

## CHAPTER 58

**AN ACT** establishing a design professional self-certification program and supplementing P.L.1975, c.217 (C.52:27D-119 et seq.).

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

C.52:27D-131.2 Short title.

1. P.L.2024, c.58 (C.52:27D-131.2 et seq.) shall be known and may be cited as the "New Jersey Design Professional Self-Certification Act."

C.52:27D-131.3 Definitions.

2. As used in P.L.2024, c.58 (C.52:27D-131.2 et seq.):

"Architect" means an individual who, through education, training, and experience, is skilled in the art and science of building design and has been licensed by the New Jersey State Board of Architects to practice architecture in the State of New Jersey.

"Commissioner" means the Commissioner of Community Affairs.

"Department" means the Department of Community Affairs.

"Design professional" means an architect or professional engineer.

"Enforcing agency" means the same as the term is defined in section 3 of P.L.1975, c.217 (C.52:27D-121). "Enforcing agency" shall also mean the commissioner, in municipalities for which the commissioner has assumed the task of administering and enforcing the State Uniform Construction Code pursuant to section 10 of P.L.1975, c.217 (C.52:27D-128).

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

"Project" means the work identified in a construction permit application and accompanying plans.

"Qualified design professional" means a design professional who satisfies the requirements established pursuant to subsection e. of section 3 of P.L.2024, c.58 (C.52:27D-131.4), and has not been excluded, suspended, or otherwise sanctioned by the department pursuant to section 5 of P.L.2024, c.58 (C.52:27D-131.6).

"Qualified design professional of record" means the qualified design professional who prepared or supervised the preparation of an application for a construction permit and the plans and specifications submitted therewith filed with the enforcing agency pursuant to the self-certification program established pursuant to section 3 of P.L.2024, c.58 (C.52:27D-131.4).

"Self-certification" or "self-certified" means a qualified design professional's submission to an enforcing agency of an application for a construction permit and the associated plans and specifications submitted together with a design professional of record self-certification form, as specified in section 4 of P.L.2024, c.58 (C.52:27D-131.5).

"Self-certification program" or "program" means the program established pursuant to section 3 of P.L.2024, c.58 (C.52:27D-131.4), requiring an enforcing agency to accept an application for a construction permit and the associated plans and specifications that have been self-certified by a qualified design professional.

"Supervisory check" means the enforcing agency's acknowledgement of receipt of all materials required to support issuance of a construction permit pursuant to the State Uniform Construction Code.

C.52:27D-131.4 Self-certification program established, design professionals.

3. a. The Commissioner of Community Affairs shall establish a self-certification program through which a qualified design professional shall be permitted to:

(1) take responsibility for a project's compliance with the State Uniform Construction Code, and

(2) self-certify that an application for a construction permit and the plans and specifications submitted therewith comply with the State Uniform Construction Code and the requirements of other applicable laws.

b. Self-certification pursuant to P.L.2024, c.58 (C.52:27D-131.2 et seq.) shall be available for repair, renovation, alteration, and reconstruction projects, as defined by the State Uniform Construction Code, in the following use groups with the following square footage limitations:

- (1) Group B occupancies up to 9,000 square feet;
- (2) Group F-1 occupancies up to 8,500 square feet;
- (3) Group F-2 occupancies up to 13,000 square feet;
- (4) Group M occupancies up to 9,000 square feet;
- (5) Group R-1 occupancies up to 7,000 square feet;
- (6) Group R-2 occupancies up to 7,000 square feet;
- (7) Group R-3 occupancies up to 4,800 square feet;
- (8) Group R-4 occupancies up to 7,000 square feet;
- (9) Group R-5 occupancies up to 4,800 square feet;
- (10) Group S-1 occupancies up to 9,000 square feet; and
- (11) Group S-2 occupancies up to 13,500 square feet.

c. The commissioner, by adoption of regulations after consultation with the code advisory board, may extend authorization to participate in the self-certification program to projects in addition to those specified in subsection b. of this section, including, but not limited to, projects involving: additional categories of work, additional use groups, more extensive square footage limitations, and projects and submittals specified in subsection d. of this section.

