

[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**

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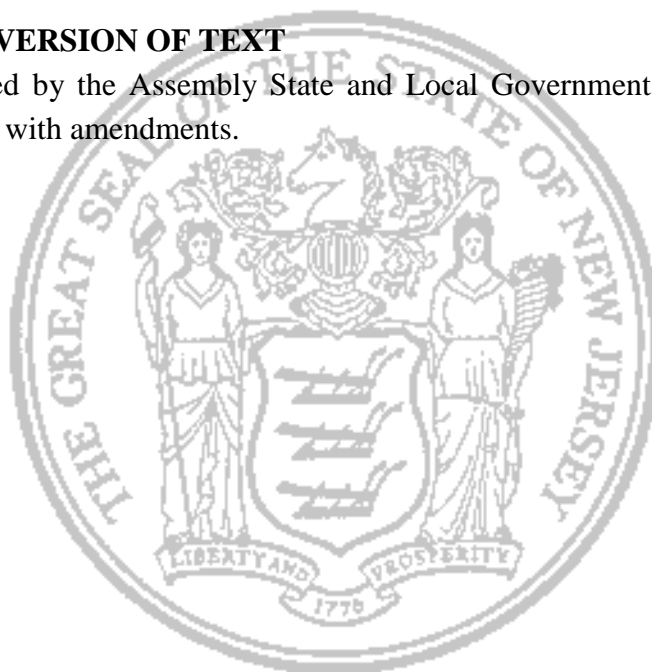
**Assemblyman Atkins**

### 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: 6/6/2024)

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

**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:

<sup>1</sup>Assembly 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; <sup>1</sup>~~and~~<sup>1</sup> more extensive square footage limitations <sup>1</sup>; and  
3 to projects and submittals specified in subsection d. of this section<sup>1</sup>.  
4 <sup>1</sup>~~The commissioner shall not exercise this power in contravention of~~  
5 ~~the provisions of subsection d. of this section.~~<sup>1</sup>  
6 d. Self-certification pursuant to P.L. , c. (C. ) (pending  
7 before the Legislature as this bill) shall not be available for <sup>1</sup>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 program<sup>1</sup>:  
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).