

[First Reprint]

SENATE, No. 3402

STATE OF NEW JERSEY
221st LEGISLATURE

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Sponsored by:

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District 22 (Somerset and Union)

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District 36 (Bergen and Passaic)

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Senators Space and Amato

SYNOPSIS

"New Jersey Design Professional Self-Certification Act"; requires DCA to establish design professional self-certification program.

CURRENT VERSION OF TEXT

As reported by the Senate Community and Urban Affairs Committee on June 17, 2024, with amendments.



(Sponsorship Updated As Of: 6/24/2024)

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

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

7
8 1. P.L. , c. (C.) (pending before the Legislature as this
9 bill) shall be known and may be cited as the "New Jersey Design
10 Professional Self-Certification Act."

11
12 2. As used in P.L. , c. (C.) (pending before the
13 Legislature as this bill):

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

18 "Commissioner" means the Commissioner of Community
19 Affairs.

20 "Department" means the Department of Community Affairs.

21 "Design professional" means an architect or professional
22 engineer.

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

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

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

34 "Qualified design professional" means a design professional who
35 satisfies the requirements established pursuant to subsection e. of
36 section 3 of P.L. , c. (C.) (pending before the Legislature
37 as this bill), and has not been excluded, suspended, or otherwise
38 sanctioned by the department pursuant to section 5 of
39 P.L. , c. (C.) (pending before the Legislature as this bill).

40 "Qualified design professional of record" means the qualified
41 design professional who prepared or supervised the preparation of
42 an application for a construction permit, and the plans and
43 specifications submitted therewith, filed with the enforcing agency
44 pursuant to the self-certification program established pursuant to
45 section 3 of P.L. , c. (C.) (pending before the Legislature
46 as this bill).

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCU committee amendments adopted June 17, 2024.

1 "Self-certification" or "self-certified" means a qualified design
2 professional's submission to an enforcing agency of an application
3 for a construction permit, and the associated plans and
4 specifications, submitted together with a design professional of
5 record self-certification form, as specified in section 4 of
6 P.L. , c. (C.) (pending before the Legislature as this bill).

7 "Self-certification program" or "program" means the program
8 established pursuant to section 3 of P.L. , c. (C.) (pending
9 before the Legislature as this bill), requiring an enforcing agency to
10 accept an application for a construction permit, and the associated
11 plans and specifications, that have been self-certified by a qualified
12 design professional.

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

17

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

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

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

27 b. Self-certification pursuant to P.L. , c. (C.) (pending
28 before the Legislature as this bill) shall be available for repair,
29 renovation, alteration, and reconstruction projects, as defined by the
30 State Uniform Construction Code, in the following use groups with the
31 following square footage limitations:

32 (1) Group B occupancies up to 9,000 square feet;

33 (2) Group F-1 occupancies up to 8,500 square feet;

34 (3) Group F-2 occupancies up to 13,000 square feet;

35 (4) Group M occupancies up to 9,000 square feet;

36 (5) Group R-1 occupancies up to 7,000 square feet;

37 (6) Group R-2 occupancies up to 7,000 square feet;

38 (7) Group R-3 occupancies up to 4,800 square feet;

39 (8) Group R-4 occupancies up to 7,000 square feet;

40 (9) Group R-5 occupancies up to 4,800 square feet;

41 (10) Group S-1 occupancies up to 9,000 square feet; and

42 (11) Group S-2 occupancies up to 13,500 square feet.

43 c. The commissioner, by adoption of regulations after
44 consultation with the code advisory board, may extend authorization to
45 participate in the self-certification program to projects in addition to
46 those specified in subsection b. of this section, including but not
47 limited to projects involving: additional categories of work; additional
48 use groups; ¹**[and]**¹ more extensive square footage limitations ¹; and

1 to projects and submittals specified in subsection d. of this section¹.

2 ¹【The commissioner shall not exercise this power in contravention of
3 the provisions of subsection d. of this section.】¹

4 d. Self-certification pursuant to P.L. , c. (C.) (pending
5 before the Legislature as this bill) shall not be available for ¹any of the
6 following types of projects and submittals, unless the commissioner,
7 by regulation, extends authorization for that type of project or
8 submittal in the self-certification program¹:

9 (1) projects where plan review is reserved solely to the Department
10 of Community Affairs;

11 (2) projects that include a new commercial kitchen;

12 (3) projects that include new electrical service exceeding 400
13 amps;

14 (4) projects that include structural alterations involving lateral
15 design, or any project that requires a special inspection pursuant to the
16 State Uniform Construction Code; and

17 (5) prototype plan submittals.

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

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

36 (1) current licensure as a design professional;

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

40 (3) authorization granted by the department; and

41 (4) proof of, or a certificate demonstrating, professional liability
42 insurance coverage, issued by an insurer authorized to provide
43 insurance coverage in the State of New Jersey, which provides
44 coverage with limits that are no less than \$500,000 per claim, and
45 \$1,000,000 in the aggregate, for all claims made during the policy
46 period.