d. Self-certification pursuant to P.L.2024, c.58 (C.52:27D-131.2 et seq.) shall not be available for any of the following types of projects and submittals, unless the commissioner, by regulation, extends authorization for that type of project or submittal in the self-certification program:

- (1) projects where plan review is reserved solely to the Department of Community Affairs;
- (2) projects that include a new commercial kitchen;
- (3) projects that include new electrical service exceeding 400 amps;
- (4) projects that include structural alterations involving lateral design, or any project that requires a special inspection pursuant to the State Uniform Construction Code; and
- (5) prototype plan submittals.

e. The enforcing agency shall, within one to five calendar days following receipt of a self-certified construction permit application and accompanying plans and specifications, conduct a supervisory check of the application materials to ascertain receipt of all materials necessary to support issuance of the construction permit and, upon acknowledgement of receipt of those materials, issue a construction permit. A permit issued under the self-certification program shall have the same force and effect as a permit issued by an enforcing agency after full examination and approval of the construction documents. Except as otherwise provided in the State Uniform Construction Code, or in the rules of the department, an approved application for a construction permit, plans, or specifications or the approval of similar construction documents, shall be deemed to refer to accepted, self-certified construction documents or to the acceptance of construction documents, as applicable.

f. The commissioner shall establish requirements for design professionals to qualify to participate in the self-certification program, which shall include, but not be limited to:

- (1) current licensure as a design professional;

(2) current licensure by the department to inspect high-rise and hazardous structures for the applicable State Uniform Construction Code subcode jurisdiction;

(3) authorization granted by the department; and

(4) proof of, or a certificate demonstrating, professional liability insurance coverage, issued by an insurer authorized to provide insurance coverage in the State of New Jersey, which provides coverage with limits that are no less than \$500,000 per claim, and \$1,000,000 in the aggregate, for all claims made during the policy period.

g. The self-certification program shall include a condition that the qualified design professional of record remain with the project until the enforcing agency signs off on the project through the issuance of a letter of completion or certificate of approval. If the qualified design professional of record withdraws from a project before the enforcing agency's issuance of a letter of completion or certificate of approval, all work shall cease and no permit, letter of completion, or certificate of approval shall be issued until:

(1) a successor qualified design professional is designated as the qualified design professional of record and satisfies the requirements set forth in this section; and

(2) (a) the successor qualified design professional submits a professional certification confirming the qualified design professional's concurrence with the construction documents accepted by the enforcing agency; or

(b) new construction documents are approved or accepted by the enforcing agency.

C.52:27D-131.5 Design professional, self-certification form, established; contents, website.

4. a. The commissioner shall establish and promulgate a design professional of record self-certification form and provide online access to the form through the department's Internet website. A qualified design professional of record shall complete and submit the form to the enforcing agency, together with submission of a self-certified construction permit application and accompanying plans and specifications. The form shall include:

(1) a design professional of record self-certification statement, pursuant to subsection b. of this section; and

(2) the qualified design professional of record's certification and attestation that:

(a) the qualified design professional of record shall take all measures necessary to correct a false or inaccurate statement provided to the enforcing agency in the permit application or plans and specifications submitted therewith immediately after the qualified design professional of record becomes aware of the false or inaccurate statement, regardless of whether the false or inaccurate statement was made by the qualified design professional of record or the design professional's agent or employee;

(b) the qualified design professional of record acknowledges that the enforcing agency's issuance of a permit under the self-certification program is reliant upon the truth and accuracy of the design professional's certifications set forth in the design professional of record self-certification;

(c) the qualified design professional of record agrees that if the enforcing agency determines that a submitted permit application, plans, and specifications do not conform to the requirements of the State Uniform Construction Code or other applicable law, the qualified design professional of record, in a timely manner, shall bring the submitted permit, plans, specifications, and all construction undertaken thereunder into conformance with the requirements of the State Uniform Construction Code and other applicable law and shall take all remedial measures within the qualified design professional of record's control;

