

S3402 (1R)

INTRODUCED BILL: (Includes sponsor(s) statement)	Yes	
REPRINT(S):	Yes	SSG 6/17/24 1R
TECHNICAL REVIEW:	No	
COMMITTEE STATEMENT:	ASSEMBLY:	No
	SENATE:	Yes Community & Urban Affairs Budget & Appropriations

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	No
LEGISLATIVE FISCAL ESTIMATE:	Yes
VETO MESSAGE:	No
GOVERNOR'S PRESS RELEASE ON SIGNING:	Yes

FOLLOWING WERE PRINTED:

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Jessica Perry, Law aims to accelerate NJ development process - NJBIZ (New Brunswick, NJ) - August 23, 2024 - page 1 August 23, 2024 NJBIZ (New Brunswick, NJ)

CL/MM

P.L. 2024, CHAPTER 58, *approved August 22, 2024*
Assembly, No. 4360 (*First Reprint*)

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

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:

¹Assembly ASL committee amendments adopted June 6, 2024.

1 as this bill), and has not been excluded, suspended, or otherwise
2 sanctioned by the department pursuant to section 5 of P.L. , c.
3 (C.) (pending before the Legislature as this bill).

4 "Qualified design professional of record" means the qualified
5 design professional who prepared or supervised the preparation of
6 an application for a construction permit, and the plans and
7 specifications submitted therewith, filed with the enforcing agency
8 pursuant to the self-certification program established pursuant to
9 section 3 of P.L. , c. (C.) (pending before the Legislature
10 as this bill).

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

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

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

27

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

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

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

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

- 42 (1) Group B occupancies up to 9,000 square feet;
- 43 (2) Group F-1 occupancies up to 8,500 square feet;
- 44 (3) Group F-2 occupancies up to 13,000 square feet;
- 45 (4) Group M occupancies up to 9,000 square feet;
- 46 (5) Group R-1 occupancies up to 7,000 square feet;
- 47 (6) Group R-2 occupancies up to 7,000 square feet;
- 48 (7) Group R-3 occupancies up to 4,800 square feet;

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

5 c. The commissioner, by adoption of regulations after
6 consultation with the code advisory board, may extend authorization to
7 participate in the self-certification program to projects in addition to
8 those specified in subsection b. of this section, including but not
9 limited to projects involving: additional categories of work; additional
10 use groups; ¹~~and~~¹ more extensive square footage limitations ¹; and
11 to projects and submittals specified in subsection d. of this section¹.

12 ¹~~The commissioner shall not exercise this power in contravention of~~
13 ~~the provisions of subsection d. of this section.~~¹

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

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

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

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

- 46 (1) current licensure as a design professional;

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

4 (3) authorization granted by the department; and

5 (4) proof of, or a certificate demonstrating, professional liability
6 insurance coverage, issued by an insurer authorized to provide
7 insurance coverage in the State of New Jersey, which provides
8 coverage with limits that are no less than \$500,000 per claim, and
9 \$1,000,000 in the aggregate, for all claims made during the policy
10 period.

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

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

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

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

28

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

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

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

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

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

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

16 (d) the qualified design professional of record acknowledges
17 that failure, prior to the final inspection of the project, of the design
18 professional to bring the submitted permit, plans, and
19 specifications, and all construction undertaken pursuant thereto,
20 into conformity with the requirements of the State Uniform
21 Construction Code and other applicable law, and failure to take all
22 reasonably necessary remedial measures, within the design
23 professional's control, to bring the submitted permit, plans, and
24 specifications, and all construction undertaken pursuant thereto into
25 compliance with the State Uniform Construction Code and other
26 applicable law, may result in revocation of the qualified design
27 professional of record's privileges under the self-certification
28 program, and may result in notification of the revocation to the
29 appropriate State professional licensing board; and

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

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

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

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

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

- 1 (b) knowingly submitting, in support of a construction permit
2 application, a document containing false or fraudulent information;
3 or
4 (c) knowingly affixing a false signature to a construction permit
5 application;
6 (3) submission to an enforcing agency of a permit application,
7 plans, and specifications, upon which the stamp of the qualified
8 design professional has been affixed, indicates that each page of the
9 application:
10 (a) was prepared by, under the direct supervision of, or reviewed
11 by, the qualified design professional of record;
12 (b) is complete;
13 (c) as of the date of submission, the permit application, plans,
14 and specifications comply with the requirements of the State
15 Uniform Construction Code and other applicable law;
16 (4) the permit application, plans, and specifications, and all
17 technical submissions made by the qualified design professional of
18 record in connection with the self-certified project, were prepared in
19 accordance with and meet the standard of care required of the
20 profession; and
21 (5) all information and assertions made in support of a permit
22 application by the qualified design professional of record in the
23 permit application, plans, and specifications are true and correct.
24 c. The commissioner shall establish and promulgate on the
25 department's Internet website, an owner certification statement,
26 which, for each project, the owner responsible for the work
27 identified in the permit application, shall certify that the owner:
28 (1) authorized the work of all professionals and consultants
29 named in the permit application and accompanying plans; and
30 (2) shares joint responsibility for ensuring compliance with the
31 State Uniform Construction Code.
32 d. The commissioner shall establish and promulgate on the
33 department's Internet website, an owner hold harmless letter,
34 which, for each project, the owner shall sign, date, and agree to, and
35 furnish to the qualified design professional of record, who shall
36 submit the letter to the enforcing agency, and which shall provide
37 that the owner agrees:
38 (1) to protect, defend, indemnify, and hold harmless the
39 municipality and the State of New Jersey, and their officers,
40 representatives, managers, agents, and employees, against any and
41 all claims, liabilities, judgments, costs, expenses, delays, demands,
42 or injuries arising out of or in any way connected with the design,
43 construction, State Uniform Construction Code compliance review,
44 or issuance of a permit for the project identified in the permit
45 application; and
46 (2) that if any component of construction is found to not
47 conform to the requirements of the State Uniform Construction
48 Code, any other applicable law, or any permit issued under the self-

1 certification program, the owner shall, without undue delay, remove
2 or modify, at the owner's own expense, the nonconforming
3 component or components of construction.

4

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

7 b. (1) All qualified design professionals shall be subject to
8 random audit by the department to determine whether the
9 application, plans, and specifications for their projects comply with
10 the requirements of the State Uniform Construction Code, the
11 provisions of P.L. , c. (C.) (pending before the Legislature
12 as this bill), and other applicable laws. The department shall design
13 and implement audits to measure the efficiency of the self-
14 certification program and compliance with the provisions of P.L. ,
15 c. (C.) (pending before the Legislature as this bill).

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

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

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

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

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

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

1 (3) A qualified design professional who is excluded from the
2 program pursuant to this section may apply for reinstatement no
3 sooner than one year after the date of exclusion. An applicant who
4 the commissioner determines is qualified to resume participation in
5 the program shall be on probation for a period of not less than six
6 months after reinstatement and, during that time, as a condition of
7 such reinstatement, shall attend one or more trainings or continuing
8 education courses approved by the department and related to
9 compliance with the State Uniform Construction Code and related
10 laws and rules. The design professional shall submit satisfactory
11 proof of the successful completion of the training or continuing
12 education courses to the department.

