S T A T E O F N E W Y O R K

7734

2011-2012 Regular Sessions

I N A S S E M B L Y

May 16, 2011

Introduced by M. of A. CYMBROWITZ -- read once and referred to the Committee on Higher Education

AN ACT to amend the education law, in relation to licensing consequences for architects or engineers who seriously abuse their self-certification privileges

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 6509 of the education law is amended by adding a new subdivision 2-a to read as follows:

(2-A) SERIOUS ABUSE OF THE PROFESSIONAL CERTIFICATION PROGRAM OF THE CITY OF NEW YORK. WHERE THE EDUCATION LAW MAKES A DISTINCTION BETWEEN MERE VIOLATIONS OF THE STANDARDS OF NEW YORK CITY'S PROFESSIONAL CERTIFICATION PROGRAM FOR REGISTERED DESIGN PROFESSIONALS AND A SERIOUS ABUSE OF SUCH PROGRAM, THE TERM "SERIOUS ABUSE" SHALL MEAN THAT THE REGISTERED DESIGN PROFESSIONAL HAS:

(A) KNOWINGLY OR RECKLESSLY CERTIFIED DOCUMENTS THAT CONTAINED FALSE INFORMATION OR DOCUMENTS THAT WERE NOT IN COMPLIANCE WITH APPLICABLE LAW; OR

(B) CERTIFIED TWO APPLICATIONS WITHIN ANY TWELVE MONTH PERIOD THAT CONTAINED ERRORS THAT RESULTED IN THE REVOCATION OF AN ASSOCIATED PERMIT OR THAT OTHERWISE DEMONSTRATED A LACK OF KNOWLEDGE OF OR DISREGARD FOR APPLICABLE LAWS; OR

(C) CERTIFIED AN APPLICATION OR CONSTRUCTION DOCUMENTS WHILE ON PROBATION AS IMPOSED BY THE BOARD OF REGENTS PURSUANT TO SECTION SIXTY-FIVE HUNDRED ELEVEN OF THIS SUBPART.

S 2. Section 6510 of the education law is amended by adding a new subdivision 2-a to read as follows:

2-A. SERIOUS ABUSE OF THE PROFESSIONAL CERTIFICATION PROGRAM OF THE CITY OF NEW YORK.

A. NOTICE TO THE STATE DEPARTMENT OF EDUCATION. THE NEW YORK CITY DEPARTMENT OF BUILDINGS IS REQUIRED TO PROVIDE WRITTEN NOTICE TO THE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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DEPARTMENT OF ANY PROFESSIONAL ENGINEER OR REGISTERED ARCHITECT WHO WAS THE SUBJECT OF ANY DISCIPLINARY PROCEEDING WHERE THERE HAS BEEN AN ADVERSE DETERMINATION OR SANCTION BY THE DEPARTMENT INCLUDING ANY SETTLEMENT AGREEMENT THAT IS REACHED BETWEEN THE PARTIES THAT RESULTED IN A SANCTION OF SELF-CERTIFICATION PRIVILEGES BEING IMPOSED BY THE DEPARTMENT. SUCH NOTICE SHALL BE SENT WITHIN TEN BUSINESS DAYS AFTER A DETERMINATION IS MADE IN ANY SUCH DISCIPLINARY PROCEEDING OR AFTER A SETTLEMENT OF SUCH PROCEEDING HAS BEEN REACHED, AND SHALL INCLUDE THE NAME, AND BUSINESS FIRM NAME AND ADDRESS OF SUCH LICENSED PROFESSIONAL, AS WELL AS ANY SUPPORTING DOCUMENTATION FOR THE SANCTION IMPOSED.