(d) the qualified design professional of record acknowledges that failure, prior to the final inspection of the project, of the design professional to bring the submitted permit, plans,

specifications, and all construction undertaken pursuant thereto into conformity with the requirements of the State Uniform Construction Code and other applicable law and failure to take all reasonably necessary remedial measures, within the design professional's control, to bring the submitted permit, plans, specifications, and all construction undertaken pursuant thereto into compliance with the State Uniform Construction Code and other applicable law may result in revocation of the qualified design professional of record's privileges under the self-certification program and may result in notification of the revocation to the appropriate State professional licensing board; and

(e) the qualified design professional agrees to comply with additional certification requirements imposed pursuant to rule or regulation adopted by the commissioner.

b. In order to support issuance of a construction permit under the self-certification program, at the time of submission of a design professional of record self-certification form and a self-certified construction permit application, plans, and specifications to the enforcing agency, the qualified design professional of record shall submit a design professional of record self-certification statement certifying that:

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

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

(a) knowingly making a false statement of material fact on, or in connection with, a construction permit application;

(b) knowingly submitting, in support of a construction permit application, a document containing false or fraudulent information; or

(c) knowingly affixing a false signature to a construction permit application;

(3) submission to an enforcing agency of a permit application, plans, and specifications, upon which the stamp of the qualified design professional has been affixed, indicates that each page of the application:

(a) was prepared by, under the direct supervision of, or reviewed by, the qualified design professional of record;

(b) is complete; and

(c) as of the date of submission, the permit application, plans, and specifications comply with the requirements of the State Uniform Construction Code and other applicable law;

(4) the permit application, plans, specifications, and all technical submissions made by the qualified design professional of record in connection with the self-certified project were prepared in accordance with and meet the standard of care required of the profession; and

(5) all information and assertions made in support of a permit application by the qualified design professional of record in the permit application, plans, and specifications are true and correct.

c. The commissioner shall establish and promulgate on the department's Internet website an owner certification statement, which, for each project, the owner responsible for the work identified in the permit application shall certify that the owner:

(1) authorized the work of all professionals and consultants named in the permit application and accompanying plans; and

(2) shares joint responsibility for ensuring compliance with the State Uniform Construction Code.

d. The commissioner shall establish and promulgate on the department's Internet website, an owner hold harmless letter, which, for each project, the owner shall sign, date, agree to, and furnish to the qualified design professional of record, who shall submit the letter to the enforcing agency, and which shall provide that the owner agrees:

(1) to protect, defend, indemnify, and hold harmless the municipality and the State of New Jersey, and their officers, representatives, managers, agents, and employees, against any and all claims, liabilities, judgments, costs, expenses, delays, demands, or injuries arising out of or in any way connected with the design, construction, State Uniform Construction Code compliance review, or issuance of a permit for the project identified in the permit application; and

(2) that if any component of construction is found to not conform to the requirements of the State Uniform Construction Code, any other applicable law, or any permit issued under the self-certification program, the owner shall, without undue delay, remove or modify, at the owner's own expense, the nonconforming component or components of construction.

C.52:27D-131.6 Community Affairs Department, enforcing agency, reasonable oversight.

5. a. The department may review any action performed by an enforcing agency to ensure reasonable oversight of a project.

b. (1) All qualified design professionals shall be subject to random audit by the department to determine whether the application, plans, and specifications for their projects comply with the requirements of the State Uniform Construction Code, the provisions of P.L.2024, c.58 (C.52:27D-131.2 et seq.), and other applicable laws. The department shall design and implement audits to measure the efficiency of the self-certification program and compliance with the provisions of P.L.2024, c.58 (C.52:27D-131.2 et seq.).

(2) The department shall provide written notice of the results of an audit to the qualified design professional of record. The notification shall provide a summary of the audit results and direct the qualified design professional to address all violations of the State Uniform Construction Code found in the audit by a specific date. The specified date shall be reasonable based upon the type of violations and the nature of the corrections that need to be made. Failure to submit required corrections may result in actions specified in subsection c. of this section.

(3) The commissioner may charge a reasonable fee to cover the costs associated with the performance of the audit.

c. (1) The commissioner may exclude, suspend, or otherwise sanction a qualified design professional for cause, after providing the opportunity for a hearing, for failure to submit required corrections pursuant to subsection b. of this section. A qualified design professional shall not be eligible to participate in the self-certification program during any period of probation imposed as a sanction by the New Jersey State Board of Architects or the State Board of Professional Engineers and Land Surveyors.