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

22 (5) Nothing in this subsection shall be construed to limit the
23 commissioner's power to adopt rules, pursuant to section 7
24 of P.L. , c. (C.) (pending before the Legislature as this
25 bill), that include additional grounds to limit the self-certification
26 privileges of, or otherwise sanction, a qualified design professional,
27 after affording the professional an opportunity for a hearing, when
28 the commissioner determines that the design professional
29 knowingly or negligently submitted permit applications or other
30 documents to the enforcing agency that contained materially false
31 information or were not in material compliance with all applicable
32 provisions of law, or that otherwise demonstrate gross negligence or
33 incompetence, or a total disregard of applicable law or standards.

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

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

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

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

26

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

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

37 b. prepare and submit a report to the Governor and, pursuant to
38 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature
39 regarding the self-certification program established pursuant to
40 section 3 of P.L. , c. (C.) (pending before the Legislature
41 as this bill), and the results of the study conducted pursuant to
42 subsection a. of this section.

43

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

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

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9

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

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.

ASSEMBLY, No. 4360

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED MAY 10, 2024

Sponsored by:

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Assemblyman Atkins

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



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

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 P.L. , c.
39 (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).

47 "Self-certification" or "self-certified" means a qualified design
48 professional's submission to an enforcing agency of an application

1 for a construction permit, and the associated plans and
2 specifications, submitted together with a design professional of
3 record self-certification form, as specified in section 4 of P.L. , c.
4 (C.) (pending before the Legislature as this bill).

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

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

15

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 this power in contravention of the provisions of subsection d. of this
2 section.

3 d. Self-certification pursuant to P.L. , c. (C.) (pending
4 before the Legislature as this bill) shall not be available for:

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

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

8 (3) projects that include new electrical service exceeding 400
9 amps;

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

13 (5) prototype plan submittals.

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

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

33 (1) current licensure as a design professional;

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

37 (3) authorization granted by the department; and

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

44 g. The self-certification program shall include a condition that
45 the qualified design professional of record remain with the project
46 until the enforcing agency signs off on the project through the
47 issuance of a letter of completion or certificate of approval. If the
48 qualified design professional of record withdraws from a project

1 before the enforcing agency's issuance of a letter of completion or
2 certificate of approval, all work shall cease and no permit, letter of
3 completion, or certificate of approval shall be issued until:

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

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

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

13

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (b) is complete;

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

47 (4) the permit application, plans, and specifications, and all
48 technical submissions made by the qualified design professional of

1 record in connection with the self-certified project, were prepared in
2 accordance with and meet the standard of care required of the
3 profession; and

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

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

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

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

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

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

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

35
36 5. a. The department may review any action performed by an
37 enforcing agency to ensure reasonable oversight of a project.

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

47 (2) The department shall provide written notice of the results of
48 an audit to the qualified design professional of record. The

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

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

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

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

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

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

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

44 (4) The commissioner shall revoke, after the opportunity for an
45 administrative hearing, for a period of not less than five years, the
46 self-certification privileges of a qualified design professional who,
47 while on probation, professionally certifies an application, plan,
48 construction documents, or other document that contains materially

1 false information or is not in material compliance with all
2 applicable provisions of law, or who otherwise demonstrates gross
3 negligence or incompetence, or a total disregard of applicable laws
4 or standards.

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

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

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

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

1 registered architect. The department shall notify the board of the
2 name, and business firm name and address of the registered
3 architect, as well as supporting documentation for the sanction
4 imposed.

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

8
9 6. The commissioner shall, within three years following the
10 effective date of P.L. , c. (C.) (pending before the
11 Legislature as this bill):

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

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

25
26 7. The Commissioner of Community Affairs shall, in accordance
27 with the "Administrative Procedure Act," P.L.1968, c.410
28 (C.52:14B-1 et seq.), adopt rules and regulations as necessary to
29 implement the provisions of P.L. , c. (C.) (pending before
30 the Legislature as this bill).

31
32 8. This act shall take effect on the first day of the fourth month
33 next following enactment, except that the commissioner may take
34 anticipatory administrative action in advance necessary to effectuate
35 the provisions of P.L. , c. (C.) (pending before the
36 Legislature as this bill).

37

38

39

STATEMENT

40

41 This bill directs the Commissioner of Community Affairs
42 (commissioner) to establish a program through which the
43 commissioner is required to certify an architect or engineer who
44 satisfies certain criteria to be a qualified design professional. This
45 certification enables the person to take responsibility for a
46 construction project's compliance with the State Uniform
47 Construction Code (UCC), and to self-certify that an application for

1 a construction permit, and the plans and specifications submitted
2 therewith, comply with the UCC and other applicable laws.

3 The bill requires an enforcing agency to: accept a self-certified
4 permit application and accompanying documents; conduct a
5 supervisory check acknowledging the enforcing agency's receipt of
6 all materials required under the UCC; and issue a permit within one
7 to five calendar days following receipt of a submission, depending
8 on the scope of the project.

9 The bill directs the commissioner to establish eligibility
10 requirements for a design professional to qualify to participate in
11 the self-certification program. The bill also directs the
12 commissioner to exclude types of projects from the self-
13 certification program, by reference to certain types of UCC use
14 groups, and by reference to specific square footage limits. The bill
15 further requires that a qualified design professional remain with the
16 project until the project is signed-off or approved by the enforcing
17 agency; otherwise, the enforcing agency is to require that the
18 project cease until satisfaction with certain criteria.

19 The bill requires the commissioner to establish and promulgate
20 on the Department of Community Affairs (department) Internet
21 website, a design professional of record self-certification form, and
22 requires a qualified design professional of record to complete, sign,
23 and deliver the completed form to the enforcing agency together
24 with the construction permit application and accompanying
25 documents. The bill requires a qualified design professional to
26 submit a design professional of record self-certification statement,
27 and the qualified design professional's attestation concerning:

28 (1) the veracity and correctness of information provided in the
29 permit application, accompanying plans, and other documents
30 submitted in support of the application;

31 (2) approval of the project and acknowledgement that the
32 construction permit is subject to audit and revocation under certain
33 circumstances;

34 (3) promptness related to the submission of various materials;

35 (4) acknowledgement that failure to take specified remedial
36 measures to conform submitted plans and construction to the
37 requirements of the UCC may result in revocation of self-
38 certification privileges and notice to the appropriate State
39 professional licensing board; and

40 (5) compliance with the requirements established by the
41 commissioner.

42 The bill also requires the commissioner to establish and
43 promulgate on the department's Internet website, an owner
44 certification statement, and an owner hold harmless letter. The bill
45 sets forth the contents of the owner certification statement and
46 owner hold harmless letter, which pertain to certain authorization,
47 joint compliance responsibility acknowledgement, and
48 indemnification.

1 The bill empowers the department to conduct random audits of
2 qualified design professionals to determine whether a construction
3 permit application, and plans and other documents submitted in
4 support of the application comply with the requirements of UCC
5 and other applicable laws. The bill enables the commissioner to
6 exclude, suspend, or sanction a qualified design professional for
7 cause for actions specified by the bill, including failure to correct
8 violations identified by the audit and knowingly or negligently
9 submitting a self-certification, permit application, or construction
10 document that contains false information. The bill also requires the
11 commissioner to create and maintain a searchable database on the
12 department's Internet website of all qualified design professionals
13 who have been excluded from the program, suspended, or
14 sanctioned by the department, and requires notice of such actions to
15 be provided to the State Board of Professional Engineers and Land
16 Surveyors, or the State Board of Architects, under circumstances
17 specified by the bill.