B. AUTOMATIC SUSPENSION FOR SERIOUS ABUSES. WHERE THE DEPARTMENT HAS RECEIVED WRITTEN NOTICE FROM THE DEPARTMENT OF BUILDINGS OF THE CITY OF NEW YORK, PURSUANT TO PARAGRAPH A OF THIS SUBDIVISION, THAT A PROFESSIONAL ENGINEER OR REGISTERED ARCHITECT HAS BEEN SANCTIONED OR AGREED TO SURRENDER HIS OR HER SELF-CERTIFICATION PRIVILEGES FOLLOWING A DISCIPLINARY PROCEEDING, AND WHERE A STATE PROFESSIONAL CONDUCT OFFICER DETERMINES THAT THE LICENSED PROFESSIONAL'S ACTIONS CONSTITUTE A SERIOUS ABUSE OF THE PROFESSIONAL CERTIFICATION PROGRAM OF THE CITY OF NEW YORK, AS DEFINED IN SECTION SIXTY-FIVE HUNDRED NINE OF THIS SUBPART, THE BOARD OF REGENTS SHALL IMMEDIATELY SUSPEND THE DESIGN PROFESSIONAL'S LICENCE PENDING A HEARING REQUEST. THE LICENSED PROFESSIONAL SHALL BE ENTITLED TO A PROMPT HEARING TO REVIEW THE DETERMINATION OF THE PROFESSIONAL CONDUCT OFFICER.

C. PRIOR ADJUDICATIONS. THE BOARD OF REGENTS SHALL ALSO REVIEW ALL NOTIFICATIONS RECEIVED FROM THE DEPARTMENT OF BUILDINGS OF THE CITY OF NEW YORK, PURSUANT TO SECTION 28-104.2.1.6 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, FOR THE FIVE CALENDAR YEARS IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF THIS SECTION. ANY PROFESSIONAL ENGINEER OR REGISTERED ARCHITECT INCLUDED IN SUCH NOTIFICATION WHO HAS NOT BEEN THE SUBJECT OF A STATE PROFESSIONAL MISCONDUCT PROCEEDING PURSUANT TO THIS SECTION SHALL BE REQUIRED TO SUBMIT TO A HEARING PURSUANT TO PARAGRAPH D OF THIS SUBDIVISION IF A STATE PROFESSIONAL CONDUCT OFFICER DETERMINES THAT THE REGISTERED DESIGN PROFESSIONAL'S ACTIONS CONSTITUTED A SERIOUS ABUSE OF THE PROFESSIONAL CERTIFICATION PROGRAM OF THE CITY OF NEW YORK AS DEFINED IN SECTION SIXTY-FIVE HUNDRED NINE OF THIS SUBPART.

D. HEARINGS GENERALLY. IN SUCH CASES AS DESCRIBED IN PARAGRAPH C OF THIS SUBDIVISION, OR WHERE A LICENSED PROFESSIONAL WHO HAS HAD HIS OR HER LICENSE SUSPENDED PURSUANT TO PARAGRAPH B OF THIS SUBDIVISION REQUESTS A HEARING, OR WHERE THE EXISTING RECORD IS INSUFFICIENT FOR A PROFESSIONAL CONDUCT OFFICER TO MAKE A DETERMINATION AS TO WHETHER A SERIOUS ABUSE OF THE PROFESSIONAL CERTIFICATION PROGRAM HAS OCCURRED, THE DEPARTMENT SHALL CONDUCT AN INVESTIGATION PURSUANT TO PARAGRAPH B OF SUBDIVISION ONE OF THIS SECTION.

IF, AFTER AN INVESTIGATION, THE DEPARTMENT BELIEVES THAT A SERIOUS ABUSE OF THE PROFESSIONAL CERTIFICATION PROGRAM OF NEW YORK CITY HAS OCCURRED, SUCH ACCUSATION SHALL BE INCLUDED IN THE CHARGES PREPARED FOR A DISCIPLINARY PROCEEDING PURSUANT TO PARAGRAPH C OF SUBDIVISION ONE OF THIS SECTION. THE DEPARTMENT AND THE BOARD OF REGENTS SHALL THEN FOLLOW THE STANDARD PROCEDURE FOR A DISCIPLINARY PROCEEDING AS STATED IN THIS SECTION.

THE BOARD OF REGENTS SHALL IMMEDIATELY SUSPEND THE PROFESSIONAL LICENSE OF ANY ARCHITECT OR ENGINEER FOUND TO HAVE SERIOUSLY ABUSED THE PROFESSIONAL CERTIFICATION PROGRAM OF THE CITY OF NEW YORK.

S 3. This act shall take effect immediately.