

Client Alert: Two-Year Permit Extension for Real Estate Development Approvals

By RIW on November 25, 2024



On Wednesday, November 20, 2024, Governor Maura Healey signed a nearly **\$4 Billion economic development bill into law**. Tucked into this legislation was a small gift for the real estate development industry in the form of a two-year extension for all pending development permits and approvals. Many projects have stalled following COVID-19 and a record spike in interest rates that delayed development financing and otherwise prevented many proponents from starting construction. The real estate industry has lobbied for some relief from fast approaching permit expirations and deadlines and the legislature has delivered.

Section 148 of this recent legislation, titled the “Mass Leads Act,” automatically provides a two-year extension of the expiration date for permits or approvals in existence between January 1, 2023 and January 1, 2025. “Permit or approval” is broadly defined to include most special permits, comprehensive permits, variances, site plan approvals, orders of conditions, etc. However, the law specifically excludes federal permits, Division of Fisheries and Wildlife permits under Chapter 131 (which would include Natural Heritage and Endangered Species permits), as well as MassDOT and MBTA approvals. The extension does not apply to enforcement orders or otherwise alter permits that are subject to revocation by their own terms. For permits that are subject to available sewer capacity, the extension does not supersede any sewer contingency, but it does provide that existing permit holders would be first in line once sewer capacity becomes available, ahead of newly issued permits.

For those permits entitled to an extension, Section 148 also clarifies that projects shall remain subject to regulations as they existed at the time of the approval, notwithstanding subsequent changes in law. Developers with imminent permit expiration dates may now avoid the need to go before permitting agencies with extension requests, which can sometimes trigger or revive opposition to projects. Although the law is self-operative, permit holders may want to provide notice to issuing authorities claiming an extension under the law so that expiration dates are clearly identified, especially in the context of projects that have historically faced opposition or been the subject of litigation.

If you have any specific questions regarding the Mass Leads Act, including Section 148’s permit extension provisions, please do not hesitate to contact a member of RIW’s **Commercial Real Estate Group**.

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