18 The bill requires the commissioner, within three years following
19 the effective date of the bill: to undertake a study, in consultation
20 with the Code Advisory Board, to determine construction activity
21 that may be added to the self-certification program; and to prepare
22 and submit a report to the Governor and the Legislature regarding
23 the self-certification program and the results of the study.

24 The bill is to take effect on the first day of the fourth month next
25 following enactment, but the bill permit's the commissioner to take
26 anticipatory action prior to the effective date, if the action is
27 necessary to effectuate the bill.

[First Reprint]

ASSEMBLY, No. 4360

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED MAY 10, 2024

Sponsored by:

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Senator NICHOLAS P. SCUTARI

District 22 (Somerset and Union)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Co-Sponsored by:

Assemblyman Atkins, Assemblywoman McCann Stamato, Assemblyman Schnall, Assemblywomen Swift, Drulis, Assemblymen Calabrese, Hutchison, Wimberly, Assemblywomen Reynolds-Jackson, Ramirez, Assemblymen Peterson, Myhre, Stanley, Freiman, Assemblywomen Fantasia, Speight, Swain, Assemblymen Conaway, Tully, 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 Assembly State and Local Government Committee on June 6, 2024, with amendments.

(Sponsorship Updated As Of: 6/28/2024)

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 P.L. , c.
39 (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

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:

¹Assembly ASL committee amendments adopted June 6, 2024.

1 section 3 of P.L. , c. (C.) (pending before the Legislature
2 as this bill).

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

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

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

19

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 c. The commissioner, by adoption of regulations after
46 consultation with the code advisory board, may extend authorization to
47 participate in the self-certification program to projects in addition to
48 those specified in subsection b. of this section, including but not

1 limited to projects involving: additional categories of work; additional
2 use groups; ~~and~~ more extensive square footage limitations ¹; and
3 to projects and submittals specified in subsection d. of this section¹.

4 ~~["The commissioner shall not exercise this power in contravention of~~
5 ~~the provisions of subsection d. of this section."]~~¹

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

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

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

14 (3) projects that include new electrical service exceeding 400
15 amps;

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

19 (5) prototype plan submittals.

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

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

38 (1) current licensure as a design professional;

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

42 (3) authorization granted by the department; and

43 (4) proof of, or a certificate demonstrating, professional liability
44 insurance coverage, issued by an insurer authorized to provide
45 insurance coverage in the State of New Jersey, which provides
46 coverage with limits that are no less than \$500,000 per claim, and

1 \$1,000,000 in the aggregate, for all claims made during the policy
2 period.

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

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

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

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

20

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

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

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

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

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

45 (c) the qualified design professional of record agrees that if the
46 enforcing agency determines that a submitted permit application,
47 and plans and specifications, do not conform to the requirements of
48 the State Uniform Construction Code or other applicable law, the

1 qualified design professional of record, in a timely manner, shall
2 bring the submitted permit, plans, and specifications, and all
3 construction undertaken thereunder, into conformance with the
4 requirements of the State Uniform Construction Code and other
5 applicable law, and shall take all remedial measures within the
6 qualified design professional of record's control;

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

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

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

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

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

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

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

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

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

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

1 (b) is complete;

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

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

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

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

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

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

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

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

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

41

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

44 b. (1) All qualified design professionals shall be subject to
45 random audit by the department to determine whether the
46 application, plans, and specifications for their projects comply with
47 the requirements of the State Uniform Construction Code, the
48 provisions of P.L. , c. (C.) (pending before the Legislature

1 as this bill), and other applicable laws. The department shall design
2 and implement audits to measure the efficiency of the self-
3 certification program and compliance with the provisions of P.L. ,
4 c. (C.) (pending before the Legislature as this bill).

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

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

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

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

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

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

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

1 proof of the successful completion of the training or continuing
2 education courses to the department.

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

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

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

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

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

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

15

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

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

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

32

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

38

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

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 4360

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 6, 2024

The Assembly State and Local Government Committee reports favorably and with committee amendments Assembly Bill No. 4360.

As amended, this bill directs the Commissioner of Community Affairs (commissioner) to establish a program through which the commissioner is required to certify an architect or engineer who satisfies certain criteria to be a qualified design professional. This certification enables the person to take responsibility for a construction project's compliance with the State Uniform Construction Code (UCC), and to self-certify that an application for a construction permit, and the plans and specifications submitted therewith, comply with the UCC and other applicable laws.

The bill requires an enforcing agency to: accept a self-certified permit application and accompanying documents; conduct a supervisory check acknowledging the enforcing agency's receipt of all materials required under the UCC; and issue a permit within one to five calendar days following receipt of a submission, depending on the scope of the project.

The bill directs the commissioner to establish eligibility requirements for a design professional to qualify to participate in the self-certification program. The bill specifically excludes certain types of projects from participating in the self-certification program, however, the bill, as amended, authorizes the commissioner, by regulation, to extend the scope of the self-certification program to include one or more of those types of projects.

The bill further requires that a qualified design professional remain with the project until the project is signed-off or approved by the enforcing agency; otherwise, the enforcing agency is to require that the project cease until satisfaction with certain criteria.

The bill requires the commissioner to establish and promulgate on the Department of Community Affairs (department) Internet website, a design professional of record self-certification form, and requires a qualified design professional of record to complete, sign, and deliver the completed form to the enforcing agency together with the construction permit application and accompanying documents. The

bill requires a qualified design professional to submit a design professional of record self-certification statement, and the qualified design professional's attestation concerning:

- the veracity and correctness of information provided in the permit application, accompanying plans, and other documents submitted in support of the application;
- approval of the project and acknowledgement that the construction permit is subject to audit and revocation under certain circumstances;
- promptness related to the submission of various materials;
- acknowledgement that failure to take specified remedial measures to conform submitted plans and construction to the requirements of the UCC may result in revocation of self-certification privileges and notice to the appropriate State professional licensing board; and
- compliance with the requirements established by the commissioner.

The bill also requires the commissioner to establish and promulgate on the department's Internet website, an owner certification statement, and an owner hold harmless letter. The bill sets forth the contents of the owner certification statement and owner hold harmless letter, which pertain to certain authorization, joint compliance responsibility acknowledgement, and indemnification.

The bill empowers the department to conduct random audits of qualified design professionals to determine whether a construction permit application, and plans and other documents submitted in support of the application, comply with the requirements of UCC and other applicable laws. The bill enables the commissioner to exclude, suspend, or sanction a qualified design professional for cause for actions specified by the bill, including failure to correct violations identified by the audit and knowingly or negligently submitting a self-certification, permit application, or construction document that contains false information. The bill also requires the commissioner to create and maintain a searchable database on the department's Internet website of all qualified design professionals who have been excluded from the program, suspended, or sanctioned by the department, and requires notice of such actions to be provided to the State Board of Professional Engineers and Land Surveyors, or the State Board of Architects, under circumstances specified by the bill.

The bill requires the commissioner, within three years following the effective date of the bill: to undertake a study, in consultation with the Code Advisory Board, to determine construction activity that may be added to the self-certification program; and to prepare and submit a report to the Governor and the Legislature regarding the self-certification program and the results of the study.