47 g. The self-certification program shall include a condition that the
48 qualified design professional of record remain with the project until

1 the enforcing agency signs off on the project through the issuance of a
2 letter of completion or certificate of approval. If the qualified design
3 professional of record withdraws from a project before the enforcing
4 agency's issuance of a letter of completion or certificate of approval,
5 all work shall cease and no permit, letter of completion, or certificate
6 of approval shall be issued until:

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

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

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

16

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

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

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

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

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

41 (c) the qualified design professional of record agrees that if the
42 enforcing agency determines that a submitted permit application,
43 and plans and specifications, do not conform to the requirements of
44 the State Uniform Construction Code or other applicable law, the
45 qualified design professional of record, in a timely manner, shall
46 bring the submitted permit, plans, and specifications, and all
47 construction undertaken thereunder, into conformance with the
48 requirements of the State Uniform Construction Code and other

1 applicable law, and shall take all remedial measures within the
2 qualified design professional of record's control;

3 (d) the qualified design professional of record acknowledges
4 that failure, prior to the final inspection of the project, of the design
5 professional to bring the submitted permit, plans, and
6 specifications, and all construction undertaken pursuant thereto,
7 into conformity with the requirements of the State Uniform
8 Construction Code and other applicable law, and failure to take all
9 reasonably necessary remedial measures, within the design
10 professional's control, to bring the submitted permit, plans, and
11 specifications, and all construction undertaken pursuant thereto into
12 compliance with the State Uniform Construction Code and other
13 applicable law, may result in revocation of the qualified design
14 professional of record's privileges under the self-certification
15 program, and may result in notification of the revocation to the
16 appropriate State professional licensing board; and

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

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

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

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

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

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

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

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

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

45 (b) is complete;

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

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

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

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

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

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

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

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

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

37
38 5. a. The department may review any action performed by an
39 enforcing agency to ensure reasonable oversight of a project.

40 b. (1) All qualified design professionals shall be subject to
41 random audit by the department to determine whether the
42 application, plans, and specifications for their projects comply with
43 the requirements of the State Uniform Construction Code, the
44 provisions of P.L. , c. (C.) (pending before the Legislature
45 as this bill), and other applicable laws. The department shall design
46 and implement audits to measure the efficiency of the self-
47 certification program and compliance with the provisions of
48 P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

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

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

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

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

34 (3) A qualified design professional who is excluded from the
35 program pursuant to this section may apply for reinstatement no
36 sooner than one year after the date of exclusion. An applicant who
37 the commissioner determines is qualified to resume participation in
38 the program shall be on probation for a period of not less than six
39 months after reinstatement and, during that time, as a condition of
40 such reinstatement, shall attend one or more trainings or continuing
41 education courses approved by the department and related to
42 compliance with the State Uniform Construction Code and related
43 laws and rules. The design professional shall submit satisfactory
44 proof of the successful completion of the training or continuing
45 education courses to the department.

46 (4) The commissioner shall revoke, after the opportunity for an
47 administrative hearing, for a period of not less than five years, the
48 self-certification privileges of a qualified design professional who,

1 while on probation, professionally certifies an application, plan,
2 construction documents, or other document that contains materially
3 false information or is not in material compliance with all
4 applicable provisions of law, or who otherwise demonstrates gross
5 negligence or incompetence, or a total disregard of applicable laws
6 or standards.

7 (5) Nothing in this subsection shall be construed to limit the
8 commissioner's power to adopt rules, pursuant to section 7
9 of P.L. , c. (C.) (pending before the Legislature as this
10 bill), that include additional grounds to limit the self-certification
11 privileges of, or otherwise sanction, a qualified design professional,
12 after affording the professional an opportunity for a hearing, when
13 the commissioner determines that the design professional
14 knowingly or negligently submitted permit applications or other
15 documents to the enforcing agency that contained materially false
16 information or were not in material compliance with all applicable
17 provisions of law, or that otherwise demonstrate gross negligence or
18 incompetence, or a total disregard of applicable law or standards.

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

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

44 f. Within 10 business days of the department's adverse
45 determination or sanction of a registered architect under the self-
46 certification program, the department shall provide written notice of
47 the adverse determination or sanction to the New Jersey State Board
48 of Architects. As used in this section, "adverse determination or

1 sanction” includes a settlement agreement that results in the
2 department’s imposition of a sanction or loss of privileges of the
3 registered architect. The department shall notify the board of the
4 name, and business firm name and address of the registered
5 architect, as well as supporting documentation for the sanction
6 imposed.

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

10

11 6. The commissioner shall, within three years following the
12 effective date of P.L. , c. (C.) (pending before the
13 Legislature as this bill):

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

21 b. prepare and submit a report to the Governor and, pursuant to
22 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature
23 regarding the self-certification program established pursuant to
24 section 3 of P.L. , c. (C.) (pending before the Legislature
25 as this bill), and the results of the study conducted pursuant to
26 subsection a. of this section.

27

28 7. The Commissioner of Community Affairs shall, in accordance
29 with the "Administrative Procedure Act," P.L.1968, c.410
30 (C.52:14B-1 et seq.), adopt rules and regulations as necessary to
31 implement the provisions of P.L. , c. (C.) (pending before
32 the Legislature as this bill).

33

34 8. This act shall take effect on the first day of the fourth month
35 next following enactment, except that the commissioner may take
36 anticipatory administrative action in advance necessary to effectuate
37 the provisions of P.L. , c. (C.) (pending before the
38 Legislature as this bill).