



**HOME BUILDERS ASSOCIATION OF CONNECTICUT, INC.**

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February 22, 2012

To: Senator Steve Cassano, Co-Chairman  
Representative Linda M. Gentile, Co-Chairman  
Members of the Planning and Development Committee

From: Bill Ethier, Chief Executive Officer

Re: Senate Bill 107, AAC the Time in Which a Regulated Activity Must Be  
Conducted Under a Permit Issued by an Inland Wetlands Commission

**The HBA of Connecticut is a professional trade association with almost 1,000 member firms statewide, employing tens of thousands of Connecticut citizens. Our members, all small businesses, are residential and commercial builders, land developers, home improvement contractors, trade contractors, suppliers and those businesses and professionals that provide services to our diverse industry. Our members build 70% to 80% of all new homes and apartments in the state each year.**

**We support SB 107 and offer an amendment to further improve wetland permitting timelines and coordinate them better with subdivision and site plan approvals.**

**Background:** Inland wetland permits generally expire after five years (but see sec. 22a-42a(g) of the general statutes, as amended by PA 11-5, i.e. last year's temporary extension of permit deadlines for site plan, subdivision and wetland permits to nine years). SB 107 addresses another timeline issue unique to inland wetland permits.

**The permit timeline dilemma SB 107 addresses:** Under sec. 22a-42a(d)(2), wetland permits are divided between those issued for a subdivision or site plan (e.g., requiring approval under 8-3, 8-25 or 8-26) and those wetland permits for other activities. Under this section, local wetland agencies are authorized to establish a specific time period within which the permitted activity shall be conducted, even though the permit itself does not expire for five years. For non subdivision or site plan activities, that time period cannot be less than two years. Oddly, there's no minimum period restriction for wetland permits connected to subdivisions and site plans.

**Often, wetland agencies require the permitted activity for subdivisions and site plans to be conducted within one or two years of approval, essentially an imposition that extinguishes the remaining years of the "five" year permit. This has been a recurring problem because under our statutes, a proposed development applicant must first apply for its inland wetlands permit prior to applying for its subdivision or site plan permit. The statutes state that planning and zoning commissions cannot give final approval on subdivisions and site plan until the wetland agency has issued its final report (i.e., decision). Thus, by statute, a wetland permit comes first. Then, once all local approvals are obtained, a lengthy trek through state agencies is usually required. That initial one or**

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two year requirement to complete work authorized by a wetland permit can expire before the authorized work even begins because of the other permitting delays in planning, zoning and state agencies. This necessitates going back to the wetlands agency for re-approval, generating more opportunities for opponents, expense and delay. Moreover, the short timelines imposed by wetland agencies under 22a-42a(d)(2) are impossible to meet due to delays caused by obtaining necessary development financing. This is especially a problem in today's difficult lending environment.

**SB 107 amends 22a-42a(d)(2) by limiting the time period within which work must be conducted for subdivisions and site plan developments to no less than three years. However, since wetland permits must by statute come first and cannot be acted upon until subdivision or site plan approvals are obtained as well as any other regulatory approvals, we offer the following common sense amendment to greatly improve the coordination of wetland permit expirations with other necessary approvals:**

**Beginning at line 42, change the bill to read as follows: “(2) Any permit issued under this section for the development of property for which an approval is required under [section 8-3, 8-25 or 8-26] chapters 124, 124b, 126 or 126a of the general statutes shall be valid [for five years provided the agency may establish a specific time period within which any regulated activity shall be conducted] until the approvals granted under such chapters expire, whichever expiration occurs later. Any permit issued under this section for any [other] activity for which an approval is not required under chapters 124, 124b, 126 or 126a of the general statutes shall be valid for not less than two years and not more than five years. ...”**

Our amendment simply coordinates wetland permit expiration dates with other approval expiration dates. Importantly, the reference to “sections 8-3, 8-25 or 8-26” is changed in our amendment to “chapters 124, 124b, 126 or 126a” to be more inclusive of all local planning and zoning approvals that might be required for the development of property.

The new language at lines 17-21 in SB 107 would also stay in the bill. This language clarifies that wetland agencies may restrict work under a permit, such as time of year restrictions to avoid disturbing migrating or breeding populations of specific wetland species. This language, which we support, was requested last year by DEP.

**Please support SB 107 with our suggested amendment.** Thank you for considering our comments on this important legislation.