The bill is to take effect on the first day of the fourth month next following enactment, but the bill permits the commissioner to take

anticipatory action prior to the effective date, if the action is necessary to effectuate the bill.

COMMITTEE AMENDMENTS

As introduced, the bill specifies certain project categories for which self-certification is not available. The committee amended the bill to provide that those projects and submittal categories remain generally unavailable for self-certification, but authorizes the Commissioner of Community Affairs, by regulation, to extend authorization for one or more of those types of project or submittals to participate in the self-certification program.

ASSEMBLY REGULATED PROFESSIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 4360

STATE OF NEW JERSEY

DATED: JUNE 24, 2024

The Assembly Regulated Professions Committee reports favorably Assembly Bill No. 4360 (1R).

This bill directs the Commissioner of Community Affairs (commissioner) to establish a program through which the commissioner is required to certify an architect or engineer who satisfies certain criteria to be a qualified design professional. This certification enables the person to take responsibility for a construction project's compliance with the State Uniform Construction Code (UCC), and to self-certify that an application for a construction permit, and the plans and specifications submitted therewith, comply with the UCC and other applicable laws.

The bill requires an enforcing agency to: accept a self-certified permit application and accompanying documents; conduct a supervisory check acknowledging the enforcing agency's receipt of all materials required under the UCC; and issue a permit within one to five calendar days following receipt of a submission, depending on the scope of the project.

The bill directs the commissioner to establish eligibility requirements for a design professional to qualify to participate in the self-certification program. The bill specifically excludes certain types of projects from participating in the self-certification program, however, the bill, as amended, authorizes the commissioner, by regulation, to extend the scope of the self-certification program to include one or more of those types of projects.

The bill further requires that a qualified design professional remain with the project until the project is signed-off or approved by the enforcing agency; otherwise, the enforcing agency is to require that the project cease until satisfaction with certain criteria.

The bill requires the commissioner to establish and promulgate on the Department of Community Affairs (department) Internet website, a design professional of record self-certification form, and requires a qualified design professional of record to complete, sign, and deliver the completed form to the enforcing agency together with the construction permit application and accompanying documents. The bill requires a qualified design professional to submit a design

professional of record self-certification statement, and the qualified design professional's attestation concerning:

- the veracity and correctness of information provided in the permit application, accompanying plans, and other documents submitted in support of the application;
- approval of the project and acknowledgement that the construction permit is subject to audit and revocation under certain circumstances;
- promptness related to the submission of various materials;
- acknowledgement that failure to take specified remedial measures to conform submitted plans and construction to the requirements of the UCC may result in revocation of self-certification privileges and notice to the appropriate State professional licensing board; and
- compliance with the requirements established by the commissioner.

The bill also requires the commissioner to establish and promulgate on the department's Internet website, an owner certification statement, and an owner hold harmless letter. The bill sets forth the contents of the owner certification statement and owner hold harmless letter, which pertain to certain authorization, joint compliance responsibility acknowledgement, and indemnification.

The bill empowers the department to conduct random audits of qualified design professionals to determine whether a construction permit application, and plans and other documents submitted in support of the application, comply with the requirements of UCC and other applicable laws. The bill enables the commissioner to exclude, suspend, or sanction a qualified design professional for cause for actions specified by the bill, including failure to correct violations identified by the audit and knowingly or negligently submitting a self-certification, permit application, or construction document that contains false information. The bill also requires the commissioner to create and maintain a searchable database on the department's Internet website of all qualified design professionals who have been excluded from the program, suspended, or sanctioned by the department, and requires notice of such actions to be provided to the State Board of Professional Engineers and Land Surveyors, or the State Board of Architects, under circumstances specified by the bill.

The bill requires the commissioner, within three years following the effective date of the bill: to undertake a study, in consultation with the Code Advisory Board, to determine construction activity that may be added to the self-certification program; and to prepare and submit a report to the Governor and the Legislature regarding the self-certification program and the results of the study.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 4360

STATE OF NEW JERSEY 221st LEGISLATURE

DATED: JUNE 26, 2024

SUMMARY

- Synopsis:** “New Jersey Design Professional Self-Certification Act”; requires DCA to establish design professional self-certification program.
- Type of Impact:** Annual State expenditure and revenue increases; local enforcing agency cost impact.
- Agencies Affected:** Department of Community Affairs; local governments.

Office of Legislative Services Estimate

Annual Fiscal Impact	
State Expenditure Increase	Indeterminate
State Revenue Increase	Indeterminate
Local Enforcing Agency Cost Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate amount of annual costs to the Department of Community Affairs associated with the establishment and administration of a design professional self-certification program. The State may collect a reasonable fee in connection with its audit responsibilities under the program, which will lead to an indeterminate amount of State revenues annually.
- Local enforcing agencies, and the department when acting in that capacity, are also expected to experience administrative cost increases to review self-certified construction permit applications and all accompanying documents. However, local enforcing agencies may experience some cost savings as a result of the bill as the use of the self-certification program would negate workforce needs that would otherwise be required of the local enforcing agency to ensure compliance with the Uniform Construction Code. The OLS is unable to estimate the magnitude and direction of the net cost impact under the bill for local enforcing agencies.

BILL DESCRIPTION

This bill directs the Department of Community Affairs to establish a program through which it is required to certify an architect or engineer who satisfies certain criteria to be a qualified design professional. This certification enables the certified professional to take responsibility for a construction project's compliance with the State Uniform Construction Code, and to self-certify that an application for a construction permit, and the plans and specifications submitted therewith, comply with the Uniform Construction Code and other applicable laws. The bill requires an enforcing agency to: accept a self-certified permit application and accompanying documents; conduct a supervisory check acknowledging the enforcing agency's receipt of all materials required under the Uniform Construction Code; and issue a permit following receipt of a submission, depending on the scope of the project. The bill directs the department to establish eligibility requirements for a design professional to qualify to participate in the self-certification program.

The bill requires the department to establish and promulgate on its website a design professional of record self-certification form, and requires a qualified design professional of record to complete, sign, and deliver the completed form to the enforcing agency together with the construction permit application and accompanying documents. The bill requires a qualified design professional to submit a design professional of record self-certification statement, and the qualified design professional's attestation of the accuracy of submitted information and the compliance with State requirements. The bill also requires the department to establish and promulgate on its website an owner certification statement and an owner hold harmless letter.

The bill empowers the department to conduct random audits of qualified design professionals to determine whether a construction permit application, and plans and other documents submitted in support of the application, comply with the requirements of the Uniform Construction Code and other applicable laws. The bill also authorizes the department to charge a reasonable fee to cover the costs associated with an audit. The bill enables the department to exclude, suspend, or sanction a qualified design professional for cause for actions specified by the bill. The bill also requires the department to create and maintain a searchable database on its website of all qualified design professionals who have been excluded from the program, suspended, or sanctioned by the department, and requires notice of such actions to be provided to the State Board of Professional Engineers and Land Surveyors, or the State Board of Architects. The bill requires the department to undertake a study, in consultation with the Code Advisory Board, within three years of the bill's effective to determine construction activity that may be added to the self-certification program. The department also is to prepare and submit a report to the Governor and the Legislature regarding the self-certification program and the results of the study within this three-year period.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will result in an indeterminate amount of annual costs to the Department of Community Affairs associated with the establishment and administration of a design professional self-certification program. In addition to promulgating rules and regulations

to implement the design professional self-certification program, the department would be required, specifically, to establish requirements for design professionals to participate in the self-certification program and develop a series of forms to be used in the self-certification process. The department would also be responsible for conducting a study, within three years of the bill's effective date, to determine any expansion of the types of projects permitted to be self-certified under the program as well as for submitting an associated report to the Governor and the Legislature.

