

[First Reprint]

ASSEMBLY, No. 4360

STATE OF NEW JERSEY
221st LEGISLATURE

INTRODUCED MAY 10, 2024

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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 ¹any 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).