

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 831
Commerce Committee Substitute Adopted 5/11/09
House Committee Substitute Favorable 5/25/09
PROPOSED HOUSE COMMITTEE SUBSTITUTE S831-PCS55479-SB-54

Short Title: Extend Certain Development Approvals.

(Public)

Sponsors:

Referred to:

March 25, 2009

A BILL TO BE ENTITLED

AN ACT TO EXTEND CERTAIN GOVERNMENT APPROVALS AFFECTING THE
DEVELOPMENT OF REAL PROPERTY WITHIN THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. This act shall be known and may be cited as the "Permit Extension Act of 2009."

SECTION 2. The General Assembly makes the following findings:

- (1) There exists a state of economic emergency in the State of North Carolina and the nation, which has drastically affected various segments of the North Carolina economy, but none as severely as the State's banking, real estate, and construction sectors.
- (2) The real estate finance sector of the economy is in severe decline due to the creation, bundling, and widespread selling of leveraged securities, such as credit default swaps, and due to excessive defaults on sub-prime mortgages and the resultant foreclosures on a vast scale, thereby widening the mortgage finance crisis. The extreme tightening of lending standards for home buyers and other real estate borrowers has reduced access to the capital markets.
- (3) As a result of the crisis in the real estate finance sector of the economy, real estate developers and redevelopers, including home builders, and commercial, office, and industrial developers, have experienced an industry-wide decline, including reduced demand, cancelled orders, declining sales and rentals, price reductions, increased inventory, fewer buyers who qualify to purchase homes, layoffs, and scaled back growth plans.
- (4) The process of obtaining planning board and zoning board of adjustment approvals for subdivisions, site plans, and variances can be difficult, time consuming, and expensive, both for private applicants and government bodies.
- (5) The process of obtaining the myriad of other government approvals, such as wetlands permits, treatment works approvals, on-site wastewater disposal permits, stream encroachment permits, flood hazard area permits, highway access permits, and numerous waivers and variances, can be difficult and



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- 1 expensive; further, changes in the law can render these approvals, if expired
2 or lapsed, difficult to renew or reobtain.
- 3 (6) County and municipal governments, including local sewer and water
4 authorities, obtain permits and approvals from State government agencies,
5 particularly the Department of Environment and Natural Resources, which
6 permits and approvals may expire or lapse due to the state of the economy
7 and the inability of both the public sector and the private sector to proceed
8 with projects authorized by the permit or approval.
- 9 (7) County and municipal governments also obtain determinations of master
10 plan consistency, conformance, or endorsement with State or regional plans,
11 from State and regional government entities that may expire or lapse without
12 implementation due to the state of the economy.
- 13 (8) The current national recession has severely weakened the building industry,
14 and many landowners and developers are seeing their life's work destroyed
15 by the lack of credit and dearth of buyers and tenants due to the crisis in real
16 estate financing and the building industry, uncertainty over the state of the
17 economy, and increasing levels of unemployment in the construction
18 industry.
- 19 (9) The construction industry and related trades are sustaining severe economic
20 losses, and the lapsing of government development approvals would
21 exacerbate, if not addressed, those losses.
- 22 (10) Financial institutions that lent money to property owners, builders, and
23 developers are experiencing erosion of collateral and depreciation of their
24 assets as permits and approvals expire, and the extension of these permits
25 and approvals is necessary to maintain the value of the collateral and the
26 solvency of financial institutions throughout the State.
- 27 (11) Due to the current inability of builders and their purchasers to obtain
28 financing under existing economic conditions, more and more
29 once-approved permits are expiring or lapsing, and, as these approvals lapse,
30 lenders must reappraise and thereafter substantially lower real estate
31 valuations established in conjunction with approved projects, thereby
32 requiring the reclassification of numerous loans, which, in turn, affects the
33 stability of the banking system and reduces the funds available for future
34 lending, thus creating more severe restrictions on credit and leading to a
35 vicious cycle of default.
- 36 (12) As a result of the continued downturn of the economy and the continued
37 expiration of approvals that were granted by State and local governments, it
38 is possible that thousands of government actions will be undone by the
39 passage of time.
- 40 (13) Obtaining an extension of an approval pursuant to existing statutory or
41 regulatory provisions can be both costly in terms of time and financial
42 resources and insufficient to cope with the extent of the present financial
43 conditions; moreover, the costs imposed fall on the public as well as the
44 private sector.
- 45 (14) It is the purpose of this act to prevent the wholesale abandonment of already
46 approved projects and activities due to the present unfavorable economic
47 conditions by tolling the term of these approvals for a finite period of time as
48 the economy improves, thereby preventing a waste of public and private
49 resources.

