

**ASSEMBLY, No. 1801**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman ERIK PETERSON**

**District 23 (Hunterdon, Somerset and Warren)**

**Assemblyman WAYNE P. DEANGELO**

**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

Authorizes design professionals to self-certify construction plans.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1   **AN ACT** authorizing design professionals to self-certify construction  
2       plans and supplementing Title 52 of the Revised Statutes.

3  
4       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5       *of New Jersey:*

6  
7       1.   This act shall be known and may be cited as the “New Jersey  
8       Design Professional Self-Certification Act.”

9  
10      2.   As used in this act, unless the context clearly indicates  
11      otherwise:

12        “Architect” means a person who is licensed by the New Jersey  
13        State Board of Architects to practice architecture in the State of  
14        New Jersey.

15        “Commissioner” means the Commissioner of Community  
16        Affairs.

17        “Department” means the Department of Community Affairs.

18        “Design professional” means an architect or a professional  
19        engineer.

20        “Enforcing agency” means “enforcing agency” as defined in  
21        section 3 of P.L.1975, c.217 (C.52:27D-121) and the commissioner,  
22        in those municipalities in which the commissioner has assumed the  
23        task of administering and enforcing the code pursuant to section 10  
24        of P.L.1975, c.217 (C.52:27D-128).

25        “Prepared by” means personally prepared by the qualified design  
26        professional submitting the project.

27        “Prepared under the direct supervision of” means prepared under  
28        the personal supervision and control of a qualified design  
29        professional.

30        “Professional engineer” means a person who is licensed by the  
31        State Board of Professional Engineers and Land Surveyors to  
32        practice engineering in the State of New Jersey.

33        “Project” means the work identified in a building permit  
34        application and accompanying plans.

35        “Qualified design professional” means a design professional who  
36        has been qualified by the department to self-certify an application  
37        for a construction permit and accompanying plans and construction  
38        documents.

39        “Qualified Design Professional of record” means the qualified  
40        design professional who prepared or supervised the preparation of  
41        applicable construction documents filed with the department.

42        “Reviewed by” or “Reviewed and sealed by” means that the  
43        sealed plans were reviewed by the qualified design professional for  
44        code compliance, or that the plans were drawn by others and were  
45        reviewed for code compliance and sealed by the qualified design  
46        professional.

47        “Self-certification” or “Self-certified” means the submission to  
48        the department of a signed, personal verification that: (a) is made by

1 the qualified design professional identified in an application for a  
2 construction permit; and (b) accompanies plans filed with the  
3 department by the qualified design professional; and (c) attests that  
4 the plans do not contain any false information; and (d) attests that  
5 the plans are in compliance with the requirements of the State  
6 Uniform Construction Code and all applicable provisions of law;  
7 and (e) attests that the plans were prepared by, prepared under the  
8 direct supervision of, or were reviewed and sealed by the qualified  
9 design professional identified in the permit application.

10 “Self-certification program” means the program established  
11 pursuant to this act authorizing the acceptance of construction  
12 documents submitted and self certified by a qualified design  
13 professional.

14

15 3. a. The Commissioner of Community Affairs shall establish  
16 a self-certification program through which a qualified design  
17 professional may:

18 (1) take responsibility for the construction code compliance of  
19 certain projects, and

20 (2) self-certify that the construction permit application and  
21 accompanying documents comply with the State Uniform  
22 Construction Code and the requirements of other applicable laws.

23 b. The department shall accept a permit application and  
24 accompanying documents that are self-certified by a qualified  
25 design professional and, after a supervisory check, issue a permit  
26 within one to five calendar days, depending on the scope of the  
27 project. The acceptance of construction documents in accordance  
28 with the self-certification program shall have the same force and  
29 effect as the approval of construction documents after full  
30 examination by an enforcing agency. Except as otherwise specified  
31 in the code or in the rules of the department, references to an  
32 approved application for a construction permit, plans and  
33 specifications or to the approval of such construction documents  
34 also shall be deemed to refer to accepted construction documents or  
35 to the acceptance of construction documents, as applicable.