Under the bill, all qualified design professionals are subject to random audit by department to determine whether the application, plans, and specifications for their projects comply with the bill and the State Uniform Construction Code. The department would be responsible for designing and implementing the audits as well as for providing written notice of audit results to the qualified design professional. Audited qualified design professionals would be given opportunity to correct violations found in the audit, or face a hearing to exclude, suspend, or otherwise sanction the qualified design professional. The department would also receive and review applications for reinstatement to the self-certification program as well as approve continuing education for qualified design professionals to participate in following disciplinary action. The department would also be responsible for creating and maintaining a database of qualified design professionals who have faced disciplinary action under the self-certification program as well as notifying the appropriate State professional board. The OLS is unable to estimate the number or frequency of audits of qualified design professionals to be conducted by the department. The OLS is also unable to predict the complexity of each project that will be audited. For these reasons, the OLS is unable to estimate the cost of conducting audits of qualified design professionals. However, under the bill, the department is permitted to collect a reasonable fee to cover the costs of performing an audit, which will increase annual State revenues

Local enforcing agencies, including the department, which operates as the enforcing agency in 45 municipalities, are also expected to experience administrative cost increases associated with the requirement to review self-certified construction permit applications and all accompanying documents. However, local enforcing agencies may experience cost savings as a result of the bill as the use of the self-certification program would negate workforce needs that would otherwise be required of the local enforcing agency to ensure compliance with the Uniform Construction Code. Since the OLS is unable to predict the number of design professionals who will seek the opportunity to self-certify projects, the number of projects eligible for self-certification, or the proportion of all eligible projects that qualified design professionals will ultimately seek to self-certify, the OLS is unable to estimate the magnitude and direction of the net cost impact for local enforcing agencies.

Section: Local Government
Analyst: Abigail Stoyer
Associate Fiscal Analyst
Approved: Thomas Koenig
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

SENATE, No. 3402

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 6, 2024

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Somerset and Union)

SYNOPSIS

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

CURRENT VERSION OF TEXT

As introduced.



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2

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).

47 "Self-certification" or "self-certified" means a qualified design
48 professional's submission to an enforcing agency of an application

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1 for a construction permit, and the associated plans and
2 specifications, submitted together with a design professional of
3 record self-certification form, as specified in section 4 of
4 P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

15

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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4

1 this power in contravention of the provisions of subsection d. of this
2 section.

3 d. Self-certification pursuant to P.L. , c. (C.) (pending
4 before the Legislature as this bill) shall not be available for:

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

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

8 (3) projects that include new electrical service exceeding 400
9 amps;

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

13 (5) prototype plan submittals.

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

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

33 (1) current licensure as a design professional;

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

37 (3) authorization granted by the department; and

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

44 g. The self-certification program shall include a condition that
45 the qualified design professional of record remain with the project
46 until the enforcing agency signs off on the project through the
47 issuance of a letter of completion or certificate of approval. If the
48 qualified design professional of record withdraws from a project

1 before the enforcing agency's issuance of a letter of completion or
2 certificate of approval, all work shall cease and no permit, letter of
3 completion, or certificate of approval shall be issued until:

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

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

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

13

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (b) is complete;

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

47 (4) the permit application, plans, and specifications, and all
48 technical submissions made by the qualified design professional of

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1 record in connection with the self-certified project, were prepared in
2 accordance with and meet the standard of care required of the
3 profession; and

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

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

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

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

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

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

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

35
36 5. a. The department may review any action performed by an
37 enforcing agency to ensure reasonable oversight of a project.

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

47 (2) The department shall provide written notice of the results of
48 an audit to the qualified design professional of record. The

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

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

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

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

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

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

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

44 (4) The commissioner shall revoke, after the opportunity for an
45 administrative hearing, for a period of not less than five years, the
46 self-certification privileges of a qualified design professional who,
47 while on probation, professionally certifies an application, plan,
48 construction documents, or other document that contains materially

1 false information or is not in material compliance with all
2 applicable provisions of law, or who otherwise demonstrates gross
3 negligence or incompetence, or a total disregard of applicable laws
4 or standards.

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

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

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

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

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1 registered architect. The department shall notify the board of the
2 name, and business firm name and address of the registered
3 architect, as well as supporting documentation for the sanction
4 imposed.

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

8
9 6. The commissioner shall, within three years following the
10 effective date of P.L. , c. (C.) (pending before the
11 Legislature as this bill):

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

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

25
26 7. The Commissioner of Community Affairs shall, in accordance
27 with the "Administrative Procedure Act," P.L.1968, c.410
28 (C.52:14B-1 et seq.), adopt rules and regulations as necessary to
29 implement the provisions of P.L. , c. (C.) (pending before
30 the Legislature as this bill).

31
32 8. This act shall take effect on the first day of the fourth month
33 next following enactment, except that the commissioner may take
34 anticipatory administrative action in advance necessary to effectuate
35 the provisions of P.L. , c. (C.) (pending before the
36 Legislature as this bill).

37

38

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STATEMENT

40

41 This bill directs the Commissioner of Community Affairs
42 (commissioner) to establish a program through which the
43 commissioner is required to certify an architect or engineer who
44 satisfies certain criteria to be a qualified design professional. This
45 certification enables the person to take responsibility for a
46 construction project's compliance with the State Uniform
47 Construction Code (UCC), and to self-certify that an application for

1 a construction permit, and the plans and specifications submitted
2 therewith, comply with the UCC and other applicable laws.

3 The bill requires an enforcing agency to: accept a self-certified
4 permit application and accompanying documents; conduct a
5 supervisory check acknowledging the enforcing agency's receipt of
6 all materials required under the UCC; and issue a permit within one
7 to five calendar days following receipt of a submission, depending
8 on the scope of the project.

9 The bill directs the commissioner to establish eligibility
10 requirements for a design professional to qualify to participate in
11 the self-certification program. The bill also directs the
12 commissioner to exclude types of projects from the self-
13 certification program, by reference to certain types of UCC use
14 groups, and by reference to specific square footage limits. The bill
15 further requires that a qualified design professional remain with the
16 project until the project is signed-off or approved by the enforcing
17 agency; otherwise, the enforcing agency is to require that the
18 project cease until satisfaction with certain criteria.

19 The bill requires the commissioner to establish and promulgate
20 on the Department of Community Affairs (department) Internet
21 website, a design professional of record self-certification form, and
22 requires a qualified design professional of record to complete, sign,
23 and deliver the completed form to the enforcing agency together
24 with the construction permit application and accompanying
25 documents. The bill requires a qualified design professional to
26 submit a design professional of record self-certification statement,
27 and the qualified design professional's attestation concerning:

28 (1) the veracity and correctness of information provided in the
29 permit application, accompanying plans, and other documents
30 submitted in support of the application;

31 (2) approval of the project and acknowledgement that the
32 construction permit is subject to audit and revocation under certain
33 circumstances;

34 (3) promptness related to the submission of various materials;

35 (4) acknowledgement that failure to take specified remedial
36 measures to conform submitted plans and construction to the
37 requirements of the UCC may result in revocation of self-
38 certification privileges and notice to the appropriate State
39 professional licensing board; and

40 (5) compliance with the requirements established by the
41 commissioner.

