

AMENDED IN SENATE APRIL 9, 2008

AMENDED IN SENATE MARCH 27, 2008

SENATE BILL

No. 1587

Introduced by Senator Maldonado

February 22, 2008

~~An act to add Section 19828.5 to the Health and Safety Code, relating to local building permits.~~ *An act to amend Section 66452.6 of the Government Code, relating to subdivisions.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1587, as amended, Maldonado. ~~Local building permits: Subdivisions: maps:~~ extension.

The Subdivision Map Act requires that an approved or conditionally approved tentative map expires after 24 months unless extended by local ordinance not to exceed an additional 12 months.

This bill would provide, notwithstanding the above requirement, that the expiration date of an approved or conditionally approved tentative map may be extended by a local agency for a second or third time if certain conditions occur.

~~Existing law prescribes specified procedures for a city, county, or city and county to follow when issuing local building permits.~~

~~This bill would authorize every city, county, and city and county to extend a development or building permit if the project was delayed through no fault of the permittee or landowner and the local governing body makes a finding that no substantial evidence has been presented to show a material change has occurred in the community or in the environmental circumstances that would cause the permit to be rejected.~~

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 66452.6 of the Government Code is
2 amended to read:

3 66452.6. (a) (1) An approved or conditionally approved
4 tentative map shall expire 24 months after its approval or
5 conditional approval, or after any additional period of time as may
6 be prescribed by local ordinance, not to exceed an additional 12
7 months. However, if the subdivider is required to expend one
8 hundred seventy-eight thousand dollars (\$178,000) or more to
9 construct, improve, or finance the construction or improvement
10 of public improvements outside the property boundaries of the
11 tentative map, excluding improvements of public rights-of-way
12 which abut the boundary of the property to be subdivided and
13 which are reasonably related to the development of that property,
14 each filing of a final map authorized by Section 66456.1 shall
15 extend the expiration of the approved or conditionally approved
16 tentative map by 36 months from the date of its expiration, as
17 provided in this section, or the date of the previously filed final
18 map, whichever is later. The extensions shall not extend the
19 tentative map more than 10 years from its approval or conditional
20 approval. However, a tentative map on property subject to a
21 development agreement authorized by Article 2.5 (commencing
22 with Section 65864) of Chapter 4 of Division 1 may be extended
23 for the period of time provided for in the agreement, but not beyond
24 the duration of the agreement. The number of phased final maps
25 that may be filed shall be determined by the advisory agency at
26 the time of the approval or conditional approval of the tentative
27 map.

28 (2) Commencing January 1, 2005, and each calendar year
29 thereafter, the amount of one hundred seventy-eight thousand
30 dollars (\$178,000) shall be annually increased by operation of law
31 according to the adjustment for inflation set forth in the statewide
32 cost index for class B construction, as determined by the State
33 Allocation Board at its January meeting. The effective date of each
34 annual adjustment shall be March 1. The adjusted amount shall
35 apply to tentative and vesting tentative maps whose applications
36 were received after the effective date of the adjustment.

37 (3) "Public improvements," as used in this subdivision, include
38 traffic controls, streets, roads, highways, freeways, bridges,

1 overcrossings, street interchanges, flood control or storm drain
2 facilities, sewer facilities, water facilities, and lighting facilities.

3 *(4) Notwithstanding paragraph (1), the expiration date of an*
4 *approved or conditionally approved tentative map may be extended*
5 *by a local agency for a second or third time if both of the following*
6 *occur:*

7 *(A) The project was delayed through no fault of the subdivider.*

8 *(B) The local agency, following a noticed public hearing, makes*
9 *a finding that no substantial evidence has been presented to show*
10 *a material change has occurred in the community or in the*
11 *environmental circumstances that would cause the permit to be*
12 *rejected.*

13 (b) (1) The period of time specified in subdivision (a), including
14 any extension thereof granted pursuant to subdivision (e), shall
15 not include any period of time during which a development
16 moratorium, imposed after approval of the tentative map, is in
17 existence. However, the length of the moratorium shall not exceed
18 five years.

19 (2) The length of time specified in paragraph (1) shall be
20 extended for up to three years, but in no event beyond January 1,
21 1992, during the pendency of any lawsuit in which the subdivider
22 asserts, and the local agency which approved or conditionally
23 approved the tentative map denies, the existence or application of
24 a development moratorium to the tentative map.

25 (3) Once a development moratorium is terminated, the map
26 shall be valid for the same period of time as was left to run on the
27 map at the time that the moratorium was imposed. However, if the
28 remaining time is less than 120 days, the map shall be valid for
29 120 days following the termination of the moratorium.

