

**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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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).

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STATEMENT

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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.