

South Carolina General Assembly
118th Session, 2009-2010

R215, H4445

STATUS INFORMATION

Joint Resolution

Sponsors: Reps. Loftis, Norman, Merrill, Hardwick, Erickson, Wylie, Chalk, Stewart, Pinson, Bedingfield, Huggins, Frye, Clemmons, Rice, Parker, G.R. Smith, Lowe, Hiott, Allison, Allen, Anthony, Bales, Ballentine, Bannister, Barfield, Bingham, Bowen, Cato, Cole, Cooper, Crawford, Daning, Delleney, Duncan, Edge, Gambrell, Hamilton, Harrell, Hearn, Horne, Kelly, Limehouse, Littlejohn, Long, Lucas, D.C. Moss, V.S. Moss, Nanney, Owens, M.A. Pitts, Sandifer, Scott, Simrill, D.C. Smith, G.M. Smith, Spires, Stringer, Thompson, Toole, Umphlett, Viers, White, Whitmire, Willis, A.D. Young, T.R. Young and Weeks

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Introduced in the House on January 27, 2010

Introduced in the Senate on March 2, 2010

Last Amended on February 25, 2010

Passed by the General Assembly on May 6, 2010

Governor's Action: May 19, 2010, Signed

Summary: Property

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
1/27/2010	House	Introduced and read first time HJ-32
1/27/2010	House	Referred to Committee on Labor, Commerce and Industry HJ-33
2/4/2010	House	Committee report: Favorable with amendment Labor, Commerce and Industry HJ-11
2/8/2010		Scrivener's error corrected
2/24/2010	House	Member(s) request name added as sponsor: Weeks
2/25/2010	House	Debate adjourned HJ-25
2/25/2010	House	Amended HJ-48
2/25/2010	House	Read second time HJ-49
2/25/2010	House	Unanimous consent for third reading on next legislative day HJ-49
2/26/2010	House	Read third time and sent to Senate HJ-3
3/2/2010	Senate	Introduced and read first time SJ-18
3/2/2010	Senate	Referred to Committee on Judiciary SJ-18
3/24/2010	Senate	Committee report: Favorable with amendment Judiciary SJ-12
4/27/2010	Senate	Committee Amendment Amended and Adopted SJ-53
4/27/2010	Senate	Read second time SJ-53
4/28/2010		Scrivener's error corrected
4/28/2010	Senate	Read third time and returned to House with amendments SJ-25
5/6/2010	House	Concurred in Senate amendment and enrolled HJ-35
5/6/2010	House	Roll call Yeas-100 Nays-1 HJ-35
5/13/2010		Ratified R 215
5/19/2010		Signed By Governor
5/26/2010		Effective date 05/19/10

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VERSIONS OF THIS BILL

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(R215, H4445)

A JOINT RESOLUTION TO EXTEND CERTAIN GOVERNMENT APPROVALS AFFECTING THE DEVELOPMENT OF REAL PROPERTY WITHIN THE STATE.

Whereas, there exists a state of economic emergency in the State of South Carolina and the nation, which has drastically affected various segments of the South Carolina economy, but none as severely as the state's banking, real estate, and construction sectors; and

Whereas, 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; and

Whereas, as a result of the crisis in the real estate finance sector of the economy, real estate developers and redevelopers, including home builders, commercial, office, and industrial developers, have experienced an industry-wide decline, including reduced demand, canceled orders, declining sales and rentals, price reductions, increased inventory, fewer buyers who qualify to purchase homes, layoffs, and scaled-back growth plans; and

Whereas, 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 governmental bodies; and

Whereas, the process of obtaining the myriad of other government approvals, such as wetlands permits, land disturbance and stormwater management permits, treatment works approvals, on-site wastewater disposal permits, highway access permits, critical area permits and

coastal zone consistency certifications, and numerous waivers and variances, can be difficult and expensive. Changes in the law can render these approvals, if expired or lapsed, difficult to renew or reobtain; and

Whereas, the citizens of this State and county and municipal governments, including local sewer and water authorities, obtain permits and approvals from state governmental agencies, particularly the Department of Health and Environmental Control, which permits and approvals may expire or lapse due to the state of the economy and the inability of both the public sector and the private sector to proceed with projects authorized by the permit or approval; and

Whereas, the citizens of this State and county and municipal governments also obtain determinations of consistency, conformance, or endorsement with state or regional plans from state and regional governmental entities that may expire or lapse without implementation due to the state of the economy; and

Whereas, the current national recession has severely weakened the building industry, and many landowners and developers are seeing their life's work destroyed by the lack of credit and dearth of buyers and tenants due to the crisis in real estate financing and the building industry, uncertainty over the state of the economy, and increasing levels of unemployment in the construction industry; and

Whereas, the construction industry and related trades are sustaining severe economic losses, and the lapsing of government development approvals would exacerbate, if not addressed, those losses; and

Whereas, financial institutions that loaned money to property owners, builders, and developers are experiencing erosion of collateral and depreciation of their assets as permits and approvals expire, and the extension of these permits and approvals is necessary to maintain the value of the collateral and the solvency of financial institutions throughout the State; and