36 c. The commissioner shall establish requirements for design  
37 professionals to qualify to participate in the self-certification  
38 program, which shall include, but not be limited to, the successful  
39 completion of a course of instruction about: the self-certification  
40 permit process, examination of plans for compliance with the State  
41 Uniform Construction Code and other applicable laws, and the  
42 administrative aspects of permit processing, for which a qualified  
43 design professional is responsible when self-certifying plans.

44 d. The commissioner, after consultation with the code advisory  
45 board, may, for certain classes or types of occupancy posing special  
46 or unusual hazards to public safety, establish regulations prohibiting  
47 qualified design professionals from exercising the powers  
48 authorized pursuant to subsection a. of this section. The department

1 shall not accept a self-certified permit application or issue a permit  
2 pursuant to subsection b. of this section for any such class or type  
3 of occupancy.

4 e. The self-certification program shall include a condition that  
5 the qualified design professional of record remain with the project  
6 until it is signed-off by the department and that if the qualified  
7 design professional of record withdraws from the project before the  
8 issuance of a letter of completion or certificate of occupancy, as  
9 applicable, all work shall stop and no permit, letter of completion,  
10 or certificate of occupancy shall be issued until:

11 (1) a successor qualified design professional is designated as the  
12 qualified design professional of record and satisfies the submittal  
13 requirements set forth in this section and:

14 (2) (a) the successor qualified design professional submits a  
15 professional certification indicating the qualified design  
16 professional's concurrence with the construction documents  
17 accepted by the department, or

18 (b) new construction documents are approved or accepted by the  
19 department.  
20

21 4. a. For each project, the qualified design professional of  
22 record shall furnish to the department a certificate of professional  
23 liability insurance, issued by an insurer authorized to insure in New  
24 Jersey, with limits of no less than \$500,000 per claim and  
25 \$1,000,000 in the aggregate for all claims made during the policy  
26 period.

27 b. For each project, the qualified design professional of record  
28 shall furnish to the department a "Professional of Record Self-  
29 Certification Statement" in which the qualified design professional  
30 shall certify to the department and to the person hiring or otherwise  
31 retaining the qualified design professional for the project that:

32 (1) the qualified design professional has been a licensed  
33 architect or professional engineer for at least three years and is  
34 licensed and certified in the State of New Jersey; and

35 (2) within the preceding five-year period, the qualified design  
36 professional has not been convicted or found liable of:

37 (a) knowingly making a false statement of material fact on or in  
38 connection with any building permit application, or

39 (b) knowingly submitting in support of a building permit  
40 application any document containing false or fraudulent  
41 information, or

42 (c) knowingly affixing a false signature to any building permit  
43 application; and

44 (3) the attached application and every page of the accompanying  
45 plans stamped by the qualified design professional:

46 (a) were prepared by, under the direct supervision of, or  
47 reviewed by the qualified design professional;

48 (b) are complete; and

1 (c) are, as of the date of submission, in accordance with the  
2 requirements of the State Uniform Construction Code and all other  
3 applicable laws; and

4 (4) the attached application and all technical submissions made  
5 by the qualified design professional in connection with the self-  
6 certified project were prepared in accordance with and meet the  
7 “standard of care” required of the profession; and

8 (5) all information and assertions made by the qualified design  
9 professional in the permit application and documents submitted in  
10 support of such permit application are true and correct; and

11 (6) if the qualified design professional becomes aware of any  
12 false or inaccurate statement in the permit application,  
13 accompanying plans, or any document submitted in support of such  
14 permit application, regardless of whether such false or inaccurate  
15 statement was made by the qualified design professional or by his  
16 agent or employee, the qualified design professional will  
17 immediately take all measures necessary to correct such false or  
18 inaccurate statement; and

19 (7) the qualified design professional understands that the  
20 department will rely upon the truth and accuracy of the  
21 certifications contained in the “Professional of Record Self-  
22 Certification Statement” as the basis for issuing a permit under the  
23 self-certification program; and

24 (8) the qualified design professional understands that the self-  
25 certified project identified in the building permit application is  
26 being approved for a building permit subject to audit or field  
27 inspection by the department and the permit is subject to revocation  
28 by the department if necessary or appropriate to protect the public  
29 health, safety, or welfare; and

