
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 784 Session of
2013

INTRODUCED BY EVANKOVICH, DENLINGER, GABLER, C. HARRIS,
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R. BROWN, HARKINS, HELM, REGAN AND SCAVELLO,
FEBRUARY 25, 2013

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, JUNE 25, 2013

AN ACT

1 Providing for permit extensions; and making a repeal.

2 The General Assembly of the Commonwealth of Pennsylvania
3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Development
6 Permit Extension Act.

7 Section 2. Definitions.

8 The following words and phrases when used in this act shall
9 have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Approval."

12 (1) Except as provided in paragraph (2), any government
13 agency approval, agreement, permit, including a building
14 permit or construction permit, or other authorization or
15 decision:

1 (i) allowing a development or construction project
2 to proceed; or

3 (ii) relating to or affecting development, granted
4 pursuant to a statute, regulation or ordinance adopted by
5 a municipality, including the following:

6 (A) 37 Pa.C.S. (relating to historical and
7 museums).

8 (B) 53 Pa.C.S. (relating to municipalities
9 generally).

10 (C) 68 Pa.C.S. Pt. II Subpt. B (relating to
11 condominiums).

12 (D) 68 Pa.C.S. Pt. II Subpt. C (relating to
13 cooperatives).

14 (E) 68 Pa.C.S. Pt. II, Subpt. D (relating to
15 planned communities).

16 (F) The act of March 7, 1901 (P.L.20, No.14),
17 referred to as the Second Class City Law, as it
18 relates to development and construction.

19 (G) The act of May 16, 1923 (P.L.207, No.153),
20 referred to as the Municipal Claim and Tax Lien Law.

21 (H) The act of April 9, 1929 (P.L.177, No.175),
22 known as The Administrative Code of 1929.

23 (I) The act of June 23, 1931 (P.L.932, No.317),
24 known as The Third Class City Code, as it relates to
25 development and construction.

26 (J) The act of June 24, 1931 (P.L.1206, No.331),
27 known as The First Class Township Code, as it relates
28 to development and construction.

29 (K) The act of May 1, 1933 (P.L.103, No.69),
30 known as The Second Class Township Code, as it

1 relates to development and construction.

2 (L) The act of June 22, 1937 (P.L.1987, No.394),
3 known as The Clean Streams Law.

4 (M) The act of June 1, 1945 (P.L.1242, No.428),
5 known as the State Highway Law, as it relates to the
6 issuance of highway occupancy permits which are
7 regulated under 67 Pa. Code Ch. 441 (relating to
8 access to and occupancy of highways by driveways and
9 local roads) or which are affected by other laws or
10 regulations.

11 (N) The act of April 21, 1949 (P.L.665, No.155),
12 known as the First Class City Home Rule Act, as it
13 relates to development and construction.

14 (O) The act of July 28, 1953 (P.L.723, No.230),
15 known as the Second Class County Code.

16 (P) The act of August 9, 1955 (P.L.323, No.130),
17 known as The County Code.

18 (Q) The act of July 15, 1957 (P.L.901, No.399),
19 known as the Optional Third Class City Charter Law,
20 as it relates to development and construction.

21 (R) The act of January 24, 1966 (1965 P.L.1535,
22 No.537), known as the Pennsylvania Sewage Facilities
23 Act.

24 (S) The act of February 1, 1966 (1965 P.L.1656,
25 No.581), known as The Borough Code, as it relates to
26 development and construction.

27 (T) The act of July 31, 1968 (P.L.805, No.247),
28 known as the Pennsylvania Municipalities Planning
29 Code.

30 (U) The act of July 9, 1971 (P.L.206, No.34),

1 known as the Improvement of Deteriorating Real
2 Property or Areas Tax Exemption Act.

3 (V) The act of October 4, 1978 (P.L.851,
4 No.166), known as the Flood Plain Management Act.

5 (W) The act of October 4, 1978 (P.L.864,
6 No.167), known as the Storm Water Management Act.

7 (X) The act of November 26, 1978 (P.L.1375,
8 No.325), known as the Dam Safety and Encroachments
9 Act.

10 (Y) The act of November 10, 1999 (P.L.491,
11 No.45), known as the Pennsylvania Construction Code
12 Act.

13 (Z) The act of December 20, 2000 (P.L.724,
14 No.99), known as the Municipal Code and Ordinance
15 Compliance Act.

16 (Z.1) The act of June 22, 2001 (P.L.390, No.29),
17 known as the Conservation and Preservation Easements
18 Act.