42 The bill also requires the commissioner to establish and
43 promulgate on the department's Internet website, an owner
44 certification statement, and an owner hold harmless letter. The bill
45 sets forth the contents of the owner certification statement and
46 owner hold harmless letter, which pertain to certain authorization,
47 joint compliance responsibility acknowledgement, and
48 indemnification.

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1 The bill empowers the department to conduct random audits of
2 qualified design professionals to determine whether a construction
3 permit application, and plans and other documents submitted in
4 support of the application comply with the requirements of UCC
5 and other applicable laws. The bill enables the commissioner to
6 exclude, suspend, or sanction a qualified design professional for
7 cause for actions specified by the bill, including failure to correct
8 violations identified by the audit and knowingly or negligently
9 submitting a self-certification, permit application, or construction
10 document that contains false information. The bill also requires the
11 commissioner to create and maintain a searchable database on the
12 department's Internet website of all qualified design professionals
13 who have been excluded from the program, suspended, or
14 sanctioned by the department, and requires notice of such actions to
15 be provided to the State Board of Professional Engineers and Land
16 Surveyors, or the State Board of Architects, under circumstances
17 specified by the bill.

18 The bill requires the commissioner, within three years following
19 the effective date of the bill: to undertake a study, in consultation
20 with the Code Advisory Board, to determine construction activity
21 that may be added to the self-certification program; and to prepare
22 and submit a report to the Governor and the Legislature regarding
23 the self-certification program and the results of the study.

24 The bill is to take effect on the first day of the fourth month next
25 following enactment, but the bill permit's the commissioner to take
26 anticipatory action prior to the effective date, if the action is
27 necessary to effectuate the bill.

[First Reprint]

SENATE, No. 3402

STATE OF NEW JERSEY

221st LEGISLATURE

INTRODUCED JUNE 6, 2024

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Somerset and Union)

Senator PAUL A. SARLO

District 36 (Bergen and Passaic)

Co-Sponsored by:

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).

SENATE COMMUNITY AND URBAN AFFAIRS COMMITTEE

STATEMENT TO

SENATE, No. 3402

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 17, 2024

The Senate Community and Urban Affairs Committee reports favorably and with committee amendments Senate Bill No. 3402.

As amended, this bill directs the Commissioner of Community Affairs (commissioner) to establish a program through which the commissioner is required to certify an architect or engineer who satisfies certain criteria to be a qualified design professional. This certification enables the person to take responsibility for a construction project's compliance with the State Uniform Construction Code (UCC), and to self-certify that an application for a construction permit, and the plans and specifications submitted therewith, comply with the UCC and other applicable laws.

The bill requires an enforcing agency to: accept a self-certified permit application and accompanying documents; conduct a supervisory check acknowledging the enforcing agency's receipt of all materials required under the UCC; and issue a permit within one to five calendar days following receipt of a submission, depending on the scope of the project.

The bill directs the commissioner to establish eligibility requirements for a design professional to qualify to participate in the self-certification program. The bill specifically excludes certain types of projects from participating in the self-certification program, however, the bill, as amended, authorizes the commissioner, by regulation, to extend the scope of the self-certification program to include one or more of those types of projects.

The bill further requires that a qualified design professional remain with the project until the project is signed-off or approved by the enforcing agency; otherwise, the enforcing agency is to require that the project cease until satisfaction with certain criteria.

The bill requires the commissioner to establish and promulgate on the Department of Community Affairs (department) Internet website, a design professional of record self-certification form, and requires a qualified design professional of record to complete, sign, and deliver the completed form to the enforcing agency together with the construction permit application and accompanying documents. The bill requires a qualified design professional to submit a design

professional of record self-certification statement, and the qualified design professional's attestation concerning:

- the veracity and correctness of information provided in the permit application, accompanying plans, and other documents submitted in support of the application;
- approval of the project and acknowledgement that the construction permit is subject to audit and revocation under certain circumstances;
- promptness related to the submission of various materials;
- acknowledgement that failure to take specified remedial measures to conform submitted plans and construction to the requirements of the UCC may result in revocation of self-certification privileges and notice to the appropriate State professional licensing board; and
- compliance with the requirements established by the commissioner.

The bill also requires the commissioner to establish and promulgate on the department's Internet website, an owner certification statement, and an owner hold harmless letter. The bill sets forth the contents of the owner certification statement and owner hold harmless letter, which pertain to certain authorization, joint compliance responsibility acknowledgement, and indemnification.

The bill empowers the department to conduct random audits of qualified design professionals to determine whether a construction permit application, and plans and other documents submitted in support of the application, comply with the requirements of UCC and other applicable laws. The bill enables the commissioner to exclude, suspend, or sanction a qualified design professional for cause for actions specified by the bill, including failure to correct violations identified by the audit and knowingly or negligently submitting a self-certification, permit application, or construction document that contains false information. The bill also requires the commissioner to create and maintain a searchable database on the department's Internet website of all qualified design professionals who have been excluded from the program, suspended, or sanctioned by the department, and requires notice of such actions to be provided to the State Board of Professional Engineers and Land Surveyors, or the State Board of Architects, under circumstances specified by the bill.

The bill requires the commissioner, within three years following the effective date of the bill: to undertake a study, in consultation with the Code Advisory Board, to determine construction activity that may be added to the self-certification program; and to prepare and submit a report to the Governor and the Legislature regarding the self-certification program and the results of the study.

The bill is to take effect on the first day of the fourth month next following enactment, but the bill permits the commissioner to take

anticipatory action prior to the effective date, if the action is necessary to effectuate the bill.

COMMITTEE AMENDMENTS

As introduced, the bill specifies certain project categories for which self-certification is not available. The committee amended the bill to provide that those projects and submittal categories remain generally unavailable for self-certification, but authorizes the Commissioner of Community Affairs, by regulation, to extend authorization for one or more of those types of project or submittals to participate in the self-certification program.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 3402

STATE OF NEW JERSEY

DATED: JUNE 24, 2024

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3402 (1R).

This bill directs the Commissioner of Community Affairs (commissioner) to establish a program through which the commissioner is required to certify an architect or engineer who satisfies certain criteria to be a qualified design professional. This certification enables the person to take responsibility for a construction project's compliance with the State Uniform Construction Code (UCC), and to self-certify that an application for a construction permit, and the plans and specifications submitted therewith, comply with the UCC and other applicable laws.

The bill requires an enforcing agency to: accept a self-certified permit application and accompanying documents; conduct a supervisory check acknowledging the enforcing agency's receipt of all materials required under the UCC; and issue a permit within one to five calendar days following receipt of a submission, depending on the scope of the project.

The bill directs the commissioner to establish eligibility requirements for a design professional to qualify to participate in the self-certification program. The bill specifically excludes certain types of projects from participating in the self-certification program, however, the bill, as amended, authorizes the commissioner, by regulation, to extend the scope of the self-certification program to include one or more of those types of projects.

The bill further requires that a qualified design professional remain with the project until the project is signed-off or approved by the enforcing agency; otherwise, the enforcing agency is to require that the project cease until satisfaction with certain criteria.