30 (9) if the department determines that the submitted plans do not  
31 conform to the requirements of the State Uniform Construction  
32 Code or any other applicable law, the qualified design professional  
33 agrees to submit a plan revision to the department in a timely  
34 manner and to take all remedial measures within such qualified  
35 design professional of record’s control to bring the submitted plans  
36 and any construction thereunder into conformity with the  
37 requirements of the code and any other applicable law; and

38 (10) the qualified design professional understands that the failure  
39 to submit a required plan revision to the department in a timely  
40 manner will result in suspension of the professional’s self-  
41 certification privileges under the self-certification program, until  
42 such time that the required plan revision is submitted to the  
43 department or the matter is otherwise resolved by the department;  
44 and

45 (11) the qualified design professional understands that failure to  
46 take all reasonably necessary remedial measures within their control  
47 to bring the submitted plans and any construction thereunder into  
48 compliance with the code or any other applicable law within a

1 reasonable period of time shall result in revocation of the qualified  
2 design professional's self-certification privileges under the self-  
3 certification program and may result in notification of such fact to  
4 the appropriate State professional licensing board; and

5 (12) the qualified design professional agrees to comply with any  
6 additional certification required pursuant to rule or regulation  
7 adopted by the commissioner.

8  
9 5. For each project, the qualified design professional of record  
10 shall submit to the department, on a form prepared by the  
11 department, an "Owner Certification Statement," which shall be  
12 signed and dated by the owner responsible for the work identified in  
13 the permit application, in which the owner shall certify that the  
14 owner:

15 a. authorized the work of all professionals and consultants  
16 named in the permit application and accompanying plans; and

17 b. agrees to take all measures necessary to correct any  
18 misrepresentation or falsification of facts made knowingly or  
19 negligently in the building permit application or in any document  
20 submitted in support of such application by the owner or by the  
21 owner's agents, contractors, or employees; and

22 c. understands that the self-certified project is being approved  
23 for a building permit subject to audit or field inspection by the  
24 department; and

25 d. agrees to take all remedial measures necessary to bring the  
26 plans and all construction completed under the permit for the  
27 project into conformity with requirements of the State Uniform  
28 Construction Code and all other applicable laws; and

29 e. agrees to comply with any additional certification required  
30 pursuant to rule or regulation adopted by the commissioner.

31  
32 6. For each project, the qualified design professional of record  
33 shall submit to the department, on a form provided by the  
34 department, an "Owner Hold Harmless Letter," which shall be  
35 signed and dated by the owner, in which the owner shall agree to  
36 the following:

37 a. to protect, defend, indemnify, and hold harmless the  
38 municipality and the State of New Jersey, and their officers,  
39 representatives, managers, and employees, against any and all  
40 claims, liabilities, judgments, costs, expenses, delays, demands, or  
41 injuries arising out of or in any way connected with the design,  
42 construction, code compliance review, or issuance of a permit for  
43 the project identified in the permit application; and

44 b. if any component of construction is found to not conform to  
45 the requirements of the State Uniform Construction Code or any  
46 other applicable law or to any permit issued under the self-  
47 certification program, the owner shall, without undue delay, remove

1 or modify, at the owner's own expense, the nonconforming  
2 component or components of construction  
3

4 7. The commissioner, in consultation with the code advisory  
5 board, the New Jersey State Board of Architects, and the State  
6 Board of Professional Engineers and Land Surveyors, shall design  
7 and cause to be offered a self-certification course of instruction for  
8 architects and engineers interested in becoming qualified design  
9 professionals. The self-certification course of instruction shall  
10 include information about the self-certification permit process,  
11 examination of plans for compliance with the State Uniform  
12 Construction Code and other applicable laws, and the administrative  
13 aspects of permit processing for which a qualified design  
14 professional is responsible when self-certifying plans. Upon a  
15 design professional's successful completion of the course of  
16 instruction, the department shall issue a qualified design  
17 professional certificate and registration number, enabling the design  
18 professional to participate in the self-certification program. The  
19 department may authorize imposition of a fee to cover the cost of  
20 administering the self-certification course of instruction. A  
21 qualified design professional certificate shall expire three years  
22 from the date of issuance unless the design professional complies  
23 with conditions of certificate renewal, including but not limited to  
24 the completion of continuing education requirements, to be  
25 established by the department.  
26

27 8. a. All self-certified projects are subject to random audit by  
28 the department to determine whether the plans and projects comply  
29 with the requirements of the State Uniform Construction Code and  
30 other applicable laws. The department shall design and implement  
31 audits to measure the efficiency of the self-certification program.

