

S T A T E O F N E W Y O R K

5947--A

2009-2010 Regular Sessions

I N S E N A T E

June 19, 2009

Introduced by Sen. FOLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Local Government in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT in relation to the continuation of planning and zoning approvals and permits

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. The legislature finds and declares that:
- 2 a. There exists a state of national recession, which has drastically
- 3 affected various segments of the New York economy, but none as severely
- 4 as the state's banking, real estate and construction sectors, with
- 5 significant unemployment among construction trades, which has resulted
- 6 in a real estate finance emergency in New York state.
- 7 b. The real estate finance sector of the economy is under severe
- 8 stress due to the sub-prime mortgage problem and the resultant widening
- 9 mortgage finance crisis. The extreme tightening of lending standards for
- 10 home buyers and other real estate borrowers has reduced access to the
- 11 capital markets.
- 12 c. As a result of the crisis in the real estate finance sector of the
- 13 economy, residential and commercial real estate developers and home-
- 14 builders, have experienced an industry-wide decline, including reduced
- 15 demand, cancelled orders, declining sales and rentals, price reductions,
- 16 increased inventory, fewer participants in real estate markets, layoffs,
- 17 and scaled back growth plans. Moreover, unemployment in the construction
- 18 industry is at record levels.
- 19 d. The process of obtaining planning board and zoning board approvals
- 20 for subdivisions, site plans, special use permits and variances is time
- 21 consuming and expensive, both for private applicants and government
- 22 bodies.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 e. The process of obtaining the myriad other government approvals,
2 required to commence residential or commercial development, such as
3 wetlands, stormwater and on-site wastewater disposal permits, highway
4 access permits, and numerous waivers and variances, also can be time
5 consuming and expensive.

6 f. The construction industry and related trades are sustaining severe
7 economic losses, and the lapsing of government development approvals
8 would, if not addressed, exacerbate those losses. At a time when shovel
9 ready construction projects are at a premium, the loss of zoning, plan-
10 ning and other development related approvals or permits because of time
11 limits, or other conditions imposed by statute, local law, ordinance or
12 regulation will exacerbate this real estate finance emergency.

13 g. Financial institutions that lent money to property owners, build-
14 ers, and developers are experiencing erosion of collateral and depreci-
15 ation of their assets as permits and approvals expire, and the extension
16 of these permits and approvals is necessary to maintain the value of
17 collateral and the solvency of financial institutions throughout the
18 state.

19 h. Due to the current inability of builders and their purchasers or
20 lessees to obtain financing, under existing economic conditions, zoning,
21 planning and other development related approvals or permits are expiring
22 or lapsing and, as these approvals and permits lapse, lenders must reap-
23 praise and thereafter substantially lower real estate valuations estab-
24 lished in conjunction with approved projects, thereby requiring the
25 reclassification of numerous loans which, in turn, affects the stability
26 of the banking system and reduces the funds available for future lend-
27 ing, thus creating more severe restrictions on credit and leading to a
28 vicious cycle of default.

29 i. As a result of the real estate finance emergency and the continued
30 expiration of approvals and permits which were granted by state and
31 local governments, it is possible that thousands of government actions
32 will lapse because of the passage of time, or the inability to meet
33 conditions tied to the commencement of the project.

34 j. Obtaining an extension of an approval or permit pursuant to exist-
35 ing statutory or regulatory provisions may be impossible because of time
36 limitations or conditions imposed under state statutes, local laws or
37 regulations and even if renewable it can be both costly in terms of time
38 and financial resources. Moreover, those projects that do survive will
39 come at the expense of delayed construction jobs and delayed tax reven-
40 ues to municipalities.

41 k. It is the purpose of this act to enact a law requiring certain
42 local governments to preserve project approvals for development due to
43 the real estate finance emergency, by extending the term of these
44 approvals and permits for a period of time, thereby preventing a waste
45 of public and private resources.

46 S 2. a. In the event that a permit or approval applying to the devel-
47 opment of real estate, and in existence on June 30, 2009, expires or
48 lapses on or after June 30, 2009 and before June 30, 2011, based on time
49 limitations or other conditions imposed in such permit or approval, the
50 period of validity of such permit or approval shall be extended, based
51 on the real estate finance emergency, until June 30, 2011.

52 b. The provisions of this section shall apply to all real estate
53 development permits and approvals issued pursuant to the authority of
54 state or local law on or prior to June 30, 2009, and in existence on
55 that date, and shall apply notwithstanding any provision of law to the
56 contrary.

1 c. The provisions of this section shall not be construed to shorten
2 the duration of any permit or approval issued on or before June 30,
3 2009, nor shall they limit the granting of any extensions that may be
4 provided for other than pursuant to the provisions of this section.
5 d. The provisions of this section shall not apply to any city having a
6 population in excess of one million people.
7 e. As used in this section, the term "authority of state or local law"
8 means authority conferred pursuant to any general, special or local law,
9 rule or regulation, charter, ordinance or administrative code pertaining
10 to the planning or zoning of housing accommodations, commercial facili-
11 ties and incidental facilities, including but not limited to subdivision
12 approvals, variance approvals, special use permits, site plan approvals,
13 county planning board approvals and county health department approvals.
14 S 3. This act shall take effect immediately.