30 (c) The period of time specified in subdivision (a), including
31 any extension thereof granted pursuant to subdivision (e), shall
32 not include the period of time during which a lawsuit involving
33 the approval or conditional approval of the tentative map is or was
34 pending in a court of competent jurisdiction, if the stay of the time
35 period is approved by the local agency pursuant to this section.
36 After service of the initial petition or complaint in the lawsuit upon
37 the local agency, the subdivider may apply to the local agency for
38 a stay pursuant to the local agency's adopted procedures. Within
39 40 days after receiving the application, the local agency shall either
40 stay the time period for up to five years or deny the requested stay.

1 The local agency may, by ordinance, establish procedures for
2 reviewing the requests, including, but not limited to, notice and
3 hearing requirements, appeal procedures, and other administrative
4 requirements.

5 (d) The expiration of the approved or conditionally approved
6 tentative map shall terminate all proceedings and no final map or
7 parcel map of all or any portion of the real property included within
8 the tentative map shall be filed with the legislative body without
9 first processing a new tentative map. Once a timely filing is made,
10 subsequent actions of the local agency, including, but not limited
11 to, processing, approving, and recording, may lawfully occur after
12 the date of expiration of the tentative map. Delivery to the county
13 surveyor or city engineer shall be deemed a timely filing for
14 purposes of this section.

15 (e) Upon application of the subdivider filed prior to the
16 expiration of the approved or conditionally approved tentative
17 map, the time at which the map expires pursuant to subdivision
18 (a) may be extended by the legislative body or by an advisory
19 agency authorized to approve or conditionally approve tentative
20 maps for a period or periods not exceeding a total of five years.
21 The period of extension specified in this subdivision shall be in
22 addition to the period of time provided by subdivision (a). Prior
23 to the expiration of an approved or conditionally approved tentative
24 map, upon an application by the subdivider to extend that map,
25 the map shall automatically be extended for 60 days or until the
26 application for the extension is approved, conditionally approved,
27 or denied, whichever occurs first. If the advisory agency denies a
28 subdivider's application for an extension, the subdivider may
29 appeal to the legislative body within 15 days after the advisory
30 agency has denied the extension.

31 (f) For purposes of this section, a development moratorium
32 includes a water or sewer moratorium, or a water and sewer
33 moratorium, as well as other actions of public agencies which
34 regulate land use, development, or the provision of services to the
35 land, including the public agency with the authority to approve or
36 conditionally approve the tentative map, which thereafter prevents,
37 prohibits, or delays the approval of a final or parcel map. A
38 development moratorium shall also be deemed to exist for purposes
39 of this section for any period of time during which a condition

1 imposed by the city or county could not be satisfied because of
2 either of the following:

3 (1) The condition was one that, by its nature, necessitated action
4 by the city or county, and the city or county either did not take the
5 necessary action or by its own action or inaction was prevented or
6 delayed in taking the necessary action prior to expiration of the
7 tentative map.

8 (2) The condition necessitates acquisition of real property or
9 any interest in real property from a public agency, other than the
10 city or county that approved or conditionally approved the tentative
11 map, and that other public agency fails or refuses to convey the
12 property interest necessary to satisfy the condition. However,
13 nothing in this subdivision shall be construed to require any public
14 agency to convey any interest in real property owned by it. A
15 development moratorium specified in this paragraph shall be
16 deemed to have been imposed either on the date of approval or
17 conditional approval of the tentative map, if evidence was included
18 in the public record that the public agency which owns or controls
19 the real property or any interest therein may refuse to convey that
20 property or interest, or on the date that the public agency which
21 owns or controls the real property or any interest therein receives
22 an offer by the subdivider to purchase that property or interest for
23 fair market value, whichever is later. A development moratorium
24 specified in this paragraph shall extend the tentative map up to the
25 maximum period as set forth in subdivision (b), but not later than
26 January 1, 1992, so long as the public agency which owns or
27 controls the real property or any interest therein fails or refuses to
28 convey the necessary property interest, regardless of the reason
29 for the failure or refusal, except that the development moratorium
30 shall be deemed to terminate 60 days after the public agency has
31 officially made, and communicated to the subdivider, a written
32 offer or commitment binding on the agency to convey the necessary
33 property interest for a fair market value, paid in a reasonable time
34 and manner.

35 ~~SECTION 1. Section 19828.5 is added to the Health and Safety~~
36 ~~Code, to read:~~

37 ~~19828.5. Every city, county, and city and county may extend~~
38 ~~a development or building permit if both of the following occur:~~

39 ~~(a) The project was delayed through no fault of the permittee~~
40 ~~or landowner.~~

1 ~~(b) The local governing body, following a noticed public~~
2 ~~hearing, makes a finding that no substantial evidence has been~~
3 ~~presented to show a material change has occurred in the community~~
4 ~~or in the environmental circumstances that would cause the permit~~
5 ~~to be rejected.~~

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