19 (Z.2) The former act of May 16, 2002 (P.L.315,
20 No.46), known as the former Community Services Block
21 Grant Act.

22 (Z.3) The act of February 22, 2008 (P.L.36,
23 No.4), entitled "An act authorizing the Department of
24 General Services, with the concurrence of the
25 Department of Environmental Protection, to lease to
26 VTE Philadelphia, LP, or its nominee, land within the
27 bed of the Delaware River in the City of
28 Philadelphia; and affirming the authority of the
29 General Assembly to enact certain conveyances."

30 (Z.4) The act of February 22, 2008 (P.L.41,

1 No.5), entitled "An act authorizing the Department of
2 General Services, with the concurrence of the
3 Department of Environmental Protection, to lease to
4 NCCB Associates, LP, or its nominee, land within the
5 bed of the Delaware River in the City of
6 Philadelphia; and affirming the authority of the
7 General Assembly to enact certain conveyances."

8 (Z.5) Soil erosion and sediment control plans
9 approved by a local soil conservation district under
10 25 Pa. Code Ch. 102 (relating to erosion and sediment
11 control).

12 (Z.6) The National Historic Preservation Act
13 (Public Law 89-665, 80 Stat. 915), to the extent the
14 Commonwealth has been empowered to administer,
15 approve or otherwise authorize activities under that
16 act.

17 (Z.7) The Federal Water Pollution Control Act
18 (62 Stat. 1155, 33 U.S.C. § 1251 et seq.), to the
19 extent the Commonwealth has been empowered to
20 administer, approve or otherwise authorize activities
21 under that act.

22 (2) In cities of the first class and agencies
23 established by such cities, the term shall include only the
24 issuance of a building permit, a zoning use and registration
25 permit, and any administrative approval, including an
26 approval by a board or commission, that is a condition
27 precedent to issuance of a building permit or zoning use and
28 registration permit to an owner of property.

29 (3) Creating additional units and common elements out of
30 convertible real estate in a condominium or planned

1 community.

2 "Development." Any of the following:

3 (1) The division of a parcel of land into two or more
4 parcels, including a subdivision as defined in section 107 of
5 the act of July 31, 1968 (P.L.805, No.247), known as the
6 Pennsylvania Municipalities Planning Code.

7 (2) The construction, reconstruction, conversion,
8 structural alteration, relocation or enlargement of a
9 building or other structure.

10 (3) Site preparation, including grading, earth moving
11 activities, clearance, soil removal or movement, timber
12 harvesting relocation, excavation, landfill and moving,
13 depositing or storing soil, rock or earth materials.

14 (4) A use or change in the use of a building or other
15 structure or change in land use.

16 (5) Land development, as defined in section 107 of the
17 Pennsylvania Municipalities Planning Code, or land use.

18 (6) Demolition, moving or removing a building or other
19 structure.

20 (7) The right to convert convertible real estate or
21 withdraw withdrawable real estate pursuant to 68 Pa.C.S. Pt.
22 II Subpt. B (relating to condominiums) or Subpt. D (relating
23 to planned communities).

24 "Extension period." The period beginning after December 31,
25 2008, and ending before July 2, 2016.

26 "Government agency." The Commonwealth, a political
27 subdivision or an agency, department, authority, commission or
28 board of the Commonwealth or a political subdivision. The term
29 includes regional commissions, boards or instrumentalities with
30 the authority to issue approvals.

1 Section 3. Existing approval.

2 ~~(a) Automatic suspension. For any approval by a government <--~~
3 ~~agency that is granted for or in effect between the beginning of~~
4 ~~the extension period and July 2, 2013, whether obtained before~~
5 ~~or after the beginning of the extension period, the running of~~
6 ~~the period of the approval shall be automatically suspended~~
7 ~~until July 2, 2016.~~

8 (A) AUTOMATIC SUSPENSION.--THE EXPIRATION DATE OF AN <--
9 APPROVAL BY A GOVERNMENT AGENCY THAT IS GRANTED FOR OR IN EFFECT
10 DURING THE EXTENSION PERIOD, WHETHER OBTAINED BEFORE OR AFTER
11 THE BEGINNING OF THE EXTENSION PERIOD, SHALL BE AUTOMATICALLY
12 SUSPENDED DURING THE EXTENSION PERIOD.

