



New Jersey Governor Chris Christie Signs Permit Extension Act

Client Advisories

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On September 21, 2012, Governor Chris Christie signed the third Permit Extension Act into law. This bill, the third in a succession which has recognized the State economic emergency which began in January 1989, extends “approvals” outside of “environmentally sensitive areas” from January 1, 2007 through December 31, 2014.

As in prior permit extension acts, the term “approval” is expressly defined, and certain permits/approvals are not extended, including those permits:

1. issued by the Federal government;
2. issued pursuant to the Pinelands Protection Act if the extension would violate federal law;
3. in an “environmentally sensitive area”;
4. in the Highlands Preservation Area;
5. issued pursuant to the Flood Hazard Area Control Act, with certain stated exceptions;
6. with coastal center designations under certain circumstances;
7. in nine (9) towns in the Highlands Planning Area (see following discussion).

One of the main innovations of this third Permit Extension Act is its treatment of the Highlands Area. After adoption of the second Permit Extension Act, the Highlands Council published notice that since no part of the Highlands Region was in a growth area, permits and approvals were not extended anywhere within the Highlands Region. The early drafts of the third Permit Extension Act extended permits in the entire Highlands Planning Area, but after negotiations with state Senate leaders, this broad approach was modified. Instead, permits and approvals within areas in the Highlands Planning Area which are designated Planning Area 4B or 5 under the State Plan will not be extended. Generally, all other permits and approvals within the Highlands Planning Area will be extended, unless a town has received conformance approval from the Highlands Council and has adopted various required master plan or ordinance documents by May 1, 2012. Of the forty-two (42)

towns with conformance approval, only nine (9) towns fall into this category (Alpha, Byram, Califon, Franklin Township, Hackettstown, High Bridge, Lebanon Township, Lopatcong, and Phillipsburg). In all other towns within the Highlands Planning Area, so long as the property is not located in Planning Area 4B or 5, a “reach back” extension applies, reviving these permits as of January 1, 2007. Thus, even though these permits were not extended under the second Permit Extension Act, the third Permit Extension Act keeps them in place through December 31, 2014.

With respect to the Pinelands Area, all municipal, county, regional and state permits or approvals within the defined extension area are also extended.

If you have any questions concerning the impact of the third Permit Extension Act, please contact Robert Bucknam, Chair of Archer’s Land Use, Environmental Permitting and Compliance Group at rbucknam@archerlaw.com or 856.354.3025; Group member Gary Rosensweig at grosensweig@archerlaw.com or 609.580.3711; or Group member Guliet Hirsch at ghirsch@archerlaw.com or 908.788.4305.

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Related People



Robert W. Bucknam, Jr.

Partner

✉ rbucknam@archerlaw.com

☎ 856.354.3025



Guliet D. Hirsch

Of Counsel

✉ ghirsch@archerlaw.com

☎ 908.788.4305

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