

Deadlines Approach to File for New Extensions

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In recognition of the difficult economic conditions of the past few years, the 2011 Florida Legislature provided several new opportunities for substantially extending development approvals. Depending on various factors, the extensions may total up to 6 years, 10 months and 21 days for DRIs, and up to 4 years, 10 months and 21 days for non-DRI projects. Each of the extensions require written notification by the permit or approval holder to the issuing agency. *In most cases, the deadline for notification is December 31, 2011.* Additional information regarding the various extensions is outlined below. The legislation should be consulted, however, for more specific eligibility criteria and requirements for exercising the extensions.

Extensions Provided in the Community Planning Act (Chapter 2011-139, Laws of Florida)

The Community Planning Act provides three different extensions for development, *all of which require written notification to the authorizing agency by December 31, 2011.* Some of these conditions can be combined, resulting in some DRI approvals being extended up to six years under the Act.

DRI Extension

Section 54 grants a 4-year extension to all commencement, phase, buildout and expiration dates for projects that are currently valid developments of regional impact regardless of any previous extension. The 4-year extension is not a substantial deviation, is not subject to further development-of-regional-impact review and may not be considered when determining whether a subsequent extension is a substantial deviation. Associated mitigation is also extended, except in certain circumstances in which the local government has already entered into a contract with the mitigation funds and so notifies the developer by December 1, 2011.

Additional 2-Year Extension for Previously Extended Approvals

Section 73 provides an additional 2-year extension for any permit or authorization that was extended under section 14 of chapter 2009-96, Laws of Florida (SB 360), as reauthorized by section 47 of chapter 2010-147, Laws of Florida. Projects that had previously received a total extension of 4 years under these two pieces of legislation are not eligible for another extension under Section 73. For a variety of reasons, however, many projects did not receive the full 4 years available under the previous legislation, so

Section 73 provides another opportunity. This extension can be combined with the DRI extension of Section 54 (see above), for a total extension of 6 years under these two sections.

New 2-Year Extension for Permits and Authorizations

Section 79 provides an extension of certain permits and approvals with expiration dates from January 1, 2012 through January 1, 2014. This extension cannot be combined with the DRI extension provided by Section 54 and cannot be used in combination with the 2-year extensions from Section 73 (incorrectly cited in the Act as Section 74) or from chapters 2009-96 and 2010-147, Laws of Florida, for a total of more than 4 years.

Extension Provided in Chapter 2011-142, Laws of Florida

Section 494 of this act provides an extension for permits and authorizations when the Governor declares a state of emergency, effective within the area covered by the emergency declaration. The emergency declaration tolls the period remaining to exercise the rights under a permit or other authorization for the duration of the emergency declaration and extends the deadline for the permit or authorization for an additional 6 months beyond the tolled period. This extension applies to expiration of local-government-issued development orders, building permits, DEP and water management district permits pursuant to part IV of chapter 373 and to DRI build-out dates.

The holder of the permit or authorization must provide written notice to the issuing authority within 90 days after the termination of the emergency declaration of the intent to exercise the tolling and extension granted. The notice must identify the specific permit or other authorization qualifying for extension.

On June 13, 2011, the Governor issued Executive Order Number 11-128, declaring a state of emergency throughout the State of Florida due to the significant drought conditions and resulting wildfires. That emergency declaration, which was effective for 60 days, was extended on August 5, 2011 for another sixty days (Executive Order 11-172) and again extended on October 4, 2011 for another 30 days (Executive Order 11-202). The state of emergency therefore extended through November 3, 2011, or a total of 4 months and 21 days. The statutory language extends the time to exercise the permit or other authorization for this period plus an additional 6 months, for a total of 10 months and 21 days. *The 90-day deadline for notifying the issuing authority is February 1, 2012.* Given this new provision in statute, development interests should stay abreast of emergency orders that may provide additional opportunities for extensions in the future.

Clients are urged not to delay in filing the notices required to exercise the extensions. As demonstrated above, the various extensions may or may not apply to specific development approvals. Akerman can

assist clients in identifying which extensions apply and in providing the required notifications to the appropriate agencies. Akerman can also assist development interests and local governments in understanding and taking advantage of other opportunities provided by the recent changes in Florida's growth management framework. Akerman offers a full array of lobbying services to represent clients' interests with regulatory agencies and in the legislative arena, as additional legislative changes are considered.

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