(2) The commissioner, after providing a qualified design professional the opportunity for an administrative hearing, shall exclude or suspend a qualified design professional from participating in the self-certification program, or otherwise condition the professional's eligibility to participate in the program, upon determining that the professional:

(a) knowingly or negligently submitted a self-certified permit application or construction document that contains false information or is not in compliance with all applicable provisions of law, or

(b) submitted two self-certified permit applications or construction documents, within a 12-month period, which contained material errors that resulted in revocation of construction permits or otherwise demonstrate incompetence or a lack of knowledge of applicable laws.

(3) A qualified design professional who is excluded from the program pursuant to this section may apply for reinstatement no sooner than one year after the date of exclusion. An applicant who the commissioner determines is qualified to resume participation in the program shall be on probation for a period of not less than six months after reinstatement and, during that time, as a condition of such reinstatement, shall attend one or more trainings or continuing

education courses approved by the department and related to compliance with the State Uniform Construction Code and related laws and rules. The design professional shall submit satisfactory proof of the successful completion of the training or continuing education courses to the department.

(4) The commissioner shall revoke, after the opportunity for an administrative hearing, for a period of not less than five years, the self-certification privileges of a qualified design professional who, while on probation, professionally certifies an application, plan, construction documents, or other document that contains materially false information or is not in material compliance with all applicable provisions of law or who otherwise demonstrates gross negligence, incompetence, or a total disregard of applicable laws or standards.

(5) Nothing in this subsection shall be construed to limit the commissioner's power to adopt rules, pursuant to section 7 of P.L.2024, c.58 (C.52:27D-131.8), that include additional grounds to limit the self-certification privileges of, or otherwise sanction, a qualified design professional, after affording the professional an opportunity for a hearing, when the commissioner determines that the design professional knowingly or negligently submitted permit applications or other documents to the enforcing agency that contained materially false information or were not in material compliance with all applicable provisions of law or that otherwise demonstrate gross negligence, incompetence, or a total disregard of applicable law or standards.

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

e. Within 10 business days of the department's adverse determination or sanction of a professional engineer under the self-certification program, the department shall provide written notice of the adverse determination or sanction to the State Board of Professional Engineers and Land Surveyors. As used in this section, "adverse determination or sanction" includes a settlement agreement that results in the department's imposition of a sanction or loss of privileges the professional engineer. The department shall notify the board of the name and business firm name and address of the professional engineer, as well as supporting documentation for the sanction imposed.

f. Within 10 business days of the department's adverse determination or sanction of a registered architect under the self-certification program, the department shall provide written notice of the adverse determination or sanction to the New Jersey State Board of Architects. As used in this section, "adverse determination or sanction" includes a settlement agreement that results in the department's imposition of a sanction or loss of privileges of the registered architect. The department shall notify the board of the name and business firm name and address of the registered architect, as well as supporting documentation for the sanction imposed.

g. The department shall not provide notice pursuant to subsection d., e., or f. of this section until a design professional's rights to appeal are exhausted or have expired.

C.52:27D-131.7 Study, construction activity, self-certification program; report to Governor, Legislature.

6. The commissioner shall, within three years following the effective date of P.L.2024, c.58 (C.52:27D-131.2 et seq.):

a. undertake a study, in consultation with the code advisory board, established pursuant to section 7 of P.L.1975, c.217 (C.52:27D-125), to determine construction activity, which may be added to the self-certification program. The department may retain a third party or consultant to undertake this study, but shall consult with the code advisory board regarding the results of the study conducted by a third party; and

b. prepare and submit a report to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature regarding the self-certification program established pursuant to section 3 of P.L.2024, c.58 (C.52:27D-131.4), and the results of the study conducted pursuant to subsection a. of this section.

7. The Commissioner of Community Affairs shall, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations as necessary to implement the provisions of P.L.2024, c.58 (C.52:27D-131.2 et seq.).

8. This act shall take effect on the first day of the fourth month next following enactment, except that the commissioner may take anticipatory administrative action in advance necessary to effectuate the provisions of P.L.2024, c.58 (C.52:27D-131.2 et seq.).

Approved August 22, 2024.