Whereas, due to the current inability of builders and their purchasers to obtain financing under existing economic conditions, more and more once-approved permits are expiring or lapsing, and, as these approvals lapse, lenders must reappraise and thereafter substantially lower real estate valuations established in conjunction with approved projects, thereby requiring the reclassification of numerous loans, which, in turn,

affects the stability of the banking system and reduces the funds available for future lending, thus creating more severe restrictions on credit and leading to a vicious cycle of default; and

Whereas, as a result of the continued downturn of the economy and the continued expiration of approvals that were granted by state and local governments, it is possible that thousands of government actions will be undone by the passage of time; and

Whereas, obtaining an extension of an approval pursuant to existing statutory or regulatory provisions can be both costly in terms of time and financial resources and insufficient to cope with the extent of the present financial conditions; moreover, the costs imposed fall on the public as well as the private sector; and

Whereas, it is the purpose of this joint resolution to prevent the wholesale abandonment of already approved projects and activities due to the present unfavorable economic conditions by tolling the term of these approvals for a finite period of time as the economy improves, thereby preventing a waste of public and private resources. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

Cite as Permit Extension Joint Resolution of 2010

SECTION 1. This joint resolution must be known and may be cited as the “Permit Extension Joint Resolution of 2010”.

Definitions

SECTION 2. As used in this resolution:

(1) “Department” means the South Carolina Department of Health and Environmental Control.

(2) “Development” means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure or facility, or any grading, soil removal or relocation, excavation or landfill, or any use or change in the use of any building or other structure or land or extension of the use of land.

(3) “Development approval” means an approval issued by the State, an agency or subdivision of the State, or a unit of local government, regardless of the form of the approval, that is for the development of

land or for the provision of water or wastewater services by a governmental entity, including:

(a) an approval of an erosion and sedimentation control plan, land disturbance permit application, or stormwater management plan granted by a local government or by the department;

(b) a coastal zone consistency certification issued by the department's Office of Ocean and Coastal Resource Management;

(c) a water or wastewater permit issued by the department, including authorization for construction and installation of lines and infrastructure extending water and sewer service and authorization to connect to available or proposed lines and infrastructure;

(d) an NPDES permit issued by the department for the construction, operation, and expansion of a publicly owned treatment works;

(e) a 401 water quality certification issued by the department;

(f) a critical area permit issued by the department's Office of Ocean and Coastal Resource Management;

(g) an air quality permit issued by the department;

(h) an approval by a county or its duly authorized boards and commissions of sketch plans, preliminary plats, plats regarding a subdivision of land, a site specific development plan or a phased development plan, or a building permit. For building permits that have expired and not been renewed by the county for one year, the building permit must be issued at no additional cost; however, the building permit must comply with existing rules and regulations in effect at the time the building permit is reissued; and

(i) an approval by a city or its duly authorized boards and commissions of sketch plans, preliminary plats, plats regarding a subdivision of land, a site specific development plan or a phased development plan, or a building permit. For building permits that have expired and not been renewed by the city for one year, the building permit must be issued at no additional cost; however, the building permit must comply with existing rules and regulations in effect at the time the building permit is reissued.

Application and termination

SECTION 3. This joint resolution is intended to apply retroactively. For development approval that is current and valid at any point during the period beginning January 1, 2008, and ending December 31, 2012, the running of the period of the development approval and any associated vested right is suspended during the period beginning January 1, 2008, and ending December 31, 2012.

Limitations on construction and implementation

SECTION 4. This joint resolution may not be construed or implemented to:

- (1) extend a permit or approval issued by the United States or its agencies or instrumentalities;
- (2) extend a permit or approval for which the term or duration of the permit or approval is specified or determined pursuant to federal law;
- (3) shorten the duration that a development approval would have had in the absence of this act;
- (4) prohibit the granting of additional extensions provided by law;
- (5) affect an administrative consent order issued by the department in effect or issued at any time from the effective date of this act to December 31, 2012;
- (6) affect the ability of a governmental entity to revoke or modify a development approval pursuant to law;
- (7) modify a requirement of law that is necessary to retain federal delegation by the State of the authority to implement a federal law or program;
- (8) affect a Certificate of Need issued pursuant to Article 3, Chapter 7, Title 44 or a Demonstration of Need issued pursuant to Article 2, Chapter 96, Title 44231; or
- (9) affect SCDHEC-OCRM permits issued pursuant to R.30-12(N) Access to Coastal Islands.

Affected agencies must provide certain notice in State Register

SECTION 5. Within thirty days after the effective date of this joint resolution, each agency or subdivision of the State to which this joint resolution applies shall place a notice in the State Register listing the types of development approvals that the agency or subdivision issues and noting the extension provided in this joint resolution. This section does not apply to units of local government.

Provisions of Joint Resolution to be liberally construed

SECTION 6. The provisions of this joint resolution must be liberally construed to effectuate the purposes of this joint resolution.

Time effective

SECTION 7. This joint resolution takes effect upon approval by the Governor.

Ratified the 13th day of May, 2010.

Approved the 19th day of May, 2010. -- T.

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