The bill requires the commissioner to establish and promulgate on the Department of Community Affairs (department) Internet website, a design professional of record self-certification form, and requires a qualified design professional of record to complete, sign, and deliver the completed form to the enforcing agency together with the construction permit application and accompanying documents. The bill requires a qualified design professional to submit a design

professional of record self-certification statement, and the qualified design professional's attestation concerning:

- the veracity and correctness of information provided in the permit application, accompanying plans, and other documents submitted in support of the application;
- approval of the project and acknowledgement that the construction permit is subject to audit and revocation under certain circumstances;
- promptness related to the submission of various materials;
- acknowledgement that failure to take specified remedial measures to conform submitted plans and construction to the requirements of the UCC may result in revocation of self-certification privileges and notice to the appropriate State professional licensing board; and
- compliance with the requirements established by the commissioner.

The bill also requires the commissioner to establish and promulgate on the department's Internet website, an owner certification statement, and an owner hold harmless letter. The bill sets forth the contents of the owner certification statement and owner hold harmless letter, which pertain to certain authorization, joint compliance responsibility acknowledgement, and indemnification.

The bill empowers the department to conduct random audits of qualified design professionals to determine whether a construction permit application, and plans and other documents submitted in support of the application, comply with the requirements of UCC and other applicable laws. The bill enables the commissioner to exclude, suspend, or sanction a qualified design professional for cause for actions specified by the bill, including failure to correct violations identified by the audit and knowingly or negligently submitting a self-certification, permit application, or construction document that contains false information. The bill also requires the commissioner to create and maintain a searchable database on the department's Internet website of all qualified design professionals who have been excluded from the program, suspended, or sanctioned by the department, and requires notice of such actions to be provided to the State Board of Professional Engineers and Land Surveyors, or the State Board of Architects, under circumstances specified by the bill.

The bill requires the commissioner, within three years following the effective date of the bill: to undertake a study, in consultation with the Code Advisory Board, to determine construction activity that may be added to the self-certification program; and to prepare and submit a report to the Governor and the Legislature regarding the self-certification program and the results of the study.

The bill is to take effect on the first day of the fourth month next following enactment, but the bill permits the commissioner to take anticipatory action prior to the effective date, if the action is necessary to effectuate the bill.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate amount of annual costs to the Department of Community Affairs associated with the establishment and administration of a design professional self-certification program. The State may collect a reasonable fee in connection with its audit responsibilities under the program, which will lead to an indeterminate amount of State revenues annually.

Local enforcing agencies, and the department when acting in that capacity, are also expected to experience administrative cost increases to review self-certified construction permit applications and all accompanying documents. However, local enforcing agencies may experience some cost savings as a result of the bill as the use of the self-certification program would negate workforce needs that would otherwise be required of the local enforcing agency to ensure compliance with the Uniform Construction Code. The OLS is unable to estimate the magnitude and direction of the net cost impact under the bill for local enforcing agencies.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 3402 STATE OF NEW JERSEY 221st LEGISLATURE

DATED: JUNE 26, 2024

SUMMARY

- Synopsis:** “New Jersey Design Professional Self-Certification Act”; requires DCA to establish design professional self-certification program.
- Type of Impact:** Annual State expenditure and revenue increases; local enforcing agency cost impact.
- Agencies Affected:** Department of Community Affairs; local governments.

Office of Legislative Services Estimate

Annual Fiscal Impact	
State Expenditure Increase	Indeterminate
State Revenue Increase	Indeterminate
Local Enforcing Agency Cost Impact	Indeterminate

- The Office of Legislative Services (OLS) concludes that the bill will result in an indeterminate amount of annual costs to the Department of Community Affairs associated with the establishment and administration of a design professional self-certification program. The State may collect a reasonable fee in connection with its audit responsibilities under the program, which will lead to an indeterminate amount of State revenues annually.
- Local enforcing agencies, and the department when acting in that capacity, are also expected to experience administrative cost increases to review self-certified construction permit applications and all accompanying documents. However, local enforcing agencies may experience some cost savings as a result of the bill as the use of the self-certification program would negate workforce needs that would otherwise be required of the local enforcing agency to ensure compliance with the Uniform Construction Code. The OLS is unable to estimate the magnitude and direction of the net cost impact under the bill for local enforcing agencies.

BILL DESCRIPTION

This bill directs the Department of Community Affairs to establish a program through which it is required to certify an architect or engineer who satisfies certain criteria to be a qualified design professional. This certification enables the certified professional to take responsibility for a construction project's compliance with the State Uniform Construction Code, and to self-certify that an application for a construction permit, and the plans and specifications submitted therewith, comply with the Uniform Construction Code and other applicable laws. The bill requires an enforcing agency to: accept a self-certified permit application and accompanying documents; conduct a supervisory check acknowledging the enforcing agency's receipt of all materials required under the Uniform Construction Code; and issue a permit following receipt of a submission, depending on the scope of the project. The bill directs the department to establish eligibility requirements for a design professional to qualify to participate in the self-certification program.

The bill requires the department to establish and promulgate on its website a design professional of record self-certification form, and requires a qualified design professional of record to complete, sign, and deliver the completed form to the enforcing agency together with the construction permit application and accompanying documents. The bill requires a qualified design professional to submit a design professional of record self-certification statement, and the qualified design professional's attestation of the accuracy of submitted information and the compliance with State requirements. The bill also requires the department to establish and promulgate on its website an owner certification statement and an owner hold harmless letter.

The bill empowers the department to conduct random audits of qualified design professionals to determine whether a construction permit application, and plans and other documents submitted in support of the application, comply with the requirements of the Uniform Construction Code and other applicable laws. The bill also authorizes the department to charge a reasonable fee to cover the costs associated with an audit. The bill enables the department to exclude, suspend, or sanction a qualified design professional for cause for actions specified by the bill. The bill also requires the department to create and maintain a searchable database on its website of all qualified design professionals who have been excluded from the program, suspended, or sanctioned by the department, and requires notice of such actions to be provided to the State Board of Professional Engineers and Land Surveyors, or the State Board of Architects. The bill requires the department to undertake a study, in consultation with the Code Advisory Board, within three years of the bill's effective to determine construction activity that may be added to the self-certification program. The department also is to prepare and submit a report to the Governor and the Legislature regarding the self-certification program and the results of the study within this three-year period.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS concludes that the bill will result in an indeterminate amount of annual costs to the Department of Community Affairs associated with the establishment and administration of a design professional self-certification program. In addition to promulgating rules and regulations

to implement the design professional self-certification program, the department would be required, specifically, to establish requirements for design professionals to participate in the self-certification program and develop a series of forms to be used in the self-certification process. The department would also be responsible for conducting a study, within three years of the bill's effective date, to determine any expansion of the types of projects permitted to be self-certified under the program as well as for submitting an associated report to the Governor and the Legislature.