50 **SECTION 3.** Definitions. – As used in this act, the following definitions apply:

- 1 (1) Development approval. – Any of the following approvals issued by the
2 State, any agency or subdivision of the State, or any unit of local
3 government, regardless of the form of the approval, that are for the
4 development of land or for the provision of water or wastewater services by
5 a government entity:
- 6 a. Any detailed statement by a State agency under G.S. 113A-4.
 - 7 b. Any detailed statement submitted by a special purpose unit of
8 government or a private developer of a major development project
9 under G.S. 113A-8.
 - 10 c. Any finding of no significant impact prepared by a State agency
11 under Article 1 of Chapter 113A of the General Statutes.
 - 12 d. Any approval of an erosion and sedimentation control plan granted
13 by a local government or by the North Carolina Sedimentation
14 Control Commission under Article 4 of Chapter 113A of the General
15 Statutes.
 - 16 e. Any permit for major development or minor development, as defined
17 in G.S. 113A-118, or any other permit issued under the Coastal Area
18 Management Act (CAMA), Part 4 of Article 7 of Chapter 113A of
19 the General Statutes.
 - 20 f. Any water or wastewater permit issued under Article 10 or Article 11
21 of Chapter 130A of the General Statutes.
 - 22 g. Any building permit issued under Article 9 of Chapter 143 of the
23 General Statutes.
 - 24 h. Any nondischarge or extension permit issued under Part 1 of Article
25 21 of Chapter 143 of the General Statutes.
 - 26 i. Any stream origination certifications issued under Article 21 of
27 Chapter 143 of the General Statutes.
 - 28 j. Any water quality certification under Article 21 of Chapter 143 of
29 the General Statutes.
 - 30 k. Any air quality permit issued by the Environmental Management
31 Commission under Article 21B of Chapter 143 of the General
32 Statutes.
 - 33 l. Any approval by a county of sketch plans, preliminary plats, plats
34 regarding a subdivision of land, a site specific development plan or a
35 phased development plan, a development permit, or a building permit
36 under Article 18 of Chapter 153A of the General Statutes.
 - 37 m. Any approval by a city of sketch plans, preliminary plats, plats
38 regarding a subdivision of land, a site specific development plan or a
39 phased development plan, a development agreement, or a building
40 permit under Article 19 of Chapter 160A of the General Statutes.
 - 41 n. Any certificate of appropriateness issued by a preservation
42 commission of a city under Part 3C of Article 19 of Chapter 160A of
43 the General Statutes.
- 44 (2) Development. – The division of a parcel of land into two or more parcels,
45 the construction, reconstruction, conversion, structural alteration, relocation,
46 or enlargement of any building or other structure or facility, or any grading,
47 soil removal or relocation, excavation or landfill, or any use or change in the
48 use of any building or other structure or land or extension of the use of land.

49 **SECTION 4.** For any development approval that is current and valid at any point
50 during the period beginning January 1, 2008, and ending December 31, 2010, the running of
51 the period of the development approval and any associated vested right under G.S. 153A-344.1

1 or G.S. 160A-385.1 is suspended during the period beginning January 1, 2008, and ending
2 December 31, 2010.

3 **SECTION 5.** This act shall not be construed or implemented to:

- 4 (1) Extend any permit or approval issued by the United States or any of its
5 agencies or instrumentalities.
- 6 (2) Extend any permit or approval for which the term or duration of the permit
7 or approval is specified or determined pursuant to federal law.
- 8 (3) Shorten the duration that any development approval would have had in the
9 absence of this act.
- 10 (4) Prohibit the granting of such additional extensions as are provided by law.
- 11 (5) Affect any administrative consent order issued by the Department of
12 Environment and Natural Resources in effect or issued at any time from the
13 effective date of this act to December 31, 2010.
- 14 (6) Affect the ability of a government entity to revoke or modify a development
15 approval pursuant to law.
- 16 (7) Modify any requirement of law that is necessary to retain federal delegation
17 by the State of the authority to implement a federal law or program.

18 **SECTION 6.** If development approvals that have been tolled pursuant to this act
19 are contingent upon connection to a water supply system or a sanitary sewer system and there is
20 not sufficient supply or treatment capacity to accommodate requests for additional allocation,
21 each holder of a development approval for a project that is dependent upon connection to a
22 water supply system or a sanitary sewer system must submit a construction schedule for
23 approval and begin construction within 30 days of notification that new supply or treatment
24 capacity allocation has been requested by other parties who are ready to proceed with
25 construction or the reserved capacity shall revert for reallocation.

26 **SECTION 7.** Within 30 days after the effective date of this act, each agency or
27 subdivision of the State to which this act applies shall place a notice in the North Carolina
28 Register listing the types of development approvals that the agency or subdivision issues and
29 noting the extension provided in this act. This section does not apply to units of local
30 government.

31 **SECTION 8.** The provisions of this act shall be liberally construed to effectuate
32 the purposes of this act.

33 **SECTION 9.** This act is effective when it becomes law.