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A BELATED PRESENT FOR NEW JERSEY DEVELOPERS: AN AMENDMENT TO THE PERMIT EXTENSION ACT IS SIGNED INTO LAW

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On December 26, 2014, Governor Christie extended the Permit Extension Act for an additional year by signing A-3815 into law. Originally enacted in 2008, the Permit Extension Act protected developers from forfeiting the time and expense invested in obtaining the requisite permits and approvals for land development by tolling the expiration of such permits and approvals. Absent the passage of A-3815, developers that have not commenced construction of approved projects were at risk of having their development permits and approvals lapse within a six-month period following the current December 31, 2014, deadline.

Under A-3815, the expiration date of the permits and approvals covered by the Permit Extension Act will be further tolled until December 31, 2015. Developers retain the ability to request additional extensions of the period of protection or life of the approvals if authorized by statute or regulation. As with the prior version of the law, the Permit Extension Act applies to an array of development permits and approvals including, by way of example, approvals granted under the Municipal Land Use Law (such as site plan, subdivision, conditional use permits and variances), County Planning Board approval, and certain permits and approvals granted by agencies such as the New Jersey Department of Environmental Protection, the New Jersey Department of Transportation, and the Delaware and Raritan Canal

Commission. All other requirements of the Permit Extension Act remain in full force and effect under the recent amendment.

While A-3815 provides some timing relief to developers, it is important to note that this legislation does not permit the extension of any permit or approval to more than six months after the end of the redefined extension period in December 2015. Additionally, the New Jersey legislature rejected a version of the bill that tolled the expiration date of permits and approvals to December 31, 2016. In so doing, it appears that developers will need to take action on any approved projects in the New Year as the Permit Extension Act's protections are not likely to be extended again.

If you have any questions about the amended Permit Extension Act, or would like us to review your current approvals and advise you how best to preserve them, please contact Henry L. Kent-Smith at 609.896.4584 or hkent-smith@foxrothschild.com or Daniel V. Madrid at 609.844.7413 or dmadrid@foxrothschild.com of the Princeton office, Deirdre E. Moore at 973.326.7103 or dmoore@foxrothschild.com in the Morristown office, Jack Plackter at 609.572.2200 or jplacketer@foxrothschild.com in the Atlantic City office or any member of Fox Rothschild's Zoning and Land Use Practice Group.

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