Under the bill, all qualified design professionals are subject to random audit by department to determine whether the application, plans, and specifications for their projects comply with the bill and the State Uniform Construction Code. The department would be responsible for designing and implementing the audits as well as for providing written notice of audit results to the qualified design professional. Audited qualified design professionals would be given opportunity to correct violations found in the audit, or face a hearing to exclude, suspend, or otherwise sanction the qualified design professional. The department would also receive and review applications for reinstatement to the self-certification program as well as approve continuing education for qualified design professionals to participate in following disciplinary action. The department would also be responsible for creating and maintaining a database of qualified design professionals who have faced disciplinary action under the self-certification program as well as notifying the appropriate State professional board. The OLS is unable to estimate the number or frequency of audits of qualified design professionals to be conducted by the department. The OLS is also unable to predict the complexity of each project that will be audited. For these reasons, the OLS is unable to estimate the cost of conducting audits of qualified design professionals. However, under the bill, the department is permitted to collect a reasonable fee to cover the costs of performing an audit, which will increase annual State revenues

Local enforcing agencies, including the department, which operates as the enforcing agency in 45 municipalities, are also expected to experience administrative cost increases associated with the requirement to review self-certified construction permit applications and all accompanying documents. However, local enforcing agencies may experience cost savings as a result of the bill as the use of the self-certification program would negate workforce needs that would otherwise be required of the local enforcing agency to ensure compliance with the Uniform Construction Code. Since the OLS is unable to predict the number of design professionals who will seek the opportunity to self-certify projects, the number of projects eligible for self-certification, or the proportion of all eligible projects that qualified design professionals will ultimately seek to self-certify, the OLS is unable to estimate the magnitude and direction of the net cost impact for local enforcing agencies.

Section: Local Government

*Analyst: Abigail Stoyer
Associate Fiscal Analyst*

*Approved: Thomas Koenig
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

Acting Governor Scutari Signs Bill Establishing Design Professional Self-Certification Program

08/22/2024

TRENTON – Acting Governor Nicholas Scutari today signed [A4360/S3402](#), also known as the “New Jersey Design Professional Self-Certification Act.” The bill requires the New Jersey Department of Community Affairs (DCA) to establish a design professional self-certification program.

“As the need for quality development grows within our State, it’s important that design professionals receive the proper certifications and permits in an effective and expeditious manner,” said **Acting Governor Scutari**. “This bill streamlines that process, allowing for construction projects to move forward so that New Jersey can better accommodate the increasing demand for small and large development projects.”

Under the design professional self-certification program, DCA will certify architects and engineers who satisfy certain criteria set by the DCA Commissioner to be “qualified design professionals.” Once approved by DCA, these professionals may self-certify that an application for a construction permit and a project’s plans and specifications comply with the State Uniform Construction Code (UCC) and other applicable laws.

In addition, the bill requires municipal enforcing agencies to accept and review self-certified permit applications and accompanying documents and issue a permit depending on the scope of the project. DCA must establish a self-certification form and publish the form on its website for qualified design professionals to complete, sign, and deliver to the enforcing agency.

The bill also authorizes DCA to conduct random audits of qualified design professionals to determine whether a construction permit application, and plans and other documents submitted in support of the application, comply with the requirements of the UCC and applicable laws.

“New Jersey Department of Community Affairs Division of Codes and Standards stands ready to administer the A4360 legislation that establishes a design professional self-certification program. Under the bill, DCA would establish a program that permits a New Jersey architect or engineer to self-certify an application for a UCC construction permit, and the plans and specifications submitted for limited repair and renovation projects,” said **DCA Commissioner Jacquelyn A. Suárez**. “This is another example of how the Murphy Administration is working to streamline the construction process and respond to the evolving demands in the construction industry to better serve our residents.”

Acting Governor Scutari was a prime sponsor of this bill in his role as Senate President, along with Assemblyman Robert Karabinchak. Other primary sponsors include Senator Paul Sarlo, Assembly Majority Leader Louis Greenwald, and Assemblyman Anthony Verrelli.

“This self-certification program will be beneficial for local government as well as businesses and residents in their communities,” said **Senator Paul Sarlo**. “The complexity of construction practices places a burden on their ability to gain the required approvals for all the codes and standards in a timely way. Empowering the design professionals to

oversee the process will help municipalities and other officials to support economic activity and maintain the quality of life in their communities.”

"Far too often, construction projects get bogged up in permit applications or waiting for the right person to sign off on the necessary paperwork," **said Assemblyman Robert Karabinchak.** "At a time when we are focused on addressing New Jersey's housing crisis, this legislation will expedite the approvals process and get things moving faster."

"We all know how frustrating it is to see construction projects stalled when we desperately need more housing in New Jersey. This bill addresses these challenges by reducing bureaucratic hurdles and acknowledging the expertise of our architects and engineers," **said Assembly Majority Leader Louis D. Greenwald.** "By allowing certified design professionals to verify a project's compliance with the State Uniform Construction Code, we can streamline the certification process and ensure these much-needed housing projects move forward in a timely manner."

"With this legislation, we are enhancing our construction permitting process by enabling certified design professionals to self-certify their plans, streamlining approvals, and minimizing delays for projects that are prepared to move forward," **said Assemblyman Anthony Verrelli.** "By supporting certified architects and engineers, we ensure that our state's building projects uphold the highest standards of safety and quality, while also expediting project timelines and improving our infrastructure."

"This is a very positive law in that it will save time for the business community, but also it will save money for taxpayers. When the Governor, the Legislature and business community can work together to expedite certain building construction without compromising health or safety, it really is a win for everyone. We thank the sponsors and overwhelming support of the Legislature of this bill, as well as Governor Murphy for signing it into law," **said NJBIA President and CEO Michele Siekerka.**

"NJBA commends Governor Phil Murphy, Senate President Nicolas Scutari and Assemblyman Robert Karabinchak for taking another step to modernize NJ's building code processes. By empowering qualified experts to self-certify certain building code plans, this new law will leverage the private sector to create additional career and business opportunities and reduce the time and cost to complete residential projects. After successful enactment of the inspection reform law 2 years ago, the Governor and Legislature have once again responsibly reduced regulatory burdens that will in turn help to lower the cost of housing," **said Jeff Kolakowsk, CEO, NJBA.**

"Communities throughout New Jersey will benefit from this new law because it will remove hurdles to economic development and contribute to the efficient and timely approval of construction projects. NAIOP NJ believes that alleviating costly delays is critical to the success of any commercial real estate development or redevelopment plan. We are especially grateful to the Governor and his team for their support, Assemblyman Robert J. Karabinchak for his vision and tenacity getting this bill to the Governor's desk, and for Senate President Scutari and Senator Paul A. Sarlo's leadership on this bill in the Senate," **said Dan Kennedy, CEO, NAIOP NJ.**

"Economic development projects in New Jersey are often subject to lengthy delays because of outdated and onerous construction permitting processes. This unfairly stalls projects and increases costs for developers. In the meantime, towns and cities miss out on the much-needed tax revenue that result from completed projects. The New Jersey Design Professional Self-Certification Act eliminates an impediment to economic development, while ensuring that projects are reviewed professionally and safely. It also results in our state becoming more business-friendly and helps in our quest to improve our competitiveness," **said Tom Bracken, President of the New Jersey State Chamber of Commerce.**

“The New Jersey Chamber of Commerce thanks Governor Murphy and his team for supporting the bill and we commend Assemblyman Karabinchak, the bill’s prime sponsor. We also acknowledge NJDCA Commissioner Suárez, Senators Scutari and Sarlo and Assemblymen Greenwald and Verrelli for getting this important bill to the finish line,” **said Michael Egenton, Executive Vice President of the New Jersey State Chamber of Commerce.**

“We applaud the signing of A-4360,” **said Jerry Keenan, President of the NJ Alliance for Action.** “It continues reforms of the construction regulatory process we have long championed. That translates into more construction jobs that invigorate our economy.”