32 b. The department shall provide written notice of the results of  
33 an audit to the qualified design professional of record and the  
34 owner. The notification shall provide a summary of the audit  
35 results and direct the qualified design professional to address all  
36 code violations found in the audit by a specific date. The specified  
37 date shall be reasonable based upon the type of code violations and  
38 the nature of the corrections that need to be made. Failure to submit  
39 required corrections by the date specified in the notification may  
40 result in the revocation of the qualified design professional's  
41 privileges.

42 c. A qualified design professional of an audited project may  
43 dispute the results of an audit or the accuracy or applicability of any  
44 code correction comment entered in connection with an audit. The  
45 qualified design professional may request a meeting with the  
46 department to review the matter or file an appeal to a court of  
47 competent jurisdiction.

1       9. a. The commissioner may exclude, suspend, or otherwise  
2 sanction a qualified design professional for cause. A qualified  
3 design professional shall not be eligible to participate in the self-  
4 certification program during any period of probation imposed as a  
5 sanction by the New Jersey State Board of Architects or the State  
6 Board of Professional Engineers and Land Surveyors.

7       b. The commissioner shall, after the opportunity for an  
8 administrative hearing, exclude, suspend, or otherwise condition the  
9 participation of a qualified design professional who:

10       (1) knowingly or negligently submits a self-certification of a  
11 permit application or construction document that contains false  
12 information or is not in compliance with all applicable provisions of  
13 law, or

14       (2) submits two self-certified applications for construction  
15 document approval within any 12-month period containing material  
16 errors that result in revocation of an associated permit or that  
17 otherwise demonstrate incompetence or a lack of knowledge of  
18 applicable laws.

19       c. A qualified design professional who is excluded from the  
20 program in accordance with this section may apply for  
21 reinstatement one year or more after such exclusion. An applicant  
22 who the commissioner finds is qualified to resume participation in  
23 the program shall be on probation for a period of not less than six  
24 months after reinstatement and during that time, as a condition of  
25 such reinstatement, shall attend one or more training or continuing  
26 education courses approved by the department and related to  
27 compliance with the construction code and related laws and rules.  
28 The design professional shall submit satisfactory proof of the  
29 successful completion of such training or continuing education  
30 courses to the department.

31       d. The commissioner shall revoke, for a period of not less than  
32 five years, the self-certification privileges of a qualified design  
33 professional who, while on probation, professionally certifies an  
34 application, plans, construction documents, or other document that  
35 contains materially false information or is not in material  
36 compliance with all applicable provisions of law, or who otherwise  
37 demonstrates gross incompetence or a total disregard of the  
38 applicable laws or standards.

39       e. Nothing herein shall be construed to limit the  
40 commissioner's power to adopt rules that include additional grounds  
41 to limit the self-certification privileges of, or otherwise sanction, a  
42 qualified design professional, after affording the professional an  
43 opportunity for a hearing, when the commissioner determines that  
44 the design professional knowingly or negligently submitted permit  
45 applications or other documents to the department that contain  
46 materially false information or are not in material compliance with  
47 all applicable provisions of law or that otherwise demonstrate  
48 incompetence or a total disregard of applicable law or standards.

1 f. The department shall create and maintain a searchable  
2 database on its Internet website of all qualified design professionals  
3 who have been excluded, suspended or otherwise sanctioned by the  
4 department. Within seven business days of the date a sanction is  
5 imposed, the department shall post on its website and shall make  
6 available upon request, the name of the qualified design  
7 professional, a description of the sanction, the initial date of the  
8 sanction, the reinstatement date, if applicable, the address of the  
9 premises for which the application associated with the sanction was  
10 submitted, and whether the sanction was imposed after a hearing or  
11 through a settlement. The department shall provide requested  
12 information concerning the exclusion, suspension, or other sanction  
13 of a specific qualified design professional within 30 days of such  
14 request.

