNICIPALITY 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.

TITLE 23. CONSTRUCTION AND DEVELOPMENT PERMITS.

23-101.

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

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

23-102.

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

(B) THIS TITLE DOES NOT APPLY TO:

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

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

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

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

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

(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 ~~2~~ 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.

Approved by the Governor, May 7, 2009.