

AMENDMENTS TO HOUSE BILL NO. 784

Sponsor: REPRESENTATIVE EVANKOVICH

Printer's No. 896

1 Amend Bill, page 1, lines 1 through 31, by striking out all
2 of said lines and inserting
3 Providing for permit extensions; and making a repeal.

4 Amend Bill, page 2, lines 2 through 30; page 3, lines 1 and
5 2, by striking out all of said lines on said pages and inserting

6 Section 1. Short title.

7 This act shall be known and may be cited as the Development
8 Permit Extension Act.

9 Section 2. Definitions.

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

13 "Approval."

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

18 (i) allowing a development or construction project
19 to proceed; or

20 (ii) relating to or affecting development, granted
21 pursuant to a statute, regulation or ordinance adopted by
22 a municipality, including the following:

23 (A) 37 Pa.C.S. (relating to historical and
24 museums).

25 (B) 53 Pa.C.S. (relating to municipalities
26 generally).

27 (C) 68 Pa.C.S. Pt. II Subpt. B (relating to
28 condominiums).

29 (D) 68 Pa.C.S. Pt. II Subpt. C (relating to
30 cooperatives).

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

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

36 (G) The act of May 16, 1923 (P.L.207, No.153),

1 referred to as the Municipal Claim and Tax Lien Law.

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

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

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

10 (K) The act of May 1, 1933 (P.L.103, No.69),
11 known as The Second Class Township Code, as it
12 relates to development and construction.

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

15 (M) The act of June 1, 1945 (P.L.1242, No.428),
16 known as the State Highway Law, as it relates to the
17 issuance of highway occupancy permits which are
18 regulated under 67 Pa. Code Ch. 441 (relating to
19 access to and occupancy of highways by driveways and
20 local roads) or which are affected by other laws or
21 regulations.

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

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

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

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

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

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

38 (T) The act of July 31, 1968 (P.L.805, No.247),
39 known as the Pennsylvania Municipalities Planning
40 Code.

41 (U) The act of July 9, 1971 (P.L.206, No.34),
42 known as the Improvement of Deteriorating Real
43 Property or Areas Tax Exemption Act.

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

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

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

51 (Y) The act of November 10, 1999 (P.L.491,

1 No.45), known as the Pennsylvania Construction Code
2 Act.

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

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

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

12 (Z.3) The act of February 22, 2008 (P.L.36,
13 No.4), entitled "An act authorizing the Department of
14 General Services, with the concurrence of the
15 Department of Environmental Protection, to lease to
16 VTE Philadelphia, LP, or its nominee, land within the
17 bed of the Delaware River in the City of
18 Philadelphia; and affirming the authority of the
19 General Assembly to enact certain conveyances."

20 (Z.4) The act of February 22, 2008 (P.L.41,
21 No.5), entitled "An act authorizing the Department of
22 General Services, with the concurrence of the
23 Department of Environmental Protection, to lease to
24 NCCB Associates, LP, or its nominee, land within the
25 bed of the Delaware River in the City of
26 Philadelphia; and affirming the authority of the
27 General Assembly to enact certain conveyances."

28 (Z.5) Soil erosion and sediment control plans
29 approved by a local soil conservation district under
30 25 Pa. Code Ch. 102 (relating to erosion and sediment
31 control).

32 (Z.6) The National Historic Preservation Act
33 (Public Law 89-665, 80 Stat. 915), to the extent the
34 Commonwealth has been empowered to administer,
35 approve or otherwise authorize activities under that
36 act.

37 (Z.7) The Federal Water Pollution Control Act
38 (62 Stat. 1155, 33 U.S.C. § 1251 et seq.), to the
39 extent the Commonwealth has been empowered to
40 administer, approve or otherwise authorize activities
41 under that act.

42 (2) In cities of the first class and agencies
43 established by such cities, the term shall include only the
44 issuance of a building permit, a zoning use and registration
45 permit, and any administrative approval, including an
46 approval by a board or commission, that is a condition
47 precedent to issuance of a building permit or zoning use and
48 registration permit to an owner of property.

49 (3) Creating additional units and common elements out of
50 convertible real estate in a condominium or planned
51 community.

1 "Development." Any of the following:

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

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

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

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

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

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

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

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

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

30 Section 3. Existing approval.

31 (a) Automatic suspension.--For any approval by a government
32 agency that is granted for or in effect between the beginning of
33 the extension period and July 2, 2013, whether obtained before
34 or after the beginning of the extension period, the running of
35 the period of the approval shall be automatically suspended
36 until July 2, 2016.

37 (a.1) Cities of the first class.--In cities of the first
38 class and agencies established by such cities, the suspension
39 provided for in subsection (a) shall be valid, for any covered
40 approval, 20 days after the notice from the approval holder to
41 the agency that issued the approval of the approval holder's
42 intent to exercise his or her rights under the suspension and
43 payment of a fee equal to 50% of the original application fee,
44 but not to exceed \$5,000. The agency that issued the approval
45 may prescribe a form of notice.

46 (a.2) Limitation.--Any government approval granted after
47 July 2, 2013, shall not be extended beyond the normal approval
48 periods of the government agency without the permission or
49 approval of the government agency.

50 (b) Duration.--The extension period established under this
51 act shall be the maximum approval period authorized under this

1 act and shall supersede the normal time period for approvals
2 relating to development. Nothing in this section shall prohibit
3 the government agency from granting additional extensions as
4 provided by law.

