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## **OLR Bill Analysis**

### **SB 970 (File 321, as amended by Senate Amendment "A")\***

#### ***AN ACT CONCERNING EXTENDING THE TIME OF EXPIRATION OF CERTAIN LAND USE PERMITS.***

#### **SUMMARY**

This bill gives developers more time to complete certain ongoing projects without seeking reapproval from local land use boards, commissions, or agencies. It applies only to approvals and permits that were (1) granted on or after July 1, 2011, but before the bill's passage, and (2) unexpired on March 10, 2020.

Specifically, the bill extends the initial and extended statutory deadlines for completing projects that require certain subdivision, wetlands, or site plan approval. Generally, under the bill, these approvals are valid for at least 14 years and up to 19 years.

The bill's 14- and 19-year completion timeframes also apply to site plan and subdivision approvals and other permits (other than special permits or exceptions) granted by a zoning commission, planning commission, combined planning and zoning commission, zoning board of appeals, or inland wetlands agency exercising land use powers under a special act.

The bill establishes a minimum amount of time, 19 years, a developer has to complete work related to a special permit or special exception, regardless of a locally set deadline. This 19-year minimum applies to approvals granted by municipalities exercising land use powers under the statutes or a special act.

Executive Order (EO) 7JJ, § 3, issued on May 6, 2020, and subsequently extended, generally tolls the expiration dates for various land use approvals that were valid on March 10, 2020 (including site plan, wetlands, subdivision, and special permit approvals), thus pausing these approvals so they will not expire during the declared

emergencies.

EFFECTIVE DATE: Upon passage

\*Senate Amendment "A" (1) extends the underlying bill's initial and extended completion deadlines; (2) gives developers at least 19 years to finish work for which a special permit or exception was required; and (3) applies the amended bill's provisions to approvals granted by a municipality exercising land use powers under a special act.

### **SPECIAL PERMIT OR EXCEPTION PROJECT COMPLETION DEADLINES**

The bill establishes a minimum validity period for special permit or exception approvals (1) granted on or after July 1, 2011, but before the bill's passage; (2) that were unexpired on March 10, 2020; and (3) that specified a deadline by which all work in connection with the approval must be completed. Under the bill, these approvals are valid for a minimum of 19 years after the approval is granted. Existing statutes do not impose any minimum validity periods for these approvals (see BACKGROUND).

The bill specifies that (1) the applicable land use board, commission, or agency may extend these approvals beyond 19 years and (2) this minimum 19-year validity period applies to special permits or exceptions approved by a municipality exercising land use powers under the statutes or a special act.

### **OTHER PROJECT COMPLETION DEADLINES**

#### ***Municipalities Exercising Authority Under the Statutes***

When a planning or zoning commission, combined planning and zoning commission, or an inland wetlands agency operating under the statutes approves a project, it must set an expiration date that falls within the timeframes the law specifies. Consequently, a developer must complete the project before that date or resubmit it to the local commission or agency for approval. Generally, under current law, the maximum timeframe, including extensions if permitted, is 10 years from the date of approval. Under the bill, except for large residential

subdivisions, the initial deadline must be at least 14 years after approval and the extended deadline cannot be more than 19 years after approval. Large residential subdivision approvals are valid for 19 years.

Table 1, below, shows the current and extended deadlines that apply to subdivision, wetlands, and site plans approvals granted by municipalities operating under the statutes.

**Table 1: Statutory Deadlines and Extensions Under Current Law and the Bill**

<b><i>Land Use Approval (CGS §)</i></b>	<b><i>Current Law</i></b>	<b><i>Bill</i></b>
<b>Residential site plans for projects with 400 or more units</b> (§ 8-3(j))	Deadline: 10 years after approval	No change
	No extensions	
<b>Business site plans for projects with at least 400,000 square feet</b> (§ 8-3(j))	Deadline: 5-10 years after approval (set locally)	No change
	Extension: up to 10 years from approval	
<b>Other site plans</b> (§ 8-3(i))	Deadline: 5 years after approval	At least 14 years after approval
	Extension: up to 10 years from approval	Up to 19 years from approval
<b>Subdivisions plans for 400 or more dwelling units</b> (§ 8-26g)	Deadline: 10 years after approval	19 years after approval
	No extensions	No change
<b>Other subdivisions</b> (§ 8-26c(a)&(b))	Deadline: 5 years after approval	At least 14 years after approval
	Extension: up to 10 years from approval	Up to 19 years from approval
<b>Wetlands permits associated with another approval (e.g., site plans and subdivisions)</b> (§ 22a-42a(d)(2))	Deadline: 10 years after approval or the date the associated land use approval expires (whichever is earlier)	At least 14 years from approval
	Extension: up to 10 years from approval	Up to 19 years from approval

<b>Other wetlands</b> (§ 22a-42a(d)(2))	Deadline: 2-5 years after approval (set locally)	At least 14 years after approval
	Extension: up to 10 years from approval	Up to 19 years from approval

### ***Municipalities Exercising Authority Under a Special Act***

The bill sets a minimum approval duration of 14 years for site plan and subdivision approvals and other permits (except special permits or exceptions, see above) granted by a zoning commission, planning commission, combined planning and zoning commission, zoning board of appeals, or inland wetlands agency exercising land use powers under a special act.

The bill specifies that local boards or agencies may approve extensions, but caps the total duration of an approval, including extensions, at 19 years (except special permits or exceptions, see above). The 14- and 19-year timeframes are calculated based on the initial approval date and apply regardless of conflicting special acts or approval conditions.

## **BACKGROUND**

### ***Related Executive Order***

Under EO 7JJ, the expiration date of various land use approvals is tolled during the declared emergencies (§ 3, issued on May 6, 2020, and subsequently extended). The tolling provision applies only if the approval-holder was not in violation of the approval's conditions on March 10, 2020, and does not violate them during the declared emergencies (a waiver of this requirement is available).

### ***Related Bills***

sHB 6531, as amended by House "A" (File 685), extends the initial and extended deadlines for completing projects approved before July 1, 2011, that require certain subdivision, wetlands, or site plan approval.

sHB 6541, favorably reported by the Planning and Development

Committee, for permits issued on or after July 1, 2021, delays the effective date of municipal inland wetlands permits to coincide with the effective period of related local land use approvals (e.g., special permits, zoning variances, site plans, subdivision plans).

***Special Permits and Exceptions and Related Caselaw***

“Special permit” and “special exception” are synonymous. The designated local land use agency may grant special permits or exceptions pursuant to the Zoning Enabling Act (CGS § 8-2) or a special act, as applicable. Special permits and exceptions allow one to use a property in a manner explicitly permitted by the zoning regulations, but subject to conditions not applicable to other uses in the same district. The rationale for special permits and exceptions is that while certain land uses may be generally compatible with the uses permitted as of right in a particular zoning district, their nature is such that their precise location and mode of operation must be individually regulated.

In February 2021, the Connecticut Appellate Court issued a decision, applicable to municipalities that exercise zoning powers under the statutes, holding that the law authorizes them to impose temporal conditions on special permits or exceptions, such as a condition requiring development to be completed by a specific date (*International Investors v. Fairfield Planning & Zoning Commission*, 202 Conn. App. 582, *cert. granted*, 336 Conn. 928 (March 30, 2021)).

**COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable

Yea 26 Nay 0 (03/21/2021)