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# *Environmental Viewpoint*

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## **PEA<sup>2</sup> Would Extend Effective Period For Permits**

*The Permit Extension Act (“PEA”), 2010-240 Mass. Adv. Legis. Serv. 173 (LexisNexis), was enacted in 2010 as part of an extensive package for economic development and recovery legislation. The PEA is intended to streamline development projects by automatically extending the effective period of almost any permit by two years. Recently, the Massachusetts House passed legislation that would modify the PEA by extending the qualifying period for permits eligible for extension of their expiration dates, and by doubling the extension provided by the PEA from two years to four years.*

**A**s background, the PEA covers almost any permit, certificate, order, license, certification, determination, exemption, variance, waiver, building permit, or other approval or determination or rights issued by any municipal, regional or state governmental agency concerning development of real property. The following agency approvals, however, are not extended the PEA:

1. approvals issued by the federal government or state agencies pursuant to federal law,
2. permits issued under sections 20 to 23 of Chapter 40B of the General Laws (low and moderate income housing permits),
3. hunting, fishing, and aquaculture approvals issued by the Divisions of Fisheries and Wildlife, and
4. enforcement orders. Approvals are automatically extended under the PEA, with no action by the permit holder required.

For approvals extended under the PEA that are based on connection to a sanitary sewer system, the extension of those approvals is contingent on the ability of the treatment facility to accommodate the

development. Where capacity is not available, permits extended by the PEA receive priority over other permits, based on the original date of approval.

The proposed legislation, now before the Senate, leaves all provisions of the 2010 PEA in place, and extends the extension period stated in the PEA. In particular, the definition of “tolling period” is changed from “August 15, 2008 to August 15, 2010” to “August 15, 2008 to August 15, 2012.” This means that any eligible permit approved in this new time period qualifies under the proposed legislation. The proposed legislation also doubles the period of time that permits are extended from two years to four years. As an example, a permit issued on September 1, 2011 that is normally valid for two years (and would expire on August 31, 2013) would, under the proposed legislation, not expire until August 31, 2017.

*For this legislation to take effect before the current PEA expires, the bill must be passed by the Senate before the end of the legislative session on July 31<sup>st</sup>. More information about the current Permit Extension Act can be found on the Office of Housing and Economic Development website. ■*

<sup>1</sup> <http://www.mass.gov/hed/economic/eohed/pro/zoning-laws/permit-extension-act.html>.