5 (c) Riparian leases.--

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

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

24 Section 4. Subsequent changes.

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

29 (b) Planning code approval.--When an approval has been
30 granted under the act of July 31, 1968 (P.L.805, No.247), known
31 as the Pennsylvania Municipalities Planning Code, a subsequent
32 change in a zoning, subdivision or other governing ordinance or
33 plan shall not apply to or affect the right of the applicant to
34 commence or complete the activities authorized by the approval
35 for the duration of the extension period. For purposes of this
36 subsection, the extension period shall be extended for the
37 duration of any litigation, including appeals, relating to an
38 approval which prevents the completion of all or part of the
39 activity authorized by the approval.

40 (c) Nonexpiration.--An action by a government agency or law
41 to lease, license, grant or otherwise convey rights in the beds
42 of navigable waters of the Commonwealth shall not expire for the
43 duration of the extension period, including time limits relating
44 to the initiation, prosecution or completion of construction. A
45 conveyance of rights under this subsection shall not terminate
46 during the extension period for failure to initiate, prosecute
47 or complete construction.

48 Section 5. Agency verification.

49 (a) Request for verification.--

50 (1) The holder or recipient of an approval may seek
51 written verification from the issuing government agency for

1 any of the following:

2 (i) The existence of a valid approval.

3 (ii) The expiration date of the approval under this
4 act.

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

7 (b) Agency action.--Upon receipt of a request under
8 subsection (a), the government agency shall respond in writing
9 affirming or denying the existence of the approval, its
10 expiration date and any issues associated with its validity
11 within 30 days. Except in cities of the first class and agencies
12 established by such cities, failure to respond within 30 days
13 shall result in a deemed affirmation of the existence of the
14 approval and expiration date set forth in the request submitted
15 under subsection (a). The agency may charge a fee of not more
16 than \$100 for verification of a residential approval and \$500
17 for verification of a commercial approval under this subsection.

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

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

25 (1) 2 Pa.C.S. § 105 (relating to local agency law).

26 (2) The act of July 31, 1968 (P.L.805, No.247), known as
27 the Pennsylvania Municipalities Planning Code.
28 Section 6. Applicability.

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

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

34 (2) An administrative consent order or other enforcement
35 action relating to an approval that is subject to the
36 extension period.

37 (3) An approval, designation or benefit under the act of
38 October 6, 1998 (P.L.705, No.92), known as the Keystone
39 Opportunity Zone, Keystone Opportunity Expansion Zone and
40 Keystone Opportunity Improvement Zone Act.

41 (4) A "One-Call" determination, response or other
42 requirement under the act of December 10, 1974 (P.L.852,
43 No.287), referred to as the Underground Utility Line
44 Protection Law.

45 (5) The revocation or modification of an approval or
46 extension of an approval, when the approval authorizes the
47 modification or revocation for cause.

48 (6) An approval issued by the Department of
49 Transportation, except that approvals in accordance with 67
50 Pa. Code Ch. 441 (relating to access to and occupancy of
51 highways by driveways and local roads) shall be extended by

1 the department upon the submission of a complete and accurate
2 application throughout the extension period for one-year
3 intervals, subject to the requirements of 67 Pa. Code Ch.
4 441, including modifications based on changed circumstances.

5 (7) An approval issued by the Department of
6 Environmental Protection implementing 25 Pa. Code § 93.4a
7 (relating to antidegradation) in connection with surface
8 waters, as defined in 25 Pa. Code § 93.1 (relating to
9 definitions), or wetlands, as defined in 25 Pa. Code § 93.1,
10 which surface waters or wetlands, after the issuance of the
11 approval, and during the extension period, became classified
12 as:

13 (i) High Quality Waters, pursuant to 25 Pa. Code §§
14 93.1 and 93.4b(a); or

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

17 (8) An approval issued by the Department of
18 Environmental Protection implementing 25 Pa. Code § 93.4a in
19 connection with surface waters, as defined in 25 Pa. Code §
20 93.1, or wetlands, as defined in 25 Pa. Code § 93.1, which
21 surface waters or wetlands are classified as Exceptional
22 Value Waters pursuant to 25 Pa. Code § 93.4b(b) (1).

23 (b) Sewer and water systems.--If an approval is based upon
24 the connection to a sanitary sewer system or water distribution
25 system, the application of the extension period as it relates to
26 capacity shall be contingent upon the availability of sufficient
27 capacity of the system to accommodate the development that is
28 the subject of the extended approval. If sufficient capacity is
29 unavailable at the time it is required to proceed with
30 development under the approval, priority with regard to further
31 distribution or allocation of capacity shall be established by
32 the date on which the approval was obtained. Priority relating
33 to distribution of additional capacity shall be allocated in
34 order of the granting of the original approval for the
35 connection.

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

40 Section 7. Notice.

41 By August 5, 2010, each affected government agency shall
42 publish notice of applicability of the extension period to
43 approvals granted by the government agency under this act in the
44 Pennsylvania Bulletin.

45 Section 8. Miscellaneous.

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

50 (b) Authority.--During the extension period, a government
51 agency shall retain the authority to do all of the following:

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

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

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

9 Section 20. Repeals.

10 Repeals are as follows:

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

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

15 Section 21. Effective date.

16 This act shall take effect immediately.