13 (a.1) Cities of the first class.--In cities of the first
14 class and agencies established by such cities, the suspension
15 provided for in subsection (a) shall be valid, for any covered
16 approval, 20 days after the notice from the approval holder to
17 the agency that issued the approval of the approval holder's
18 intent to exercise his or her rights under the suspension and
19 payment of a fee equal to 50% of the original application fee,
20 but not to exceed \$5,000. The agency that issued the approval
21 may prescribe a form of notice.

22 (a.2) Limitation.--Any government approval granted after
23 July 2, 2013, shall not be extended beyond the normal approval
24 periods of the government agency without the permission or
25 approval of the government agency.

26 (b) Duration.--The extension period established under this
27 act shall be the maximum approval period authorized under this
28 act and shall supersede the normal time period for approvals
29 relating to development. Nothing in this section shall prohibit
30 the government agency from granting additional extensions as

1 provided by law.

2 (c) Riparian leases.--

3 (1) The time period relating to obtaining a building
4 permit under section 1(i) of the act of February 22, 2008
5 (P.L.36, No.4), entitled, "An act authorizing the Department
6 of General Services, with the concurrence of the Department
7 of Environmental Protection, to lease to VTE Philadelphia,
8 LP, or its nominee, land within the bed of the Delaware River
9 in the City of Philadelphia; and affirming the authority of
10 the General Assembly to enact certain conveyances," shall be
11 extended until January 1, 2013.

12 (2) The time period relating to obtaining a building
13 permit under section 1(i) of the act of February 22, 2008
14 (P.L.41, No.5), entitled, "An act authorizing the Department
15 of General Services, with the concurrence of the Department
16 of Environmental Protection, to lease to NCCB Associates, LP,
17 or its nominee, land within the bed of the Delaware River in
18 the City of Philadelphia; and affirming the authority of the
19 General Assembly to enact certain conveyances," shall be
20 extended until January 1, 2013.

21 Section 4. Subsequent changes.

22 (a) Change in law.--A law, regulation or policy enacted,
23 adopted or modified by a government agency during the extension
24 period shall not have the effect of prohibiting or limiting an
25 existing approval during the extension period.

26 (b) Planning code approval.--When an approval has been
27 granted under the act of July 31, 1968 (P.L.805, No.247), known
28 as the Pennsylvania Municipalities Planning Code, a subsequent
29 change in a zoning, subdivision or other governing ordinance or
30 plan shall not apply to or affect the right of the applicant to

1 commence or complete the activities authorized by the approval
2 for the duration of the extension period. For purposes of this
3 subsection, the extension period shall be extended for the
4 duration of any litigation, including appeals, relating to an
5 approval which prevents the completion of all or part of the
6 activity authorized by the approval.

7 (c) Nonexpiration.--An action by a government agency or law
8 to lease, license, grant or otherwise convey rights in the beds
9 of navigable waters of the Commonwealth shall not expire for the
10 duration of the extension period, including time limits relating
11 to the initiation, prosecution or completion of construction. A
12 conveyance of rights under this subsection shall not terminate
13 during the extension period for failure to initiate, prosecute
14 or complete construction.

15 Section 5. Agency verification.

16 (a) Request for verification.--

17 (1) The holder or recipient of an approval may seek
18 written verification from the issuing government agency for
19 any of the following:

20 (i) The existence of a valid approval.

21 (ii) The expiration date of the approval under this
22 act.

23 (2) The request shall set forth the approval in question
24 and the anticipated expiration date under this act.

25 (b) Agency action.--Upon receipt of a request under
26 subsection (a), the government agency shall respond in writing
27 affirming or denying the existence of the approval, its
28 expiration date and any issues associated with its validity
29 within 30 days. Except in cities of the first class and agencies
30 established by such cities, failure to respond within 30 days

1 shall result in a deemed affirmation of the existence of the
2 approval and expiration date set forth in the request submitted
3 under subsection (a). The agency may charge a fee of not more
4 than \$100 for verification of a residential approval and \$500
5 for verification of a commercial approval under this subsection.

6 (c) Failure to seek affirmation.--The failure of the holder
7 of an approval to seek verification from a government agency
8 shall not be grounds for termination, revocation or other
9 invalidation of an approval.

10 (d) Appeals of verification.--A dispute arising under this
11 section shall be appealable in accordance with one of the
12 following applicable laws:

13 (1) 2 Pa.C.S. § 105 (relating to local agency law).

14 (2) The act of July 31, 1968 (P.L.805, No.247), known as
15 the Pennsylvania Municipalities Planning Code.