15 g. The department shall provide written notice to the State  
16 Board of Professional Engineers and Land Surveyors of any  
17 professional engineer who was the subject of any disciplinary  
18 proceeding as a qualified design professional when there has been  
19 an adverse determination or sanction by the department, including  
20 any settlement agreement that is reached between the parties that  
21 resulted in a sanction of loss of privileges being imposed by the  
22 department. Such notice shall be sent within 10 business days after  
23 a determination is made in any such disciplinary proceeding or after  
24 a settlement of such proceeding has been reached, and shall include  
25 the name, and business firm name and address of such professional  
26 engineer, as well as any supporting documentation for the sanction  
27 imposed.

28 h. The department shall provide written notice to the New  
29 Jersey State Board of Architects of any registered architect who was  
30 the subject of any disciplinary proceeding as a qualified design  
31 professional when there has been an adverse determination or  
32 sanction by the department including any settlement agreement that  
33 is reached between the parties that resulted in a sanction of loss of  
34 privileges being imposed by the department. Such notice shall be  
35 sent within 10 business days after a determination is made in any  
36 such disciplinary proceeding or after a settlement of such  
37 proceeding has been reached, and shall include the name, and  
38 business firm name and address of such registered architect, as well  
39 as any supporting documentation for the sanction imposed.

40 i. The department shall not provide notice pursuant to  
41 subsections f., g., or h. of this section until a design professional's  
42 rights to appeal are exhausted or have expired.

43

44 10. This act shall take effect on the first day of the fourth month  
45 next following enactment, however the commissioner may take  
46 such anticipatory administrative action in advance as may be  
47 necessary for the implementation of this act.

## STATEMENT

This bill, titled the “New Jersey Design Professional Self-Certification Act,” would establish a program through which architects and engineers, who become certified as “qualified design professionals,” could:

(1) take responsibility for the construction code compliance of certain construction projects, and

(2) “self-certify” that the construction permit application and accompanying documents comply with the State Uniform Construction Code and the requirements of other applicable laws.

Property owners would have the option of hiring a qualified design professional in order to take advantage of this self-certification program, or submitting their applications for building permits through the current approval process. Current law requires a local enforcing agency to grant, in whole or in part, or deny an application for a construction permit within 20 business days. Under the bill, the Department of Community Affairs would accept a permit application and accompanying documents that are self-certified by a qualified design professional and, after a supervisory check, issue a permit within one to five calendar days, depending on the scope of the project.

The bill directs the Commissioner of Community Affairs to establish requirements for design professionals to qualify to participate in the self-certification program, which would include successful completion of a course of instruction. The bill authorizes the commissioner to exclude certain classes or types of occupancy posing special or unusual hazards to public safety from the self-certification program.

The bill provides that for each project, the qualified design professional of record must furnish to the department a certificate of professional liability insurance with limits of no less than \$500,000 per claim and \$1,000,000 in the aggregate, and a “Professional of Record Self-Certification Statement.”

For each project, the qualified design professional of record must submit to the department an “Owner Certification Statement” and an “Owner Hold Harmless Letter,” both of which must be signed and dated by the owner. The “Owner Certification Statement” certifies that the owner

- authorized the work identified in the permit application and accompanying plans,
- will take all measures necessary to correct any false facts stated in the permit application,
- understands that the project is being approved for a building permit subject to audit or field inspection by the department, and
- if necessary, will bring the plans and all construction completed under the permit into conformity with

1 requirements of the construction code and other applicable  
2 laws.

3 In the “Owner Hold Harmless Letter,” the owner agrees to:

- 4 • protect, defend, indemnify and hold harmless the  
5 municipality and the State of New Jersey against claims  
6 connected with the self-certified project, and  
7 • remove or modify, at the owner’s own expense, any  
8 component of construction found to not conform to the  
9 construction code or any other applicable law or to any  
10 permit issued under the self-certification program.

11 Self-certified projects would be subject to random audit by the  
12 department to determine whether the plans and projects comply  
13 with the requirements of the State Uniform Construction Code and  
14 other applicable laws. The bill directs the department to design and  
15 implement audits to measure the efficiency of the self-certification  
16 program. The bill empowers the commissioner to exclude, suspend  
17 or otherwise sanction a qualified design professional for cause.