16 Section 6. Applicability.

17 (a) Exceptions.--This act shall not apply to any of the
18 following:

19 (1) An approval issued to comply with Federal law, the
20 duration or terms of expiration of which is specified or
21 determined by Federal law.

22 (2) An administrative consent order or other enforcement
23 action relating to an approval that is subject to the
24 extension period.

25 (3) An approval, designation or benefit under the act of
26 October 6, 1998 (P.L.705, No.92), known as the Keystone
27 Opportunity Zone, Keystone Opportunity Expansion Zone and
28 Keystone Opportunity Improvement Zone Act.

29 (4) A "One-Call" determination, response or other
30 requirement under the act of December 10, 1974 (P.L.852,

1 No.287), referred to as the Underground Utility Line
2 Protection Law.

3 (5) The revocation or modification of an approval or
4 extension of an approval, when the approval authorizes the
5 modification or revocation for cause.

6 (6) An approval issued by the Department of
7 Transportation, except that approvals in accordance with 67
8 Pa. Code Ch. 441 (relating to access to and occupancy of
9 highways by driveways and local roads) shall be extended by
10 the department upon the submission of a complete and accurate
11 application throughout the extension period for one-year
12 intervals, subject to the requirements of 67 Pa. Code Ch.
13 441, including modifications based on changed circumstances.

14 (7) An approval issued by the Department of
15 Environmental Protection implementing 25 Pa. Code § 93.4a
16 (relating to antidegradation) in connection with surface
17 waters, as defined in 25 Pa. Code § 93.1 (relating to
18 definitions), or wetlands, as defined in 25 Pa. Code § 93.1,
19 which surface waters or wetlands, after the issuance of the
20 approval, and during the extension period, became classified
21 as:

22 (i) High Quality Waters, pursuant to 25 Pa. Code §§
23 93.1 and 93.4b(a) (relating to qualifying as high quality
24 or exceptional value waters); or

25 (ii) Exceptional Value Waters, pursuant to 25 Pa.
26 Code § 93.4b(b) (1).

27 (8) An approval issued by the Department of
28 Environmental Protection implementing 25 Pa. Code § 93.4a in
29 connection with surface waters, as defined in 25 Pa. Code §
30 93.1, or wetlands, as defined in 25 Pa. Code § 93.1, which

1 surface waters or wetlands are classified as Exceptional
2 Value Waters pursuant to 25 Pa. Code § 93.4b(b) (1).

3 (b) Sewer and water systems.--If an approval is based upon
4 the connection to a sanitary sewer system or water distribution
5 system, the application of the extension period as it relates to
6 capacity shall be contingent upon the availability of sufficient
7 capacity of the system to accommodate the development that is
8 the subject of the extended approval. If sufficient capacity is
9 unavailable at the time it is required to proceed with
10 development under the approval, priority with regard to further
11 distribution or allocation of capacity shall be established by
12 the date on which the approval was obtained. Priority relating
13 to distribution of additional capacity shall be allocated in
14 order of the granting of the original approval for the
15 connection.

16 (c) Fee.--A government agency which issued an approval may
17 charge a fee to extend the approval that may be no more than 25%
18 of the original application fee. In no event may the fee be more
19 than \$5,000.

20 Section 7. Notice.

21 By August 5, 2010, each affected government agency shall
22 publish notice of applicability of the extension period to
23 approvals granted by the government agency under this act in the
24 Pennsylvania Bulletin.

25 Section 8. Miscellaneous.

26 (a) Construction.--Nothing in this act shall be construed to
27 modify any requirement of law that is necessary to retain
28 Federal delegation to, or assumption by, the Commonwealth of the
29 authority to implement a Federal law or program.

30 (b) Authority.--During the extension period, a government

1 agency shall retain the authority to do all of the following:

2 (1) Suspend or revoke an approval for noncompliance with
3 a written condition of the approval.

4 (2) Enforce conditions of approvals granted under law
5 prior to the extension period.

6 (3) Enforce only those conditions in an approval issued
7 under the act of July 31, 1968 (P.L.805, No.247), known as
8 the Pennsylvania Municipalities Planning Code, that are
9 required to be performed prior to final plan approval.

10 Section 20. Repeals.

11 Repeals are as follows:

12 (1) The General Assembly declares that the repeal under
13 paragraph (2) is necessary to effectuate this act.

14 (2) Article XVI-I of the act of April 9, 1929 (P.L.343,
15 No.176), known as The Fiscal Code, is repealed.

16 Section 21. Effective date.

17 This act shall take effect immediately.